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UNITED STATES DISTRICT COURT

SOUTHERN DISTRICT OF CALIFORNIA

LUIS ANTONIO SANTILLANA ABANTO [A[redacted],

Petitioner,

v.

UNITED STATES DEPARTMENT OF HOMELAND SECURITY; MARKWAYNE MULLIN, SECRETARY, UNITED STATES DEPARTMENT OF HOMELAND SECURITY; TODD W. BLANCHE, ACTING ATTORNEY GENERAL; GREGORY J. ARCHAMBEAULT, FIELD OFFICE DIRECTOR, UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT, ENFORCEMENT AND REMOVAL OPERATIONS, ICE SAN DIEGO FIELD OFFICE; JEREMY CASEY, WARDEN, IMPERIAL REGIONAL DETENTION FACILITY,

Respondents.

Case No. '26CV4396 AGS AHG

PETITION FOR WRIT OF HABEAS CORPUS, PURSUANT TO 28 U.S.C. § 2241, AND REQUEST TO SHOW CAUSE; VERIFIED PETITION

1. Petitioner Luis Antonio Santillana Abanto, by and through the undersigned counsel, seeks judicial review of his continued detention under 28 U.S.C. § 2241.

2. The Petitioner is currently detained at the Imperial Regional Detention Facility in Calexico, California. See Pet'r App. at 1, 13.[1]

3. The Petitioner, a national of Peru, has resided in the United States since he entered the country without inspection and admission or parole on or about February 13, 2023. See Pet'r App. at 2, 5. The Respondents previously released the Petitioner on his own recognizance, pursuant to 8 U.S.C. § 1226, on February 14, 2023. See Pet'r App. at 4.

4. Prior to his detention, the Petitioner had a pending asylum application with a federal Immigration Judge in Miami, Florida, on the non-detained docket of the United States Immigration Court in Miami, Florida. The Petitioner is the principal applicant on a Form I-589, Application for Asylum and Withholding of Removal that he filed with a federal Immigration Judge in Miami, Florida on October 17, 2023. See Pet'r App. at 3. The Petitioner included his wife, Stefany Beatriz Noa Huari, and his young children, L[redacted] as his dependent spouse and his dependent children on his asylum application, respectively, pursuant to section 208(b)(3)(A) of the Immigration and Nationality Act (hereinafter "INA"), 8 U.S.C. § 1158(b)(3)(A). The cases of the Petitioner's wife and children remain on the non-detained docket of the Miami Immigration Court, as of today's date. See Pet'r App. at 8.

[1] "Pet'r. App." refers to the Appendix to Petition for Writ of Habeas Corpus, Pursuant to 28 U.S.C. § 2241, and its Exhibits. The Petitioner, through counsel, files the Appendix concurrently with this Petition.

5. On June 29, 2026, officers of the United States Department of Homeland Security (hereinafter "DHS") detained the Petitioner after he complied with the agency's request to appear at a local office in Miami, Florida.

6. Before the Respondents detained the Petitioner, he was in consolidated removal proceedings with his family before a federal Immigration Judge in Miami, Florida. See Pet'r App. at 8. Due to his detention by the Respondents, however, Government counsel has changed venue in the Petitioner's case to the Imperial Immigration Court, and has severed his case from the removal proceedings of the rest of his family. See Pet'r App. at 1, 11-12. The Petitioner's wife and children do not have independent claims for asylum, apart from the asylum claim that the Petitioner has filed with a federal Immigration Judge in Miami, Florida. The Petitioner's continued detention by the Respondents precludes him from accessing necessary testimony and evidence for his asylum claim, and impedes his family from pursuing asylum as his dependents.

7. The Petitioner had not committed any crimes or violated any terms or conditions of his release at the time of his detention by DHS. ICE did not detain the Petitioner based upon his personal circumstances or any individualized facts. Instead, the Respondents detained the Petitioner because of their interpretation of President Trump's order that they "do all in their power to achieve the very important goal of delivering the single largest Mass Deportation Program in History."[2] Yet, the Respondents' power to detain noncitizens remains checked by law, as this country remains "a government of laws and not of men." Cooper v. Aaron, 358 U.S. 1, 23 (1958) (Frankfurter, J., concurring).

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[2] Pres. Donald Trump, @realDonaldTrump, Truth Social (June 15, 2025, 5:43pm) ("ICE Officers are herewith ordered, by notice of this TRUTH, to do all in their power to achieve the very important goal of delivering the single largest Mass Deportation Program in History.").

8. Under the administration's new interpretation of bond eligibility under section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), set forth in Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), a federal Immigration Judge in Imperial, California has determined that she lacks jurisdiction to consider the Petitioner's application for release from detention on bond. See Pet'r App. 9. The Petitioner has complied with filing deadlines and requirements for pursuing application for relief from removal, and was awaiting a final removal hearing with his family in the Miami Immigration Court at the time of his detention by the Respondents. See Pet'r App. at 8. The Respondents' decision to detain the Petitioner has only wasted Government resources, the Court's resources, and the Petitioner's resources.

9. The Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus and order the Petitioner's release from the Respondents' custody, with appropriate conditions of supervision if necessary. His continued detention under these circumstances serves no legitimate governmental purpose, and violates the humanitarian and constitutional principles that govern civil immigration custody.

II.

JURISDICTION

10. This Court has jurisdiction under 28 U.S.C. § 2241 because the Petitioner is in federal custody, and challenges the legality of his continued civil detention by DHS, in violation of the Constitution and the laws of the United States.

11. After the REAL ID Act of 2005, Pub. L. No. 109-13, Div. B, 119 Stat. 231 (2005), the Court retains jurisdiction under 28 U.S.C. § 2241 to review constitutional and legal challenges to a noncitizen's detention in federal immigration custody that are "'independent of challenges of removal orders.'" Singh v. Holder,

638 F.3d 1196, 1211-12 (9th Cir. 2011) (quoting H.R. Rep. No. 109-72, at 175, reprinted in 2005 U.S.C.C.A.N. 240, 299).

12. The Court has original jurisdiction over this petition for writ of habeas corpus under 28 U.S.C. § 1331 because the Petitioner raises federal questions arising under the United States Constitution and the laws of the United States. This case involves the Respondents' construction and application of the Fifth Amendment to the United States Constitution, U.S. Const. amend. V, and 8 U.S.C. § 1225(b)(2)(A).

13. The Declaratory Judgment Act provides, in part, that "[i]n a case of actual controversy within its jurisdiction,...any court of the United States, upon the filing of an appropriate pleading, may declare the rights and other legal relations of any interested party seeking such declaration, whether or not further relief is or could be sought." 28 U.S.C. § 2201(a). The law specifies that "[f]urther necessary or proper relief based on a declaratory judgment or decree may be granted, after reasonable notice and hearing, against any adverse party whose rights have been determined by such judgment." 28 U.S.C. § 2202.

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

III.

VENUE

15. Venue is proper in this Court under 28 U.S.C. § 2241(a) because the Petitioner is detained within the geographic boundaries of the United States District Court for the Southern District of California, at the Imperial Regional Detention Facility in Calexico, California. See Pet'r App. at 13.

IV.

EXHAUSTION AND REQUIREMENTS OF 28 U.S.C. § 2243

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

17. Courts have long recognized the significance of the habeas corpus statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." Fay v. Noia, 372 U.S. 391, 400 (1963).

18. The Petitioner is "in custody" for the purpose of 28 U.S.C. § 2241 because he is detained by the Respondents at an immigration detention facility, under the direct control of the Respondents and their agents.

V.

PARTIES

19. The Petitioner is a national of Peru. See Pet'r App. at 2. The Petitioner has been in DHS custody since on or about June 29, 2026. See Pet'r App. at 1. The Petitioner is currently detained by the Respondents at the Imperial Regional Detention Facility in Calexico, California. See id., at 1, 13.

20. Respondent DHS is the federal agency responsible for implementing and enforcing our nation's immigration laws. DHS oversees its component agencies, such as United States Immigration and Customs Enforcement (hereinafter "ICE") and United States Citizenship and Immigration Services (hereinafter "USCIS").

21. Respondent Markwayne Mullin is the Secretary of DHS. In that capacity, he is charged with the administration and enforcement of the nation's immigration laws. He is being sued in his official capacity.

22. Respondent Todd W. Blanche is the Acting Attorney General of the United States. In this capacity, he directs agencies within the United States Department of Justice, including the Executive Office for Immigration Review (hereinafter "EOIR"), which houses the Immigration Courts and the Board of Immigration Appeals. Respondent Blanche is responsible for the administration of immigration laws, pursuant to 8 U.S.C. § 1103(g), and oversees EOIR. He is sued in his official capacity.

23. Respondent Gregory J. Archambeault is the Field Office Director of ICE, Enforcement & Removal Operations (hereinafter "ERO"), ICE San Diego Field Office, in San Diego, California. In this capacity, Mr. Archambeault is responsible for the administration of the immigration laws, the supervision of immigration confinement, and the institution of removal proceedings for detainees within the Area of Responsibility for the ICE San Diego Field Office, including the Imperial Regional Detention Facility in Calexico, California. As such, Mr. Archambeault is a custodian of the Petitioner. Mr. Archambeault is sued in his official capacity.

24. Respondent Jeremy Casey, the Warden for the Imperial Regional Detention Facility, is the Petitioner's immediate custodian, and therefore, is named as a Respondent. Mr. Casey is sued in his official capacity.

VI.

STATEMENT OF FACTS

25. The Petitioner is a Peruvian national. See Pet'r App. at 2.

26. The Petitioner entered the United States without inspection near San Luis, Arizona on or about February 13, 2023. See Pet'r App. at 5.

27. On February 14, 2023, DHS released the Petitioner on his own recognizance, pursuant to 8 U.S.C. § 1226. See Pet'r App. at 4.

28. On February 14, 2023, DHS issued a Notice to Appear for removal proceedings under section 240 of the INA, 8 U.S.C. § 1229a, to the Petitioner. See Pet'r App. at 5. The Petitioner's Notice to Appear alleged that the Petitioner was "an alien present in the United States who has not been admitted or paroled." Id. The Notice to Appear charged the Petitioner with being subject to removal under section 212(a)(6)(A)(i) of the INA, 8 U.S.C. § 1182(a)(6)(A)(i), for being a noncitizen who was present in the United States without admission or parole, or for arriving in the United States at any time or place other than as designated by the Attorney General. See id.

29. After DHS officers released the Petitioner from detention, he relocated to Davie, Florida with his wife, Stefany Beatriz Noa Huari, and his children, [redacted]. The family attended hearings before an Immigration Judge in consolidated removal proceedings at the United States Immigration Court in Miami, Florida. See Pet'r App. at 8.

30. On October 17, 2023, the Petitioner filed a Form I-589, Application for Asylum and Withholding of Removal with a federal Immigration Judge in Miami, Florida. See Pet'r App. at 3. The Petitioner included his wife, Stefany Beatriz Noa Huari, and his children, [redacted] as dependents on his asylum application, pursuant to section 208(b)(3)(A) of the INA, 8 U.S.C. § 1158(b)(3)(A).

31. Before the Respondents detained the Petitioner, the Miami Immigration Court scheduled a final hearing on the merits of the Petitioner's asylum application on June 12, 2028. See Pet'r App. at 8.

32. On June 29, 2026, DHS detained the Petitioner at the ICE Miami Field Office in Miami, Florida, when he appeared for a supervision appointment with an ICE officer.

33. On or about July 4, 2026, DHS transferred the Petitioner to the Imperial Regional Detention Facility in Calexico, California. See Pet'r App. at 1.

34. On July 14, 2026, the Petitioner, through counsel, filed a motion for bond re-determination with a federal Immigration Judge in Imperial, California.

35. On July 17, 2026, a federal Immigration Judge in Imperial, California denied Petitioner's motion for bond re-determination, stating that "[t]he Court presently lacks jurisdiction to gran[t] bond, pursuant to Matter of Yajure-Hurtado, 29 I & N Dec. 216 (BIA 2025)." Pet'r App. at 9-10 (emphasis added).

36. On September 5, 2025, the Board of Immigration Appeals (hereinafter "BIA") issued its decision in Matter of Yajure Hurtado, 29 I. & N. Dec. 216, 228 (BIA 2025), holding that individuals who unlawfully entered the United States without inspection, no matter how long the individual had "avoided apprehension," are subject to mandatory detention under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), and that Immigration Judges "have no authority to redetermine the custody conditions of an alien who crossed the border unlawfully without inspection, even if that [individual] has avoided apprehension for more than 2 years." The BIA's recent decision reverses three decades of established case law on bond eligibility, for persons who are present in the United States without inspection and admission or parole. Under the BIA's new interpretation of 8 U.S.C. § 1225(b)(2)(A), an Immigration Judge has determined that the Petitioner is subject to mandatory detention in ICE custody for his removal proceedings.

37. The United States Immigration Court has severed the Petitioner's case from the cases of his wife and his children, and has changed venue in the Petitioner's

case to Imperial, California. The Imperial Immigration Court has scheduled a Master Calendar Hearing in the Petitioner's case on August 20, 2026. See Pet'r App. at 11-12.

38. Without relief from the Court, the Petitioner faces the prospect of months, or even years, in immigration custody, while he undergoes removal proceedings in the Imperial Immigration Court.

39. The Petitioner remains at the Imperial Regional Detention Facility in Imperial, California, thousands of miles away from his family, friends, colleagues, and his attorneys of record in Florida. See Pet'r App. at 1, 13.

VII.

CAUSE OF ACTION

Count 1: Violation of Due Process Clause of the Fifth Amendment

40. The Petitioner realleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

41. The Due Process Clause of the Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law[.]" U.S. Const. Amend. V. The right to due process extends to "all 'persons' within the United States...whether their presence here is lawful, unlawful, temporary, or permanent." Zadvydas v. Davis, 533 U.S. 678, 693 (2001).

42. "Procedural due process imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests within the meaning of the Due Process Clause of the Fifth or Fourteenth Amendment." Mathews v. Eldridge, 424 U.S. 319, 332 (1976). "'The fundamental requirement of due process is the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" Id. at 333 (quoting Armstrong v. Manzo, 380 U.S. 545, 552 (1965)).

43. A noncitizen's "freedom from imprisonment is at the 'core of the liberty protected by the Due Process Clause.'" Hernandez v. Sessions, 872 F.3d 976, 993 (9th Cir. 2017) (quoting Foucha v. Louisiana, 504 U.S. 71, 80 (1992)).

44. The Ninth Circuit has applied the three-factor test outlined in Mathews v. Eldridge, 424 U.S. 319 (1976), when it analyzes the constitutional sufficiency of procedures to safeguard a noncitizen's liberty interest in remaining free from detention. Id. at 993; see also Rodriguez Diaz v. Garland, 53 F.4th 1189, 1206-07 (9th Cir. 2022) (same). Under the Mathews test, determining whether an administrative procedure provides the process constitutionally due generally requires consideration of three distinct factors: "First, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." Hernandez, 872 F.3d at 993 (citing Mathews, 424 U.S. at 335).

45. The Petitioner's interest in not being detained is "the most elemental of liberty interests[.]" Hamdi v. Rumsfeld, 542 U.S. 507, 529 (2004). "That [the] Petitioner was arrested in public, detained and transferred to a facility in a different state, and remains in custody today undoubtedly deprives him of an established interest in his liberty." E.A. T.-B. v. Wamsley, et al., 795 F. Supp 3d 1316, 1321 (W.D. Wash. Aug. 19, 2025).

46. The Constitution protects the Petitioner's interest in liberty by requiring due process if it is to be deprived. The United States Supreme Court has held elsewhere that "[f]reedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action."

Foucha, 504 U.S. at 80 (1992); see also Zadvydas, 533 U.S. at 696 (finding that a non-citizen has a liberty interest "strong enough" to challenge "indefinite and potentially permanent" immigration detention).

47. Considering the second of the Mathews factors, here, the risk of erroneous deprivation of the Petitioner's protected interest in his liberty is high. "That the Government may believe it had a valid reason to detain [the] Petitioner does not eliminate its obligation to effectuate the detention in a manner that comports with due process." E.A. T.-B., 795 F. Supp 3d at 1322; see also Guillermo M.R. v. Kaiser, 791 F. Supp. 3d 1021, 1037-38 (N.D. Cal. July 17, 2025) (finding "undeniably stark" risk of erroneous deprivation where the Government contends that "notwithstanding a neutral arbiter's determination that Petitioner should be released, ICE is entitled to unilaterally terminate the immigration judge's order by re-detaining Petitioner without a hearing for at least six months, based on ICE's own determination in its sole discretion that additional conditions of release unilaterally set by ICE had been violated").

48. Under the final Mathews factor, the Government's interest in detaining the Petitioner without assessing the Petitioner's danger to the community or possibility of absconding is low. Any costs the government would have incurred in following proper procedures "are far outweighed by the risk of erroneous deprivation of the liberty interest at issue." E.A. T.-B., 795 F. Supp. 3d at 1324.

49. Based upon the Mathews factors, the Petitioner has a protected liberty interest in his release from custody. Accordingly, the Due Process Clause requires that the Petitioner receive a fair hearing before he can be detained.

Count 2: Violation of the Immigration and Nationality Act

50. The Petitioner realleges and incorporates by reference all preceding paragraphs, as though fully set forth herein.

51. The Respondents are detaining Petitioner without the possibility of bond, based upon their position that 8 U.S.C. § 1225(b)(2)(A) mandates the detention of every noncitizen who entered the United States without inspection and admission or parole. See Pet'r App. at 1, 9, 13. That construction of the statute is contrary to the text, structure, history, and longstanding implementation of the INA.

52. The INA contains distinct detention authorities governing different stages and categories of immigration proceedings. As relevant here, 8 U.S.C. §§ 1225 and 1226 govern the detention of a noncitizen before the entry of a final administrative order of removal. "Section 1225 'authorizes the Government to detain certain aliens seeking admission into the country,' whereas section 1226 'authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings.'" Lepe v. Andrews, 801 F. Supp. 3d 1104, 1114 (E.D. Cal. 2025) (quoting Jennings v. Rodriguez, 583 U.S. 281, 287 (2018)).

53. Specifically, § 1226(a) states: "On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States...[T]he Attorney General...(1) may continue to detain the arrested alien; and (2) may release the alien on - (A) bond... ; or (B) conditional parole."

54. Following DHS' initial custody determination, a person detained under 8 U.S.C. § 1226(a) may seek review of that determination before an Immigration Judge. See 8 C.F.R. §§ 1003.19(a), 1236.1(d)(1) (2026). The Supreme Court has accordingly described § 1226(a) as the "default rule" and has explained that it authorizes the Government to detain noncitizens "already in the country pending the outcome of removal proceedings." Jennings, 583 U.S. at 288.

55. Section 1225(b)(2)(A) of the INA, by contrast, provides: "[I]n 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 a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A).

56. A person properly detained under 8 U.S.C. § 1225(b)(2)(A) is subject to mandatory detention in federal immigration custody for removal proceedings, and ordinarily may be released only through the limited parole authority conferred by 8 U.S.C. § 1182(d)(5)(A), rather than through a bond hearing before an Immigration Judge. See Jennings, 583 U.S. at 300; Lepe, 801 F. Supp. 3d at 1111.

57. The detention provisions of the INA at 8 U.S.C. §§ 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 - 3009-583, 3009-585 (1996).

58. When the Government implemented IIRIRA in 1997, to maintain the preexisting distinction between persons apprehended after entering the country and persons seeking entry at the border, EOIR drafted new regulations explaining that, "[d]espite being applicants for admission," noncitizens present without having been admitted or paroled (formerly described as persons who entered without inspection) were not considered detained under § 1225 and would instead remain eligible for bond and bond redetermination 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).

59. Consistent with that interpretation, for nearly three decades after IIRIRA's enactment, Immigration Judges have conducted section 1226(a) bond hearings for noncitizens who entered without inspection. See Matter of Yajure Hurtado, 29 I. & N. Dec. 216, 225 n.6 (BIA 2025) ("We acknowledge that for years

Immigration Judges have conducted [§ 1226(a)] bond hearings for aliens who entered the United States without inspection."); Lepe, 801 F. Supp. 3d at 1117.

60. Yet, on July 8, 2025, DHS issued "Interim Guidance Regarding Detention Authority for Applicants for Admission," announcing that DHS had "revisited its legal position" and would thereafter treat section 1225, rather than section 1226, as the applicable detention authority for all persons statutorily classified as applicants for admission. United States Immigration & Customs Enforcement, Interim Guidance Regarding Detention Authority for Applicants for Admission, AILA Doc. No. 25071607, at 1-2 (July 8, 2025), available at American Immigration Lawyers Association, https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission (visited July 25, 2026). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, or even decades.

61. Subsequently, on September 5, 2025, the BIA adopted the same interpretation in Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (B.I.A. 2025), holding that a person present in the United States without admission is subject to mandatory detention under § 1225(b)(2)(A), and that an Immigration Judge lacks jurisdiction to hear that noncitizen's bond request.

62. While the Petitioner could be considered an "applicant for admission" because he is allegedly an "alien present in the United States who has not been admitted," as defined at section 1225(a)(1), the Government cannot show that, over three years after he entered the country, the Petitioner is actively "seeking admission" to the United States. The Government's current "selective reading of the statute...ignores its 'seeking admission' language." Martinez v. Hyde, 792 F. Supp. 3d 211, 218 (D. Mass. 2025). "If, as the government argues, [section] 1225(b)(2)(A)

was intended to apply to all 'applicant[s] for admission,' there would be no need to include the phrase 'seeking admission' in the statute." Lopez Benitez v. Francis, 795 F. Supp. 3d 475, 488 (S.D.N.Y. 2025). "That is, rather than stating that mandatory detention is required for any '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 statute would instead provide for mandatory detention for any 'applicant for admission, if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.'" Id. (quoting 8 U.S.C. § 1225(b)(2)(A)).

63. The rule against surplusage counsels that "'every clause and word of a statute' should have meaning." United States, ex rel. Polansky v. Exec. Health Res., Inc., 599 U.S. 419, 432 (2023) (quoting Montclair v. Ramsdell, 107 U.S. 147, 152 (1883)); League of California Cities v. Fed. Communications Comm'n, 118 F.4th 995, 1019 (9th Cir. 2024) ("The rule against surplusage generally prohibits [a court] from interpreting [a statute] in a way that 'mak[es] a part of it unnecessary[]'") (quoting NLRB v. Aakash, Inc., 58 F.4th 1099, 1105 (9th Cir. 2023)). The Government's position would make the "seeking admission" language meaningless and violate the rule against surplusage. See Martinez, 792 F. Supp. 3d at 218; Lopez Benitez, 795 F. Supp. 3d at 488.

64. Moreover, statutory language must be read in context and with a view toward its place in the overall statutory scheme. See Davis v. Michigan Dep't of Treasury, 489 U.S. 803, 809 (1989).

65. The Supreme Court has described section 1225 as operating "at the Nation's borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible." Jennings, 583 U.S. at 287. Section 1225 is titled "Inspection by immigration officers; expedited removal of

inadmissible arriving aliens; referral for hearing," and its surrounding provisions repeatedly address arrival, inspection, applications to enter, stowaways, expedited removal, and withdrawal of an application followed by immediate departure. 8 U.S.C. § 1225(a)(2)-(5), (b)(1); Lepe, 801 F. Supp. 3d at 1114-15.

66. Section 1226, unlike section 1225, is organized around interior enforcement: arrest on a warrant, detention pending a removal decision, possible release on bond or conditional parole, custody following release from criminal confinement, and immigration detainers directed to state or local officials. See Lepe, 801 F. Supp. 3d at 1115 n.7.

67. Those statutory features correspond to the Petitioner's circumstances because he was apprehended long after entering the United States, and was placed into standard removal proceedings to determine whether he should be removed from the country under 8 U.S.C. § 1229a. See Pet'r App. at 1, 4, 5.

68. Furthermore, Courts presume that when Congress amends a statute, it intends the amendment to have real and substantial effect. The anti-surplusage canon of statutory construction has particular force when one interpretation would render another provision in the same statutory scheme unnecessary. See Stone v. INS, 514 U.S. 386, 397 (1995); Marx v. Gen. Revenue Corp., 568 U.S. 371, 386 (2013); Lepe, 801 F. Supp. 3d at 1116.

69. In 2025, Congress enacted the Laken Riley Act, amending section 1226(c) to add 8 U.S.C. § 1226(c)(1)(E), which mandates detention for any noncitizen (i) who is inadmissible under section 1182(a)(6)(A)(i) as an "alien present in the United States without being admitted or paroled," *and* (ii) who "is charged with, arrested for, convicted of, or admits" to committing certain crimes. 8 U.S.C. § 1226(c)(1)(E) (emphasis added); see Gomes v. Hyde, 804 F. Supp. 3d 265, 270 (D. Mass. 2025) (explaining statutory section).

70. If every "applicant for admission" - which is defined, as relevant here, as an "alien present in the United States who has not been admitted," 8 U.S.C. § 1225(a)(1), is already subject to mandatory detention under section 1225(b)(2)(A), as the Government contends, there would have been no need for the new section 1226(c)(1)(E), which mandates detention for every noncitizen who is "present in the United States without being admitted or paroled" and who has been "charged with, arrested for, or admits to" committing certain crimes. 8 U.S.C. § 1226(c)(1)(E). Reading section 1225 as the Government proposes would thus render section 1226(c)(1)(E) superfluous. See Gomes, 804 F. Supp. 3d at 275; Lopez Benitez, 795 F. Supp. 3d at 488-90; Romero v. Hyde, 795 F. Supp. 3d 271, 286 (D. Mass. 2025); Maldonado v. Olson, 795 F. Supp. 3d 1134, 1152 (D. Minn. 2025) ("The Court will not find that Congress passed the Laken Riley Act to 'perform the same work' that was already covered by § 1225(b)(2).").

71. On July 30, 2026, a panel of the United States Court of Appeals for the Ninth Circuit held that noncitizens, who are present in the United States without inspection and admission or parole, and who are apprehended in the interior of the United States, are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). See Rodriguez Vasquez v. Bostock, U.S.C.A. No. 25-6842, Slip. Op. at 10 (9th Cir. July 30, 2026). The Court held that 8 U.S.C. § 1226, not 8 U.S..C. § 1225(b)(2)(A), governs those noncitizens' detention. See id.

72. Likewise, the United States Courts of Appeals for the Second, Sixth, Seventh, Tenth, and Eleventh Circuits have rejected the Government's interpretation of the INA's detention statutes, and have concluded that section 1226(a), rather than section 1225(b)(2)(A), governs the detention materially similar noncitizens who entered the United States without inspection, and who were later apprehended inside the United States. See Cirrus Rojas v. Olson, U.S.C.A. No. 25-3127, Slip Op. at 5

(7th Cir. July 30, 2026); Santillan Quiroz v. Mullin, No. 26-6019, 2026 WL 1876709, at *17 (10th Cir. June 30, 2026); Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami, 175 F.4th 1258, 1285 (11th Cir. 2026); Lopez-Campos v. Raycraft, 175 F.4th 713, 735 (6th Cir. 2026); Barbosa da Cunha v. Freden, 175 F.4th 61, 96 (2d Cir. 2026).

73. Federal district judges within the United States District Court for the Southern District of California have likewise ordered section 1226(a) bond hearings for persons who entered the United States without inspection, who resided inside the United States, and who were later apprehended in the interior of the country. See e.g., Barry v. Casey, U.S.D.C. No. 26-cv-01408-BAS-DEB, __ F. Supp. 3d __, 2026 U.S. Dist. LEXIS 54352 (S.D. Cal. Mar. 16, 2026); Trujillo v. Noem, U.S.D.C. No. 26-cv-00268-BAS-VET, __ F. Supp. 3d __, 2026 WL 266496 (S.D. Cal. Feb. 2, 2026); Martinez Zayas v. Gordon, U.S.D.C. No. 26-CV-00237-BAS-DEB, __ F. Supp. 3d __, 2026 WL 266275, at *4 (S.D. Cal. Jan. 30, 2026); Gregorio v. Larose, U.S.D.C. No. 25-CV-03322-BAS-BJW, __ F. Supp. 3d __, 2025 WL 3653998, at *4 (S.D. Cal. Dec. 17, 2025).

74. Here, the Petitioner entered the United States without inspection and admission or parole on February 13, 2023. See Pet'r App. at 5. On February 14, 2023, federal immigration officials released the Petitioner from immigration detention on his own recognizance, pursuant to section 236 of the INA, 8 U.S.C. § 1226, and placed him into standard removal proceedings under 8 U.S.C. § 1229a. See Pet'r App. at 4, 5. After over three years of residence in the United States, ICE-ERO officers arrested the Petitioner at the ICE Miami Field Office, in the interior of the country. See Pet'r App. 1, 13.

75. The Petitioner was not apprehended while he arrived at a Port of Entry into the United States, or while he was otherwise engaged in "seeking admission" to the country.

76. The Petitioner is not subject to expedited-removal detention under 8 U.S.C. § 1225(b)(1), mandatory criminal detention under 8 U.S.C. § 1226(c), or post-final-order detention under 8 U.S.C. § 1231.

77. Since the Petitioner is not an applicant for admission, who is actively seeking admission to the United States, the Petitioner's detention is therefore governed by section 1226(a), and he is entitled to seek an individualized custody redetermination before an Immigration Judge. See 8 U.S.C. § 1226(a); 8 C.F.R. §§ 1003.19(a), 1236.1(d)(1).

78. By categorically denying the Petitioner access to a bond hearing and continuing to detain him under 8 U.S.C. § 1225(b)(2)(A), the Respondents are holding Petitioner in their custody, in violation of the INA and the laws of the United States.

VIII.

REQUEST FOR RELIEF

The Petitioner respectfully request this Honorable Court to:

1. Accept jurisdiction of the matter;
2. Order that the Petitioner shall not be transferred outside the Southern District of California while this habeas petition is pending;
3. Issue an Order to Show Cause, ordering the Respondents to show cause why this Petition should not be granted within three days;
4. Issue an Order, requiring that the Respondents to release the Petitioner or, in the alternative, provide the Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

5. Declare that the Petitioner's detention is unlawful; and

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

Dated: July 31, 2026 Respectfully submitted,

/s/ Lori B. Schoenberg
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Attorneys for Petitioner Luis Antonio Santillana Abanto

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

I am submitting this verification on behalf of the Petitioner, because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in the attached verified Petition for Writ of Habeas Corpus, Pursuant to 28 U.S.C. § 2241, and Request to Show Cause are true and correct to the best of my knowledge. Dated this 31st day of July, 2026.

/s/ Diego Monserratte
DIEGO MONSERRATTE