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**IN THE UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA**

Rufino GONZALEZ ROMERO,

Petitioner,

v.

Christopher CHESTNUT, Warden, California

City Immigration Processing Center; **Orestes**

CRUZ, Field Office Director, U.S.

Immigration and Customs Enforcement (ICE)

San Francisco; **David VENTURELLA**, Acting

Director, ICE; **Markwayne MULLIN**,

Secretary, United States Department of

Homeland Security; **Todd BLANCHE**, Acting

Attorney General of the United States; **Daren**

K. MARGOLIN, Director, Executive Office

for Immigration Review,

Respondents.

**PETITION FOR WRIT OF HABEAS
CORPUS**

Case No.

Agency Case No.



I. INTRODUCTION

1. Utah Counsel is licensed to practice in and resides in Utah and will be seeking pro hac vice admission in this matter.
2. Petitioner Rufino Gonzalez Romero is currently detained by Immigration and Customs Enforcement (ICE) at the California City Immigration Processing Center in California City, California. *See* Exhibit A.
3. Petitioner entered the United States without inspection in March 2011, shortly before turning 17 years old. *See* Exhibit B.
4. He has resided in the interior of the United States since his entry. Petitioner was not apprehended at the border at the time of entry.
5. Petitioner was not seeking admission on June 16, 2026, when he was arrested by ICE as he left the Utah State Court after a traffic court hearing.
6. At the time of his arrest and detention by ICE officials, petitioner had been residing in the United States for over fifteen years.
7. Petitioner has built his life in the United States—establishing significant personal, community, and employment ties. Petitioner is married to a U.S. citizen; together they have four U.S. citizen children. Petitioner also has three other U.S. citizen children.
8. Petitioner registered for Selective Service in 2019, demonstrating his commitment to the United States and his desire to be a contributing member of U.S. society. *See* Exhibit C.
9. Petitioner is currently the subject of removal proceedings in Immigration Court. *See* Exhibit D.
10. Respondents are detaining Petitioner on the government's statutory interpretation that because he is an "applicant for admission" he is subject to mandatory detention pursuant

1 to 8 U.S.C. § 1225(b)(2)(A), on the authority of *Matter of Yajure-Hurtado*, 29 I&N Dec.
2 216 (BIA 2025).

- 3 11. Based on that decision, Respondents have taken the position nationwide that the
4 Immigration Courts lack jurisdiction to conduct a custody redetermination hearing (bond
5 hearing) for Petitioner, because 8 U.S.C. 1225(a) defines him as an applicant for
6 admission.
- 7
- 8 12. The question before this Court is the threshold statutory and constitutional question:
9 whether Petitioner is detained under § 1225 (which would strip the Immigration Judge of
10 jurisdiction to hold a bond hearing), or whether he is detained under § 1226 (which
11 requires that a bond hearing be afforded).
- 12
- 13 13. The overwhelming weight of authority nationwide has rejected Respondents' application
14 of § 1225(b) to individuals like Petitioner, who entered without inspection, was not
15 apprehended at the border, and has resided for years in the interior of the United
16 States. *See, e.g., Maldonado Bautista et. al. v. Ernesto Santacruz Jr. et. al.*, 5:25-cv-
17 01873-SSS-BFM (Amended Order Consolidating the Court's Orders on Motion for
18 Partial Summary Judgment, Class Certification, and Application for Reconsideration or
19 Clarification December 18, 2025); *Huerta v. Bondi*, No. 1:25-cv-00941-JLT-HBK (E.D.
20 Cal. Jan. 9, 2026); *Moreno Vergel v. Chestnut*, 2026 WL 32848 (E.D. Cal. Jan. 6, 2026).
- 21
- 22 14. In *Maldonado Bautista*, the Central District of California certified a nationwide class,
23 declared that class members are detained under § 1226(a) rather than § 1225(b)(2), and,
24 in a subsequent enforcement order, vacated *Matter of Yajure Hurtado* in its entirety under
25 the Administrative Procedure Act. *Lazaro Maldonado Bautista v. Santacruz*, No. 5:25-
26 cv-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026). The Ninth Circuit has stayed the class-
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28

1 wide judgment, insofar as it extends beyond the Central District of California, and the
2 *Yajure Hurtado* vacatur, pending appeal. *Maldonado-Bautista v. U.S. Dep't of Homeland*
3 *Sec.*, Nos. 25-7958, 26-1044 (9th Cir. Mar. 31, 2026).

- 4
5 15. Four federal courts of appeals have squarely rejected Respondents' interpretation,
6 holding that 8 U.S.C. § 1225(b)(2)(A) does not subject long-resident noncitizens
7 encountered in the interior of the United States to mandatory detention without bond.
8 *Barbosa da Cunha v. Freden*, No. 25-3141, --- F.4th ---, 2026 WL 1146044 (2d Cir. Apr.
9 28, 2026); *Lopez-Campos v. Raycraft*, No. 25-1965, --- F.4th ---, 2026 WL 1283891 (6th
10 Cir. May 11, 2026); *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, No. 25-14065,
11 --- F.4th ---, 2026 WL 1243395 (11th Cir. May 6, 2026); *Santillan Quiroz v. Mullin*, No.
12 26-6019 ___ F.4th ___; (10th Cir. June 30, 2026). Two circuits have accepted it.
13 *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026); *Hernandez-Avila v. Bondi*,
14 170 F.4th 1128 (8th Cir. 2026). Neither of those decisions binds this Court.
15
16 16. The Ninth Circuit has not yet decided the question. It heard oral argument on March 6,
17 2026, in *Rodriguez Vazquez v. Bostock*, No. 25-6842, an appeal from a judgment of the
18 Western District of Washington declaring that members of a materially identical class are
19 detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under §
20 1225(b)(2). *Rodriguez Vazquez v. Bostock*, 802 F. Supp. 3d 1297 (W.D. Wash. 2025).
21 The question remains submitted for decision.
22
23 17. As a consequence, Petitioner is forced to seek an Order from this Court granting his
24 Petition for a Writ of Habeas Corpus to enforce his statutory and constitutional right to a
25 bond hearing before an Immigration Judge.
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1 18. Petitioner, by and through the above-named counsel of record, submits this Petition for
2 Writ of Habeas Corpus against the above-named Respondents because he is being
3 unlawfully detained and held without any opportunity for a bond hearing in contravention
4 of the laws, regulations, and Constitution of the United States.

5
6 19. Petitioner's continued detention without access to a bond hearing is based on a recent and
7 sweeping reinterpretation of the Immigration and Nationality Act (INA), reflected in
8 agency guidance and the Board of Immigration Appeals' decision in *Matter of Yajure-*
9 *Hurtado*, 29 I&N Dec. 216 (BIA 2025). This new interpretation represents a sharp break
10 from decades of uniform statutory interpretation, implementing regulations, and agency
11 practice. For nearly thirty years following the Illegal Immigration Reform and Immigrant
12 Responsibility Act of 1996 (IIRIRA), individuals like the Petitioner, who is a long-term
13 resident encountered in the interior, were detained under 8 U.S.C. § 1226 and afforded
14 bond hearings.

15
16 20. Judges in this district and across the United States are routinely finding that individuals
17 like Petitioner are not subject to the § 1225 mandatory detention regime and are entitled
18 to bond hearings before Immigration Judges.

19
20 21. Petitioner's continued detention without access to a bond hearing, based solely on
21 Respondents' categorical application of § 1225(b), is unlawful, ultra vires, and violates
22 the Fifth Amendment.

23
24 **II. JURISDICTION AND VENUE**

25 22. Petitioner is in the physical custody of Respondents.

26 23. Petitioner is presently detained at the California City Immigration Processing Center in
27 California City, California, which is located within the Eastern District of California.

1 24. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5), 28 U.S.C. § 1331, Article I,
2 Section 9, Clause 2 of the United States Constitution, and 5 U.S.C. § 702.

3 25. This Court may grant relief pursuant to 28 U.S.C. § 2241, 28 U.S.C. § 2201 et seq., 5
4 U.S.C. § 706, and 28 U.S.C. § 1651.

5 26. Pursuant to *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), venue lies in the district of
6 confinement.

7 27. Venue is also proper under 28 U.S.C. § 1391(e).

8 28. Petitioner was taken into ICE custody in Utah before being moved to California,
9 demonstrating that ICE's detention decisions, and not Petitioner's residence, control
10 venue.
11

12 13 **III. REQUIREMENTS OF 28 U.S.C. § 2243**

14 29. The Court must grant the petition for writ of habeas corpus or order Respondents to show
15 cause "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
16 order to show cause is issued, the Respondents must file a return "within three days
17 unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

18 30. Habeas corpus is "perhaps the most important writ known to the constitutional law . . .
19 affording as it does a swift and imperative relief in all cases of illegal restraint or
20 confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).
21

22 23 **IV. PARTIES**

24 31. Petitioner Rufino GONZALEZ ROMERO is a citizen of Mexico who entered the United
25 States without inspection in March 2011 and has resided continuously within the United
26 States in Illinois, Wisconsin, and Utah since his entry. He is presently detained at the
27 California City Immigration Processing Center. See Exhibit A.
28

1 32. On information and belief, Respondent Christopher CHESTNUT, Warden, California
2 City Immigration Processing Center, is the individual with immediate physical custody of
3 Petitioner.

4 33. Respondent Orestes CRUZ, Field Office Director, San Francisco Field Office, ICE ERO,
5 is responsible for Petitioner's detention and removal.
6

7 34. Respondent David VENTURELLA, Acting Director of ICE, is responsible for detention
8 policy and statutory interpretation.

9 35. Respondent Markwayne MULLIN is the Secretary of Homeland Security, oversees ICE,
10 and has ultimate authority over detention policies.
11

12 36. Respondent Todd BLANCHE, Acting Attorney General, oversees EOIR, within the U.S.
13 Department of Justice.

14 37. Respondent Daren K. MARGOLIN is the Director of the Executive Office for
15 Immigration Review, responsible for the adjudication of removal and custody
16 proceedings.
17

18 38. All Respondents are sued in their official capacity.

19 **V. FACTUAL BACKGROUND**

20 39. Petitioner Rufino Gonzalez Romero was born [REDACTED], in Ixcaquixtla,
21 Ixcaquixtla, Puebla, Mexico. He is a Mexican national. *See* Exhibit E.
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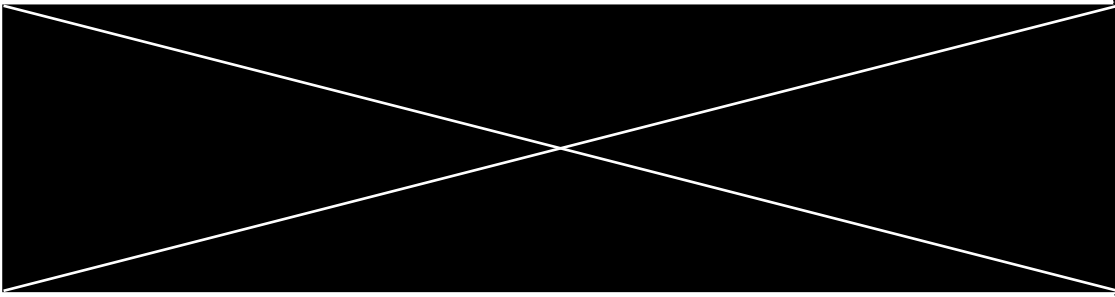
23 40. Petitioner entered the United States without inspection in March 2011. *See* Exhibit B.

24 41. Petitioner was not apprehended or placed in removal at the time of his entry.

25 42. From the date of his entry to June 16, 2026, he had no engagement with U.S. immigration
26 officials. *Id.*
27

1 43. After entering the United States, Petitioner worked in Illinois for six months, then settled
2 in Wisconsin where the oldest of his children was born and he was married. Petitioner
3 moved to Utah in 2015. He has been continually present in the United States since his
4 entry in March 2011. *Id.*

5
6 44. Petitioner is married to Araceli Tepepa Altamirano, a United States citizen born 
7  in Madison, Wisconsin. They were married on November 24, 2014. *See*
8 Exhibits F and G.

9 45. Petitioner and his wife have four U.S. citizen children, 
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15 46. Petitioner has three other U.S. citizen children.

16 47. Following his detention on June 16, 2026, Petitioner was transferred to the California
17 City Immigration Processing Center in California City, California. *See* Exhibit A.

18 48. Petitioner has one conviction in the Third Judicial District, West Valley Justice Court,
19 Salt Lake County, Utah, for Disorderly Conduct, a Class C Misdemeanor, Utah Code
20 Ann. § 76-9-102, entered November 7, 2022 (Case No. 221701616).

21 49. The sentence was a 90-day jail term, fully suspended; a fine of \$340.00 including
22 surcharges; and probation for 12 months. Petitioner completed all terms of probation,
23 paid all fines and fees, and the case was closed on October 23, 2023. *See* Exhibit I.
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- 1 50. Petitioner's continued detention without any opportunity for a bond hearing is based
2 solely on Respondents' categorical application of § 1225(b), rather than any
3 individualized assessment of their danger or flight risk.
4
- 5 51. In *Yajure*, the BIA ignored the U.S. Constitution, the statutory language, the record of
6 Congressional intent, the regulations implementing IIRIRA, and more than two decades
7 of BIA precedent, including a precedent decision issued June 30, 2025 (*Matter of*
8 *Akhmedov*, 29 I&N Dec. 166 (BIA 2025)), to hold that EOIR employee Immigration
9 Judges do not have statutory authority to consider bond requests or to grant bonds to any
10 foreign national who entered without inspection, regardless of length of residence or ties
11 to the United States.
12
- 13 52. As applied to Petitioner, the agency's ruling in *Matter of Yajure Hurtado*, 29 I&N Dec.
14 216 (BIA 2025) is an unconstitutional violation of his right to due process of law. This
15 finding is supported by recent rulings in this District. *See, Huerta v. Bondi*, No. 1:25-cv-
16 00941-JLT-HBK, at *8-9 (E.D. Cal. Jan. 9, 2026).
17
- 18 53. As a result of this classification, Petitioner has been denied any opportunity to seek
19 release on bond before an Immigration Judge.
20
- 21 54. Petitioner remains detained without any individualized determination that he poses a
22 danger to the community or a risk of flight.
23
- 24 55. Petitioner continues to suffer ongoing deprivation of liberty as a result of this detention.

24 VI. LEGAL FRAMEWORK

25 A. The Constitutional Foundations of Immigration Detention

- 26 56. The Fifth Amendment to the United States Constitution provides that no person shall be
27 deprived of liberty without due process of law.
28

- 1 57. Freedom from physical detention lies at the core of the liberty protected by the Due
2 Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
- 3 58. "[T]he Due Process Clause applies to all 'persons' within the United States, including
4 aliens, whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*
5 *v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S.
6 206, 212 (1953) ("[A]liens who have once passed through our gates, even illegally, may
7 be expelled only after proceedings conforming to traditional standards of fairness
8 encompassed in due process of law").
- 9 59. The Supreme Court "has repeatedly recognized that civil commitment for any purpose
10 constitutes a significant deprivation of liberty that requires due process protection,"
11 including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425
12 (1979); *see also United States v. Salerno*, 481 U.S. 739, 755 (1987) (requiring
13 individualized hearing and strong procedural protections for detention of people charged
14 with federal crimes).
- 15 60. In 1996, acting within the recognized constraints of constitutional due process, Congress
16 rebalanced and codified three explicit detention regimes for noncitizens. Illegal
17 Immigration Reform and Immigrant Responsibility Act (IIRIRA), Pub. L. No. 104-208,
18 Div. C. §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585.
- 19 61. First, as found in 8 U.S.C. § 1225, the statute provides for detention without bond of
20 noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other
21 arriving aliens, as defined at 8 C.F.R. §§ 1.2 and 1001.1(q).
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62. Second, 8 U.S.C. § 1226 authorizes the issuance of administrative warrants for the detention of noncitizens for standard removal proceedings before an Immigration Judge. See 8 U.S.C. § 1229a.

63. Finally, the INA also provides for detention of noncitizens who have been ordered removed. See 8 U.S.C. § 1231(a)-(b).

64. This case concerns the detention provisions at §§ 1225 and 1226.

B. Section 1225 in Constitutional Frame

65. The § 1225(b) detention regime — mandatory custody without an individualized bond hearing — is constitutionally tolerable only because of the entry-fiction doctrine. Under that doctrine, a noncitizen who arrives at the threshold of the country is treated, for due process purposes, "as if stopped at the border," and therefore holds "only those rights regarding admission that Congress has provided by statute." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139–40 (2020). The fiction exists to preserve the political branches' sovereign prerogative over admission; it is not a general license to diminish the constitutional protections of persons inside the United States.

66. The entry fiction reaches only rights "regarding admission," and its justification dissolves once a noncitizen has effected an entry. *Id.* at 140. More than a century of Supreme Court precedent confirms that "once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."

Zadvydas v. Davis, 533 U.S. 678, 693 (2001); *see also Leng May Ma v. Barber*, 357 U.S.

185, 187 (1958) (recognizing "additional rights and privileges" for "those who are within the United States after an entry, irrespective of its legality"); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896) (all persons within the territory, "even aliens," may not "be deprived of life, liberty, or property without due process of law").

67. Congress legislated against that constitutional backdrop. In enacting IIRIRA, Congress defined the broad class of "applicants for admission" in order to collapse the prior distinction between exclusion and deportation proceedings. *See* Report of the Committee on the Judiciary on H.R. 2202, Rep. No. 104-469, Part I, at 225–26 (March 1996) (explaining that the provision was "intended to replace certain aspects of the current 'entry doctrine'"). But because Congress also understood the constitutional constraints of due process, the definition of "applicant for admission" includes two separate and clearly identifiable subclasses: (A) aliens "present without admission," and (B) aliens "who arrive in the United States." 8 U.S.C. § 1225(a)(1).

68. Congress had solid constitutional reasons for distinguishing between the subclass of "arriving alien" applicants for admission at the nation's borders, and those merely deemed "applicants for admission" as a legal fiction for purposes of removal proceedings. The constitutional requirements of due process are at their lowest for those arriving at the nation's borders, *see Landon v. Plasencia*, 459 U.S. 21, 32 (1982) (an alien "seeking initial admission to the United States requests a privilege" and has reduced constitutional protection regarding that application), and at their strongest for persons arrested and detained within the United States, regardless of how they entered, who "cannot be taken into custody and held arbitrarily," *Yamataya v. Fisher* (Japanese Immigrant Case), 189 U.S. 86, 100–01 (1903); *Reno v. Flores*, 507 U.S. 292, 306 (1993).

69. It is precisely because of these constitutional requirements that, having combined "arriving aliens" and "aliens present without admission" into the single class of "applicants for admission" in § 1225(a), Congress carefully limited the border-detention provisions of § 1225(b) to the "arriving"/"seeking admission" subgroup.
70. Section 1225(b)(1) applies expressly to "an alien who is arriving." And § 1225(b)(2)(A), by its terms, reaches only that portion of "applicants for admission" who are "seeking admission." The "seeking admission" qualifier has no other function; it exists to maintain the constitutional distinction between the two subgroups.
71. The Supreme Court has confirmed this very allocation. In *Jennings v. Rodriguez*, the Court recognized that while "aliens seeking admission" are subject to detention under §§ 1225(b)(1) and (b)(2), "aliens already in the country . . . may be detained . . . under §§ 1226(a) and (c)." 583 U.S. 281, 289, 303 (2018). Section 1226 "applies to aliens already present in the United States," and § 1226(a) "creates a default rule for those aliens" permitting — but not requiring — detention pending removal proceedings. *Id.* at 303.
72. Congress's most recent enactment confirms this allocation. In January 2025, the Laken Riley Act amended § 1226(c) to require the detention of inadmissible noncitizens — including those present in the United States without admission — who are arrested for or charged with specified offenses. Pub. L. No. 119-1, 139 Stat. 3 (2025). If every noncitizen present without admission were already subject to mandatory detention under § 1225(b)(2)(A), as Respondents now contend, that amendment would have accomplished nothing. Both the Second and Eleventh Circuits relied on precisely this structural point in rejecting Respondents' reading. *See Cunha*, 2026 WL 1146044; *Hernandez Alvarez*, 2026 WL 1243395.

1 73. *Matter of Yajure Hurtado* defies this structure. By treating every "applicant for
2 admission" as subject to § 1225(b) mandatory detention, the BIA reads the "seeking
3 admission" qualifier out of § 1225(b)(2)(A), rendering it superfluous in violation of the
4 canon against surplusage.
5

6 74. The practical effect is to extend the most restricted form of constitutional due process —
7 that afforded to noncitizens seeking admission at the border — throughout the entire
8 interior of the United States, converting every immigration officer into an examining
9 officer at the threshold of entry.
10

11 75. That is the precise constitutional error the entry-fiction case law forecloses: the
12 diminished-process regime cannot be extended to interior residents like Petitioner, to
13 whom the fiction's admission-related rationale does not apply.
14

15 **C. The IIRIRA Implementing Regulations**
16

17 76. Following the enactment of IIRIRA, EOIR drafted new regulations establishing that, in
18 general, people who entered the country without inspection were not subject to the border
19 detention regime of § 1225 and that they were instead subject to the detention provisions
20 of § 1226. See *Inspection and Expedited Removal of Aliens; Detention and Removal of*
21 *Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 63 Fed. Reg. 10312,
22 10323 (Mar. 6, 1997).
23

24 77. Individuals arrested and detained pursuant to the procedures of § 1226 are presumed to be
25 entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a),
26 1236.1(d), unless they have been arrested, charged with, or convicted of certain crimes, in
27 which case they are subject to mandatory detention, see 8 U.S.C. § 1226(c).
28

1 78. Respondents' predecessor agencies initially proposed regulations which would have done
2 precisely what Respondents now assert Congress intended. That is, the proposed
3 regulations published in January 1997 included explicit language stating, with regard to 8
4 U.S.C. 1226, "An immigration judge may not exercise authority provided in this section
5 and the review process described in paragraph (d) of this section shall not apply with
6 respect to: (i) inadmissible aliens in removal proceedings." 62 F.R. 444, 483 (January 3,
7 1997) [236.1(c)(5)(i)].
8

9 79. Had that regulation remained as proposed, *Matter of Yajure Hurtado* would have been
10 unnecessary. But in 1997 when the government published the final regulations that
11 proposed language was explicitly and deliberately removed, with the following
12 explanation:
13

14 The supplementary information stated the Department's intended
15 approach, and clause (i) of the proposed regulation was in error.
16 Accordingly, the interim rule removes paragraph (c)(5)(i) of § 236.1 and
17 renumbers the remaining paragraphs (c)(5)(ii), (iii), and (iv). The effect of
18 this change is that inadmissible aliens, except for arriving aliens, have
available to them bond redetermination hearings before an immigration
judge, while arriving aliens do not.

19 62 F.R. 10312, 10323 (March 6, 1997). Compare 62 F.R. 10312, 10361 [236.1(c)(5)(i)]
20 with 62 F.R. 444, 483 [236.1(c)(5)(i)].

21 80. In other words, the BIA's assertion in *Yajure Hurtado* that Immigration Judges do not
22 have authority to adjudicate bonds for any inadmissible alien was considered and
23 explicitly rejected when the implementing regulations were published in 1997.
24

25 **D. *Matter of Yajure Hurtado* and the Federal Courts**

26 81. The Ninth Circuit has held that an executive branch agency such as the BIA cannot
27 "overrule" by adjudication regulations that were promulgated after notice and
28

comment. *Patel v. INS*, 638 F.2d 1199, 1202 (9th Cir. 1980). The Supreme Court has confirmed the same principle: although an agency remains free to revise its interpretations, "[w]hen an agency wishes to amend or repeal a regulation, it must do so via notice-and-comment rulemaking." *Perez v. Mortgage Bankers Ass'n*, 575 U.S. 92, 101 (2015). Because *Matter of Yajure Hurtado* would accomplish by adjudication exactly what the 1997 rulemaking considered and deliberately declined to accomplish by regulation, it is not valid agency action under *Patel* and *Perez*.

82. Regulations and decades of practice confirm that individuals in the interior are detained under § 1226. Recent rulings in this District continue to affirm this view. *See, e.g., Moreno Vergel v. Chestnut*, 1:25-cv-01931-EPG, *5-6 (E.D. Cal. Jan. 6, 2026).

83. Despite the regulations and the nearly three decades of practical implementation, DHS, on July 8, 2025, published internal guidance titled "Interim Guidance Regarding Detention Authority for Applicants for Admission," asserting that § 1225(b)(2), rather than § 1226, is the applicable authority for any alien present in the U.S. "who has not been admitted . . . whether or not at a designated port of arrival," and that such individuals are ineligible for a custody redetermination hearing.

84. On September 5, 2025, the BIA formally agreed with this interpretation in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

85. Four courts of appeals have since rejected the interpretation adopted in *Matter of Yajure Hurtado* on the merits. The Second Circuit held that "seeking admission" in § 1225(b)(2)(A) describes a noncitizen presently pursuing lawful entry, and that reading the phrase to reach everyone deemed an "applicant for admission" would render it surplusage; long-present interior residents are instead detained under § 1226(a). *Cunha v.*

1 *Freden*, 2026 WL 1146044 (2d Cir. Apr. 28, 2026). The Sixth and Eleventh Circuits
2 reached the same conclusion, the Eleventh Circuit explaining that Respondents' reading
3 would transform "an ancillary catchall provision into the statute's chief detention
4 mechanism." *Lopez-Campos v. Raycraft*, 2026 WL 1283891 (6th Cir. May 11, 2026);
5 *Hernandez Alvarez v. Warden*, 2026 WL 1243395 (11th Cir. May 6, 2026).

7 86. Most recently, the Tenth Circuit found that "§ 1225(b)(2)(A)'s application is limited to
8 the border," that a noncitizen is "seeking admission" only while taking ongoing action to
9 request lawful entry into the United States, and that constitutional avoidance
10 independently forecloses Respondents' reading because it raises serious constitutional
11 questions. *Santillan Quiroz v. Mullin*, No. 26-6019, slip op. at 17, 22, 47 ____ F.4th ____,
12 (10th Cir. June 30, 2026).

14 87. The Fifth and Eighth Circuits have accepted Respondents' reading, *Buenrostro-Mendez v.*
15 *Bondi*, 166 F.4th 494 (5th Cir. 2026); *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026), but
16 neither binds this Court. The Ninth Circuit has yet to rule; the question is fully briefed,
17 argued, and submitted in *Rodriguez Vazquez v. Bostock*, No. 25-6842 (9th Cir. argued
18 Mar. 6, 2026), on appeal from a judgment declaring materially identical class members
19 detained under § 1226(a). *Rodriguez Vazquez v. Bostock*, 802 F. Supp. 3d 1297, 1325–33
20 (W.D. Wash. 2025). Pending that decision, the overwhelming weight of authority within
21 this Circuit — and within this District — favors Petitioner.

23 88. Multiple judges in the Eastern District of California have rejected this interpretation. *See,*
24 *e.g., Morales-Flores v. Lyons*, No. 1:25-CV-01640-TLN-EFB, 2025 WL 3552841 (E.D.
25 Cal. Dec. 11, 2025) (Nunley, C.J.); *Wasef v. Chestnut*, No. 1:26-cv-01078-DAD-JDP,
26 2026 WL 392389, at *2–3 (E.D. Cal. Feb. 12, 2026) (Drozd, J.); *Alvarez Maciel v. Noem*,

No. 1:26-cv-01318-DC-CKD, 2026 WL 496948 (E.D. Cal. Feb. 23, 2026) (Coggins, J.); *Garcia Mariagua v. Chestnut*, No. 1:25-cv-01744-DJC-CSK, 2025 WL 3551700 (E.D. Cal. Dec. 11, 2025) (Calabretta, J.); *Guerrero Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO, 2025 WL 2716910, at *4–17 (E.D. Cal. Sept. 23, 2025) (Sheriff, J.); *Moreno Vergel v. Chestnut*, No. 1:25-cv-01931-EPG, at *5–6 (E.D. Cal. Jan. 6, 2026).

E. Application of *Matter of Yajure Hurtado* is also unconstitutionally retroactive

89. Independent of the foregoing, Respondents' attempt to apply the new statutory interpretation announced in *Matter of Yajure Hurtado* to Petitioner is also impermissibly retroactive.

90. Petitioner entered the United States years before July 8, 2025—in March 2011 (over fourteen years before the ICE guidance issued). For the entirety of his physical presence in the United States prior to that date, Petitioner would have qualified for a bond hearing under 8 U.S.C. § 1226 had he been detained by ICE.

91. An agency cannot apply a new precedent decision retroactively in a way that changes the consequences of past actions. *See De Niz Robles v. Lynch*, 803 F.3d 1165 (10th Cir. 2015) (Gorsuch, J.) (BIA precedent decision that overrules prior law must be applied prospectively only in light of due process and equal protection concerns); *Reyes Afanador v. Garland*, 11 F.4th 985 (9th Cir. 2021) (applying *Montgomery Ward* factors and holding that BIA's retroactive application of a new precedent decision was impermissible where the new rule was an abrupt departure from settled law that upset reasonable reliance).

F. Exhaustion of Administrative Remedies Is Not Required and Would Be Futile

92. Petitioner has not sought a bond redetermination hearing before the Immigration Judge presiding over his removal proceedings, and none is required.

- 1 93. Exhaustion of administrative remedies is prudential, not jurisdictional, for habeas corpus
2 claims under 28 U.S.C. § 2241, and is excused where “administrative remedies are
3 inadequate or not efficacious, pursuit of administrative remedies would be a futile
4 gesture, irreparable injury will result, or the administrative proceedings would be void.”
5 *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004); *see Castro-Cortez v. INS*, 239 F.3d
6 1037, 1047 (9th Cir. 2001); *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017).
- 8 94. Each exception applies here. *Matter of Yajure Hurtado* directs Immigration Judges
9 nationwide that they lack authority to grant bond to noncitizens deemed inadmissible
10 applicants for admission. Although the Central District of California vacated that
11 decision, the Ninth Circuit has stayed the vacatur pending appeal, *Maldonado-Bautista v.*
12 *U.S. Dep’t of Homeland Sec.*, Nos. 25-7958, 26-1044 (9th Cir. Mar. 31, 2026), with the
13 result that *Yajure Hurtado* presently remains binding agency precedent on every
14 Immigration Judge. Requesting a bond hearing that the Immigration Judge has been
15 instructed she lacks jurisdiction to conduct is the definition of a futile gesture, and any
16 resulting proceeding would be void.
- 19 95. Irreparable injury is ongoing: each additional day of confinement without any valid
20 individualized determination of danger or flight risk is itself the injury. *See Gonzalez v.*
21 *United States Immigr. & Customs Enf’t*, 975 F.3d 788, 804 (9th Cir. 2020). Federal courts
22 have also documented Respondents’ widespread noncompliance with orders directing
23 bond hearings. *See, e.g., Juan TR v. Noem*, No. 0:26-cv-00107 (D. Minn. 2026)
24 (cataloging 96 court orders in 74 cases violated by federal defendants since January 1,
25 2026).

27 VII. CLAIMS FOR RELIEF

COUNT I: Violation of the Immigration and Nationality Act

96. Petitioner incorporates by reference the facts and law set forth in the preceding paragraphs.
97. Petitioner entered the United States without inspection, was not apprehended at the border, and has resided within the United States continuously since his entry.
98. Respondents' reinterpretation of 8 U.S.C. § 1225(b)(2)(A) as authority for detaining Petitioner without any opportunity for a bond hearing not only violates the implementing regulations, it seeks to overrule by agency adjudication regulations that were promulgated through notice and comment.
99. Respondents' reinterpretation of 8 U.S.C. § 1225(b)(2)(A) as authority for detaining Petitioner without any opportunity for a bond hearing is an unconstitutional interpretation of the statutory language, without basis in prior precedent or the record of Congressional intent.
100. The Immigration and Nationality Act does not authorize Respondents to detain Petitioner under 8 U.S.C. § 1225(b) under the circumstances presented here and does not deprive Petitioner of the right to a bond hearing.
101. District courts have rejected Respondents' attempt to apply § 1225 to individuals encountered in the interior of the United States and instead have held that the statutory detention authority is found at § 1226, which requires access to a bond hearing before an Immigration Judge. *See e.g., Huerta v. Bondi*, No. 1:25-cv-00941-JLT-HBK, at *13 (E.D. Cal. Jan. 9, 2026); *Moreno Vergel v. Chestnut*, 2026 WL 32848 (E.D. Cal. Jan. 6, 2026) (collecting cases in the Eastern District of California).

102. Respondents' interpretation is contrary to the text, structure, and history of the INA and is therefore ultra vires.

COUNT II: Violation of the Fifth Amendment Due Process Clause—Denial of Procedural Due Process

103. Petitioner incorporates all preceding paragraphs as if fully set forth herein.

104. 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 (2001).

105. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

106. The Ninth Circuit has held that "[r]emaining confined in jail when one should otherwise be free is an Article III injury plain and simple[.]" *Gonzalez v. United States Immigr. & Customs Enf't*, 975 F.3d 788, 804 (9th Cir. 2020).

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

108. The Government's continued detention of Petitioner without any opportunity for a bond hearing or an individualized assessment of whether the United States has a lawful rationale for continuing to detain him is a clear violation of his constitutional rights to due process under the law.

COUNT III: Violation of the Fifth Amendment Due Process Clause—Denial of Substantive Due Process

109. Petitioner incorporates all preceding paragraphs as if fully set forth herein.

110. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived the Petitioner of his liberty.

111. Civil immigration detention is permissible only where it is reasonably related to a legitimate governmental purpose and accompanied by adequate procedural safeguards.

112. Respondents have detained Petitioner without providing any individualized determination of either the risk he will flee or his danger to society.

113. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), the Court must consider the private interest affected, the risk of erroneous deprivation, and the government's interest.

114. The private interest at stake—freedom from physical detention—is fundamental.

115. The risk of erroneous deprivation is extreme where, as here, Petitioner has been denied any hearing at all.

116. Respondents' continued detention of this Petitioner is unjustified. Respondents have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community).

117. The government's interest does not justify categorical denial of any bond hearing to long-term residents of the United States without individualized process.

118. For these reasons, continued denial of a bond hearing to Petitioner violates his constitutional right to substantive due process, as well as procedural due process under the Fifth Amendment.

VIII. REQUEST FOR RELIEF

1 WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

2 A. Assume jurisdiction over this matter;

3 B. Issue an immediate Order to Show Cause, temporarily enjoining the transfer of
4 Petitioner pending adjudication of this Petition;

5 C. Grant Petitioner a Writ of Habeas Corpus;

6 D. Declare as a matter of law that Petitioner may only be detained pursuant to the
7 provisions of 8 U.S.C. § 1226, and that Respondents may not detain Petitioner pursuant to 8
9 U.S.C. § 1225(b);

10 E. Declare that Petitioner's continued detention without a bond hearing or an
11 individualized assessment of danger and flight risk violates the Immigration and Nationality Act
12 as well as the Due Process Clause of the Fifth Amendment;

13 F. Order that Petitioner be afforded a custody redetermination hearing before an
14 Immigration Judge within seven days of this Court's order;

15 G. Order Petitioner released if he is not provided a bond hearing within seven days;

16 H. Award Petitioner's attorney's fees and costs under the Equal Access to Justice Act
17 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under the law; and

18 I. Grant any other and further relief that this Court deems just and proper.

19
20 Respectfully submitted this 7th day of July, 2026.

21
22
23 **STOWELL CRAYK, PLLC**

24
25 /s/ Marti L. Jones

26 Marti L. Jones

27 *Attorney for Petitioner (pro hac vice pending)*

28 **PARKINSON BENSON POTTER (PBP LAW)**

/s/ Brett Parkinson
Brett Parkinson
Attorney for Petitioner (Local Counsel)

EXHIBIT LIST

Exhibit A – ICE Detainee Locator

Exhibit B – Affidavit of Sara Gonzalez Romero, Petitioner’s Sister

Exhibit C – Selective Service Registration Acknowledgment

Exhibit D – EOIR Automated Portal Printout

Exhibit E – Birth Certificate of Petitioner, Rufino Gonzalez Romero

Exhibit F – Birth Certificate of Petitioner’s Wife, Araceli Tepepa Altamirano

Exhibit G – Marriage Certificate of Petitioner and Araceli Tepepa Altamirano

Exhibit H – Birth Certificates of Petitioner’s U.S. Citizen Children

Exhibit I – West Valley City Justice Court Docket, Case No. 221701616