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

12 **BRIANDA REGINO VALLE,**

13 **Petitioner,**

14 **v.**

15 **MARKWAYNE MULLIN, Secretary of**
16 **the Department of Homeland Security,**
17 **TODD BLANCHE, Acting Attorney**
18 **General, TODD M. LYONS, Acting**
19 **Director, Immigration and Customs**
20 **Enforcement, JESUS ROCHA, Acting**
21 **Field Office Director, San Diego Field**
22 **Office, JEREMY CASEY, Warden at**
23 **Imperial Regional Detention Facility,**

24 **Respondents.**

Case No.: 26-cv-3450-LL-GB

Amended Petition
for a
Writ of Habeas Corpus

INTRODUCTION

Because Respondents have improperly detained Ms. Valle under 8 U.S.C. § 1225, and apparently did not “compl[y] with the express terms of section 1226 when [they] detained” her without the “[i]ssuance of a[n administrative] warrant,” this Court must order her “immediate release.” *JACP v. Wofford*, No. 25-cv-1354-KES-SKO, 2025 WL 3013328, *8 (E.D. Cal. Oct. 27, 2025); *accord R.D. v. Bondi*, No. 26-cv-1904-ECT-EMB, 2026 WL 788263, *2 (D. Minn. Mar. 20, 2026) (collecting cases ordering immediate release in the absence of a warrant). At least one judge in this district recently concluded the same. *See Cruz Pedraza v. Larose*, 26-cv-2697-LL-MSB, ECF 12 at 4 (S.D. Cal. May 27, 2026) (finding that because petitioner was “arrested by ICE without a warrant,” immediate release is the “appropriate remedy”).

This situation arises from a sudden change in the way that the Board of Immigration Appeals (“BIA”) interprets §§ 1225 and 1226. “For decades, and across administrations, DHS has acknowledged that § 1226(a) applies to individuals who entered the United States unlawfully, but who were later apprehended within the borders of the United States long after their entry.” *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025). But in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the BIA accepted the government’s new position that inadmissible immigrants are not eligible for bond under § 1226(a), even if they have been living in the United States for years or decades. Instead, the BIA held that all inadmissible immigrants are subject to the mandatory detention provisions in 8 U.S.C. § 1225(b)(2)(A).

Courts do not agree.¹ This Court should reject that argument, too, and order Ms. Valle's immediate release, or at least a bond hearing.

STATEMENT OF FACTS

Brianda Regino Valle entered the United States without detection in 1996. Declaration of Brianda Regino Valle, Exhibit A at ¶ 1. At the time, she was just six years old. *Id.* She came with her brother, who was three years old, in the back of a car. *Id.* She does not remember much about this experience. *Id.* Since 1996, Ms. Valle has lived in the United States and has never been deported. *Id.* at ¶ 2.

All of Ms. Valle's family lives in the United States, including her five children who are U.S. citizens. *Id.* at ¶ 3. She has one prior DUI conviction from 2014. *Id.* at ¶ 4.

On December 27, 2025, Ms. Valle was arrested on several charges and brought to jail. *Id.* Just four days later, on December 31, 2025, she was transferred to ICE custody. *Id.* She has been in immigration detention ever since. *Id.* at ¶ 5. She has never had a bond hearing and was never shown a warrant for her detention. *Id.*

Ms. Valle was placed in removal proceedings shortly after she was detained. *Id.* On May 1, 2026, an immigration judge ordered her removal. *Id.* at ¶ 6. She filed a timely appeal with the BIA on May 26, 2026. *Id.* If the BIA dismisses her appeal, she plans to appeal to the Ninth Circuit. *Id.*

She has been detained for almost six months. *Id.* at ¶ 7. As a result, she will likely be detained for several more years pending her case. *Id.*

¹ See, e.g., *Rodriguez*, 779 F. Supp. 3d at 1260; *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Lopez-Campos v. Raycroft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521, at *5 (D. Neb. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025); *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025).

LEGAL BACKGROUND

I. Noncitizens who enter without inspection are entitled to the process outlined in 8 U.S.C. § 1226(a).

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

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

“Section 1226(a) provides for the arrest and detention of noncitizens ‘pending a decision on whether the alien is to be removed from the United States.’” *Hernandez Nieves*, 2025 WL 2533110, at *3. It instructs that, “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained.” 8 U.S.C. § 1226(a). Then, the Attorney General “may continue to detain” arrestees or “may release [them] on bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General.” *Id.* (punctuation latered). “Federal regulations” implementing this statute “provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.” *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (citing 8 C.F.R. § 1236.1(d)(1)).

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

1 By their terms, these statutes apply to different groups of immigrants.
2 “Section 1226(a) sets out the default rule,” which governs unless some other,
3 more specific detention provision overrides it. *Rodriguez* 779 F. Supp. 3d at 1246
4 (cleaned up). Section 1225(b)(2)(A) is more specific, but it applies only to an
5 “applicant for admission” who is also an “alien seeking admission.” 8 U.S.C.
6 § 1225(b)(2)(A).

7 *Yajure Hurtado* considered which of these provisions—the default rule in
8 § 1226(a) or the mandatory detention provision in § 1225(b)(2)(A)—applies to
9 immigrants who enter the United States without inspection but live for years in
10 the country’s interior. 29 I.&N. Dec. at 216. The BIA concluded that noncitizens
11 who enter without inspection have no right to seek bond from an IJ, regardless of
12 how long they have been residing in the country and irrespective of whether they
13 were apprehended by immigration authorities. *Id.* at 228.

14 **B. Courts disagree with the BIA’s reasoning.**

15 Since *Yajure Hurtado* was decided, many immigrants who otherwise would
16 have received bond hearings under § 1226(a) have challenged that decision in the
17 federal courts. Courts broadly agree that the BIA’s novel constructions of
18 § 1225(b)(2)(A) and § 1226(a) are not correct.

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

21 *First*, § 1225(b)(2)(A)’s statutory context strongly suggests that it applies
22 only to persons apprehended at or near the border. As the Supreme Court
23 recognized in *Jennings*, § 1225(b) is concerned “primarily [with those] seeking
24 entry,” and is generally imposed “at the Nation’s borders and ports of entry,
25 where the Government must determine whether [a noncitizen] seeking to enter the
26 country is admissible.” 583 U.S. at 297, 287. Throughout its text, the statute refers
27 to “inspections”—a term not defined in the INA but which typically connotes an
28 examination upon or soon after physical entry. 8 U.S.C. § 1225 (“Inspection by

immigration officers; expedited removal of inadmissible arriving [noncitizens]; referral for hearing”); *id.* § 1225(b)(1)–(2) (referring to “inspections” in their titles); *id.* § 1225(d)(1) (authorizing immigration officials to search certain conveyances in order to conduct “inspections” where noncitizens “are being brought into the United States”). Many statutory provisions, various regulations, and BIA precedent discuss “inspection” in the context of admission processes at ports of entry, further supporting the conclusion that § 1225 has a limited temporal and geographic scope. 8 U.S.C. § 1187(h)(2)(B)(i); 8 U.S.C. § 1225a; 8 U.S.C. § 1752a; 8 C.F.R. § 235.1; *Matter of Quilantan*, 25 I&N Dec. 285 (BIA 2010). Petitioner’s interpretation accords with these usages.

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

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

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

11 The BIA’s contrary reading of the legislative history is not persuasive.
 12 True, IIRIRA “altered the typology of immigration *proceedings* to ‘place[] on
 13 equal footing’ ‘all immigrants who have not been lawfully admitted.’” *Romero*,
 14 2025 WL 2403827, at *12 (emphasis added) (quoting *Torres v. Barr*, 976 F.3d
 15 918, 928 (9th Cir. 2020)). But that “says nothing about *detention* pending the
 16 outcome of those proceedings.” *Id.* (emphasis added). All these indicators suggest
 17 that § 1225(b)(2)(A) applies only to recent arrivals at the border or ports of entry,
 18 not people who have already entered the country.

19 On the other hand, § 1226(a) is best read to apply to some inadmissible
 20 persons. It cannot plausibly be the case that all inadmissible persons fall under
 21 § 1225(b)(2)(A) and none fall under § 1226(a).

22 *First*, § 1226(a)’s statutory structure makes clear that it reaches some
 23 individuals who entered without inspection. Section 1226(c) exempts specific
 24 categories of noncitizens from the default eligibility to seek release on bond in §
 25 1226(a). “Among the individuals carved out and subject to mandatory detention
 26 are certain categories of ‘inadmissible’ noncitizens.” *Rodriguez*, 779 F. Supp. 3d
 27 at 1246 (quoting 8 § 1226(c)(1)(A), (D), (E)). The 2025 Laken Riley Act (“LRA”)
 28 added to that list. “This ‘new’ category” of persons not eligible for bond “includes

1 those noncitizens who are deemed inadmissible, including for being ‘present in
 2 the United States without being admitted or paroled,’ and who have been arrested,
 3 charged with, or convicted of certain crimes.” *Rosado*, 2025 WL 2337099, at *9
 4 (citing 8 U.S.C. § 1226(c)(1)(E); LRA, Pub. L. No. 119-1). If § 1226(a) did not
 5 apply to inadmissible noncitizens, then the longstanding carve outs that refer to
 6 inadmissibility and Congress’ most recent amendments would all be surplusage.
 7 *See Garcia*, 2025 WL 2549431, at *6. The better reading is the Supreme Court’s
 8 in *Jennings*: that § 1226(a) “applies to aliens already present in the United States.”
 9 583 U.S. at 303.

10 *Second*, § 1226(a)’s legislative history supports Petitioner’s reading. “After
 11 passing the IIRIRA, Congress declared the new § 1226(a) ‘restates the current
 12 provisions in [the predecessor statute] regarding the authority of the Attorney
 13 General to arrest, detain, and release on bond’ a noncitizen ‘who is not lawfully in
 14 the United States.’” *Rosado*, 2025 WL 2337099, at *9. Because noncitizens
 15 deemed inadmissible “were entitled to discretionary detention under § 1226(a)’s
 16 predecessor statute, and Congress declared the statute’s scope unchanged by
 17 IIRIRA,” § 1226(a) must “allow for a discretionary release on bond for”
 18 inadmissible noncitizens, too. *Id.*

19 Thus, the best reading of 8 U.S.C. §§ 1225 and 1226 shows that Petitioner
 20 is not subject to detention under § 1225 and can instead only fall within § 1226.
 21 And under the Supreme Court’s recent decision in *Loper Bright v. Raimondo*, this
 22 Court must independently interpret the meaning and scope of §§ 1225(b), 1226(a)
 23 using the traditional tools of statutory construction. 603 U.S. 369, 385, 401
 24 (2024); *see also Rodriguez*, 779 F. Supp. 3d at 1251; *Kostak*, 2025 WL 2472136,
 25 at *2 n.29; *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8
 26 n.9 (D. Mass. July 7, 2025). Because the BIA’s decision in *Yajure Hurtado* is a
 27 deviation from the agency’s long-standing interpretation of §§ 1225 and 1226; is
 28 not guidance issued contemporaneously with enactment of the relevant statutes;

1 and contradicts the statutory interpretations of dozens of federal courts, this Court
 2 should give it no weight. If anything, the government’s “decades of practice”
 3 providing bond hearings to those who entered without inspection is a more
 4 persuasive guide. *Martinez*, 2025 WL 2084238, at *4.

5 **II. The proper remedy for such a warrantless arrest is immediate release**
 6 **and an order that Petitioner cannot be re-detained absent the**
 7 **procedures of § 1226(a).**

8 Ms. Valle may be detained, if at all, pursuant to 8 U.S.C. § 1226(a). But,
 9 under section 1226, “[i]ssuance of a warrant is a necessary condition to justify
 10 discretionary detention under section 1226(a).” *Chogllo Chafila v. Scott*, 804 F.
 11 Supp. 3d 247, 264 (D. Me. 2025). It provides that, “[o]n a warrant issued by the
 12 Attorney General, an alien may be arrested and detained.” 8 U.S.C. § 1226(a)
 13 (emphasis added). “[I]t follows that absent a warrant a noncitizen may *not* be
 14 arrested and detained under section 1226(a).” *Chogllo Chafila*, 804 F. Supp. 3d at
 15 264 (emphasis in original).

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

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

1 “Petitioner’s arrest and detention are unauthorized” and immediate release was
2 the “appropriate remedy.” *Id.*

3 Other courts have similarly held that when ICE makes a warrantless arrest
4 contrary to the plain language of § 1226(a), the “arrest and detention are therefore
5 unauthorized, and the appropriate remedy for detention that lacks a proper
6 statutory basis under § 1226(a) is release.” *Eslid. B.G. v. Bondi*, No. 26-cv-5020-
7 RAL, 2026 WL 734992, *6 (D.S.D. Mar. 16, 2026) (collecting cases); *see also*
8 *JAACP v. Wofford*, No. 25-cv-1354-KES-SKO, 2025 WL 3013328, *8 (E.D. Cal.
9 Oct. 27, 2025); *Diaz v. Albarran*, No. 25-cv-9837-JSC, 2025 WL 3214972 (N.D.
10 Cal. Nov. 18, 2025); *R.D. v. Bondi*, No. 26-cv-1904-ECT-EMB, 2026 WL
11 788263, *2 (D. Minn. Mar. 20, 2026) (collecting cases ordering immediate release
12 in the absence of a warrant).

13 Here, Ms. Valle has never been shown a warrant, and it appears she was
14 arrested without one. Exh. A at ¶ 5. Because this arrest violated the plain language
15 of § 1226(a), her “arrest and detention are unauthorized,” and immediate release
16 is the “appropriate remedy.” *Cruz Pedraza*, 26-cv-2697-LL-MSB, ECF 12 at 4.

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

19 In *Maldonado-Bautista v. DHS*, 25-cv-1873-SSS-BFM (C.D. Cal.), a
20 district judge granted national, class-wide relief to plaintiffs challenging the
21 BIA’s interpretation of §§ 1225 and 1226. *Bautista v. Santacruz*, No. 5:25-CV-
22 01873-SSS-BFM, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025), *judgment*
23 *entered sub nom. Maldonado Bautista v. Noem*, No. 5:25-CV-01873-SSS-BFM,
24 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025). The Ninth Circuit subsequently
25 stayed the order, “insofar as the district court’s judgment extends beyond the
26 Central District of California.” *Maldonado Bautista v. DHS*, No. 26-1044, Dkt.
27 No. 5.1 (Mar 6, 2026). The Ninth Circuit left the judgement in place in the
28 Central District. *Id.*

1 Because of the stay order, the government is no longer required to follow
2 *Maldonado Bautista* in this district. But the stay order does not indicate any
3 opinion on the stay order's merits or prevent this Court from finding in
4 Petitioner's favor. It means only that this Court must do an independent
5 evaluation on the merits. For the reasons given above, that independent evaluation
6 demands relief here.

7 **PRAYER FOR RELIEF**

8 For the above reasons, this Court should order that:

- 9 1. Petitioner is not subject to mandatory detention under 8 U.S.C.
10 § 1225(b)(2), and is instead subject to detention, if at all, pursuant to
11 the discretionary provisions of 8 U.S.C. § 1226.
 - 12 2. Respondents shall immediately release Petitioner from custody;
 - 13 3. Respondents shall return to Petitioner any personal property; and
 - 14 4. If Respondents seek to re-detain Petitioner, they shall hold a pre-
15 deprivation bond hearing before a neutral arbiter pursuant to section
16 1226(a) and its implementing regulations, at which Respondents
17 shall demonstrate the issuance of a warrant and at which petitioner's
18 eligibility for bond must be considered, *see, e.g., JACP*, 2025 WL
19 3013328 at *8; or, at a minimum,
 - 20 5. Respondents provide Petitioner with a hearing and individualized
21 bond determination within fourteen days of its order unless Petitioner
22 requests a continuance, and Respondents shall make a complete
23 record of the bond hearing available to Petitioner and her counsel at
24 counsel's request; and
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6. Any other relief that the Court deems just and proper.

Respectfully submitted,

Dated: June 18, 2026

s/ Hannah Basalone

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