

Lilia Rodriguez (SBN 313007)
 The Law Office of Erika Rodriguez
 1450 Frazee Rd, Ste 303
 San Diego, CA 92108
 Lilia@erlawsd.com

UNITED STATES DISTRICT COURT
 SOUTHERN DISTRICT OF CALIFORNIA

ROBERTO LARREINAGA CHAVEZ

Petitioner,

v.

Jeremy CASEY, in his official capacity
 as Warden of Imperial Regional Detention Facility;
 Gregory J. ARCHAMBEAULT, in his official
 capacity as San Diego Field Office Director, ICE
 Enforcement Removal Operations; Todd LYONS,
 in his official capacity as Acting Director of ICE; and
 Markwayne MULLIN, in his official capacity as
 Secretary of Homeland Security, Todd BLANCHE,
 Acting U.S. Attorney General; IMMIGRATION
 AND CUSTOMS ENFORCEMENT;
 DEPARTMENT OF HOMELAND SECURITY,

Respondents.

) Case No. 26-cv-3656-BAS-BJW

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

)

**AMENDED
 PETITION FOR WRIT
 OF HABEAS CORPUS**



I. INTRODUCTION

1. Petitioner Roberto Larreinaga Chavez ("Petitioner") is a 21-year-old Honduran national who last entered the United States on or about October 15, 2022, at the age of 17 as an unaccompanied minor. Since that time Petitioner has lived in Florida, with his family, has applied for asylum affirmatively within one year of his entry on July 21, 2023, has been gainfully employed as an electrician, filed his taxes, and contributed to the community.

2. The Petitioner entered the United States without inspection.

3. Petitioner is currently pending removal proceedings commenced on April 28, 2026, and has since been detained at Imperial Regional Detention Facility.

II. VENUE AND JURISDICTION

4. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution (Suspension Clause), as Petitioner is presently in custody under the authority of the United States and challenging his detention as in violation of the Constitution, laws, or treaties of the United States.

5. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

6. Venue is proper because Petitioner is detained in the Imperial Regional Detention Facility, within the San Diego Division, and Respondent Casey is his immediate custodian. *See* 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

7. Petitioner, a 21 year-old Honduran national who resided in Florida. He is currently detained by Respondents at the Imperial Detention Facility in Imperial, CA, pending removal proceedings that are on appeal.

8. Respondent Jeremy Casey is the Warden of Imperial Regional Detention Facility. Respondent Casey is responsible for the operation of the Detention Center where Petitioner is detained. As such, Respondent Casey has immediate physical custody of the Petitioner. He is being sued in his official capacity.

9. Respondent Gregory J. Archambeault is the San Diego Field Office Director (“FOD”) for ICE Enforcement and Removal Operations. Respondent Archambeault is responsible for the oversight of ICE operations at the Imperial Regional Detention Facility. Respondent Archambeault is being sued in his official capacity.

10. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Respondent Lyons is a legal custodian of Petitioner is being sued in his official capacity.

11. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (“DHS”). As Secretary of DHS, Secretary Mullin is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.

12. Respondent Todd Blanche is the Acting Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

IV. EXHAUSTION OF REMEDIES

13. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241; *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not jurisdictionally required.

16. Moreover, additional agency steps would be futile. Since Immigration

Judges are adhering to the BIA's precedent decision *Matter of Yajure Hurtado*, 28 I&N Dec. 216 (BIA 2025). In its decision, the BIA adopted DHS' reading of 8 U.S.C. § 1225(b)(2), finding individuals similarly situated to Petitioner are ineligible for release on bond.

18. After his initial detention in Florida, Peititoner requested a bond hearing on May 1, 2026. There was no action on this bond request as Petitionr was subsequently transferred to the Imperial Reiognal Detantieon Facility in Souther California. At this failcity Peittioner again requested bond on May 14, 2026, which was denied for lack of jurisdiction under *Matter of Yajure Hurtado*.

19. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) has certified the class of similarly situated individuals. Petitioner is a member of the Bond Denial Class, as he:

a. does not have lawful status in the United States and is currently detained at the Imperial Regional Detention Facility after being apprehended by U.S. Immigration and Customs Enforcement (ICE) on or about May 6, 2026;

b. Entered the United States without inspection in October 2022 and was not detained immediately after arrival, *cf. id.*; and

c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

Petitioner acknowledges that the Ninth Circuit has temporarily stayed the district court's December 18, 2025 declaratory judgment, which further establishes there is no additional recourse and further pursuit of administrative remedies would be futile.

20. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

//

//

V. STATEMENT OF FACTS

20. Petitioner is a Honduran national born [REDACTED] He last entered the United States without inspection in October 2022, at the age of 17. He was recognized as an unaccompanied minor and transferred to the custody of the Office of Refugee Resettlement where he was then handed over to family in the United States. After this, he has lived continuously in Florida.

21. In accordance with the law, Petitioner applied for asylum with USCIS within one year of entry on July 21, 2023.¹

22. He worked to obtain certification as an electrician and obtained employment authorization which he used to obtain gainful employment. He remained law-abiding.

23. On or about April 24, 2025, while he was on his way to work he was part of an enforcement operation, he was pulled over, detained, and placed in ICE Custody despite his pending application with USCIS.

24. Petitioner is currently detained Petitioner at Imperial Regional Detention Facility and DHS initiated removal proceedings on April 26, 2026.

25. On May 1, 2026, Petitioner requested a bond hearing in Florida. No further action was taken in light of Petitioner's transfer to the Imperial Regional Detention Facility. Petitioner requested a subsequent bond hearing on May 14,

¹ Petitioner was 18 years old at the time he filed his asylum application with USCIS, however jurisdiction vested with USCIS in light of J.O.P. v. DHS, No. 8:19-CV-01944-SAG (D. Md.). Petitioner would then be entitled to termination of removal proceedings during the pendency and adjudication of his asylum application with USCIS.

2026.

26. The Court denied bond citing to a lack of jurisdiction pursuant to *Matter of Yajure-Hurtado*, 29 I & N Dec. 216 (BIA 2025).

27. The Petitioner remains detained without any recourse. He now seeks habeas relief because of continued detention which violates Due Process and the Fifth Amendment.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

28. Habeas corpus relief extends to a person “in custody under or by color of the authority of the United States” if the person can show he is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner’s claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

29. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of [] as law and justice require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and noncriminal detention.” *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). “[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s release.” *Id.* at 787.

30. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for noncitizens in removal proceedings.

31. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, see 8 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).

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

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

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

35. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

36. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). See *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed.

Reg. 10312, 10323 (Mar. 6, 1997).

37. Thus, in the decades that followed, most people who entered without inspection-unless they were subject to some other detention authority-received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

38. Respondents’ new policy turns this well-established understanding on its heads and violates the statutory scheme.

39. Indeed, this legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings was already rejected by a District Court in the Western District of Washington, finding that such individuals are entitled to bond redetermination hearings before immigration judges, and rejecting the application of § 1225(b)(2) to such cases. *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *12 (W.D. Wash. Apr. 24, 2025).

40. Despite this finding from a federal court, in July 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without documents.

41. On September 5, 2025, the BIA decided *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), incorrectly applying § 1225(b)(2) to individuals like

Petitioner.

42. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.), a case arising in the Central District of California, subsequently certified a class of similarly situated plaintiffs, issued a declaratory judgment and thereafter vacated *Matter of Yajure Hurtado*.

43. On March 6, 2026, the Ninth Circuit stayed portions of *Maldonado Bautista v. Santacruz*. However, “The validity of Yajure Hurtado’s interpretation of [8 U.S.C.] § 1225(b)(2)(A) is not the subject of this stay motion.”

44. This interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under § 1229a, which “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

45. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

46. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A).

47. Accordingly, the mandatory detention provision of § 1225(b)(2) does not

apply to people like Petitioner who are alleged to have entered the United States without admission or parole.

VII. CAUSES OF ACTION

COUNT I

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Bond Hearing

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

49. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

50. The application of § 1225(b)(2) to bar Petitioners from receiving a bond redetermination hearing before an immigration judge violates the Immigration and Nationality Act.

COUNT II

Violation of the Administrative Procedure Act
Unlawful Denial of Bond

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

52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not

apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

53. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

COUNT III

Violation of Procedural Due Process

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

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

56. Petitioner has a fundamental interest in liberty and being free from official restraint.

57. The government's detention of Petitioner without a bond redetermination hearing to determine whether they are a flight risk or danger to others violates her right to due process.

58. Petitioner complied with the government's requirements since he entered

the United States, USCIS accepted jurisdiction over his application, and Petitioner thus forth has relied on the statutory Process which ICE has interrupted. Respondents' actions are fundamentally unfair and violate due process.

COUNT IV
Violation of Substantive Due Process

59. Petitioner incorporates paragraphs 1 through 30 as if fully set out herein.

60. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

61. The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.” U.S. CONT. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.

62. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

63. Respondents' actions are arbitrary and punitive. But for intervention by this Court, Petitioner has no means of release where Respondents contend that Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2), which mandates the detention of an “applicant for admission” throughout the entirety of removal proceedings.

64. Respondents' newly formulated definition of "applicant for admission," which would include any noncitizen who has not been formally admitted regardless of years of residence in the United States, directly contradicts both the plain text of the statute and controlling Ninth Circuit precedent.

65. As the Ninth Circuit explained in interpreting the phrase "applicant for admission" under § 1225(b)(1), "*an immigrant submits an 'application for admission' at a distinct point in time,*" and stretching that phrase to apply "*potentially for years or decades ... would push the statutory text beyond its breaking point.*" *United States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir. 2024) (citing *Torres v. Barr*, 976 F.3d 918, 922–26 (9th Cir. 2020) (en banc)).

66. Because Petitioner has resided continuously in the United States since 2011, his period as an "applicant for admission" has long since closed.

67. Petitioner

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release him from custody, under reasonable conditions of supervision or in the alternative order an immediate bond hearing;
- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
- 4) Order Respondents to file a response within 3 business days of the filing of this petition;

- 5) Award attorneys' fees to Petitioner; and
- 6) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this 8th day of April 2026.

/s/Lilia Rodriguez

The Law Office of Erika Rodriguez
1450 Frazee Rd., Suite 303
San Diego, CA 92108
Attorney for Petitioner

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

I represent Petitioner Roberto Larreinaga Chavez, and submit this verification on his behalf.

I hereby verify that the factual statements made in the foregoing Amended Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 10th day of July, 2026.

/s/ Lilia Rodriguez
Attorney Name

1	Verification of Release by Office of Refugee Resettlement (ORR) as an Unaccompanied Minor 10/22/2022 Defective Notice to Appear Issued October 16, 2022	1-3
2	Notice to Appear initiating current removal proceedings issued April 26, 2026	4-6
3	Notice of Bond Denial by the Immigration Court due to Jurisdiction	7-8
4	USCIS I-589 Receipt dated July 22, 2023 filed under TVPRA	9-
5	Petitioner's Asylum Based Employment Authorization	10