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6
7 IN THE UNITED STATES DISTRICT COURT
8 FOR THE DISTRICT OF NEVADA

9 JEFFERSON DOMINGUEZ-LARA;) JOSE
10 RAMIREZ,) ON BEHALF OF THEMSELVES
11 AS INDIVIDUALS) AND ON BEHALF OF
12 OTHERS SIMILARLY SITUATED

13 Plaintiff,

14 vs.

15 , KRISTI NOEM, SECRETARY THE UNITED
16 STATES DEPARTMENT OF HOMELAND
17 SECURITY; PAM BONDI, UNITED STATES
18 ATTORNEY GENERAL; TODD LYONS,
19 DIRECTOR OF UNITED STATES
20 IMMIGRATION AND CUSTOM
21 ENFORCEMENT; BRYAN WILCOX, FIELD
22 OFFICE DIRECTOR FOR DETENTION AND
23 REMOVAL, U.S. IMMIGRATION AND
24 CUSTOMS ENFORCEMENT,
25 DEPARTMENT OF HOMELAND
26 SECURITY; JOHN MATTOS, WARDEN,
27 NEVADA SOUTHERN DETENTION
28 CENTER; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW (EOIR); SIRCE
OWEN, ACTING DIRECTOR, EOIR; LAS
VEGAS IMMIGRATION COURT

Defendant

Case No.: 2:25-cv-01553-JAD-BNW

FIRST AMENDED
CLASS ACTION COMPLAINT AND
PETITION FOR WRIT OF HABEAS
CORPUS

INTRODUCTION

1. Plaintiffs are noncitizens detained at the Nevada Southern Detention Center (NSDC) who face prolonged detention because of a unique policy adopted by U.S. Immigration and Customs Enforcement (ICE) that prevent them and others from

1 being released on bond while in civil immigration proceedings. Agency policies and practices
2 further exacerbate Plaintiffs' plight—and prolong their detention and that of others—by failing
3 to provide an expediated appeal process for bond determinations.
4

5 2. Starting in July of 2025, government counsels for ICE have started filing
6 frivolous appeals for every bond decision where a bond has been granted to a noncitizen in
7 removal proceedings who entered the United States without inspection, including as to those who
8 have lived here for decades. Government counsels justify their position by citing the mandatory
9 detention provision of Section 235 of the Immigration and Nationality Act (INA) even though
10 that provision is explicitly limited to those "seeking admission", providing a mechanism for
11 expediated removal. Notably, when government counsel files a Notice of Intent to Appeal (EOIR
12 Form 43) or a Notice of Appeal (EOIR Form 26), the bond decision is stayed for 10 days and a
13 further 90 days, respectively.
14

15 3. Government counsels' actions defy the INA. Detention under 8 U.S.C. §
16 1225(b)(2) is limited to recent arrivals to the United States and does not apply to those who have
17 lived in this country for years.
18

19 4. Importantly, ICE detained the instant Plaintiffs and others similarly situated
20 with an administrative arrest warrant issued under Section 236 of the INA, as further
21 governed under 8 U.S.C. § 1226(a), not § 1225(b), for the arrest and detention of noncitizens
22 who entered without inspection and are later apprehended in the interior. ICE documents the
23 arrest of such noncitizens under Section 236 of the INA in Form 213, which is typically filed into
24 the record for bond proceedings by government who, nonetheless, go on to argue that detention
25 is occurring under Section 235 of the INA.
26

27 5. There are now dozens, if not hundreds, of noncitizens detained at NSDC who
28
FIRST AMENDED CLASS ACTION COMPLAINT AND PETITION FOR WRIT OF HABEAS CORPUS - 2

1 are being denied their right to be released on bond because of this practice.

2 6. The only form of relief available to these noncitizens is to fight these appeals
3 by ICE to the Board of Immigration Appeals (BIA), a course of action that virtually always ends
4 in mootness.
5

6 7. The BIA, on average, takes over six months to issue a decision on a bond
7 appeal. However, since the Las Vegas Immigration Court, on average, takes three months to
8 conclude the removal proceedings for a detained individual, bond appeals are meaningless. By
9 the time the BIA issues its decision the individual has either won relief and been released or has
10 been deported. Unfortunately, detained noncitizens often make the decision to give up and ask
11 for removal rather than suffer the spirit-breaking conditions at NSDC and face the daunting task
12 of trying to coordinate their removal defense while being detained even when they have
13 meritorious claims for relief.
14

15 8. The BIA's systematic bond appeal delays are depriving detained noncitizens of
16 their Due Process rights. ICE, recognizing this failure by the BIA, is taking advantage of these
17 delays by filing frivolous appeals for every single bond grant, acting much as a petulant child
18 who has not gotten his way would. Perhaps government counsels think this new tactic is clever,
19 forcing detained noncitizens who have been granted bond to languish in NSDC or accept defeat
20 and be removed even when they are statutorily eligible to remain in the U.S. It is not clever; it is
21 deplorable. If attorneys from the private sector engaged in this manner of litigation, they would
22 most likely face disciplinary action if not outright disbarment.
23

24 9. ICE's bond appeal tactic is inflicting permanent, irreparable harm on detained
25 noncitizens who have been granted a bond.
26

27 10. In September of 2025, the BIA issued a decision finding that anyone who
28

1 entered the U.S. without inspection is subject to mandatory detention under Section 235 of the
2 INA, regardless of how long ago or where encountered. Matter of YAJURE HURTADO, 29
3 I&N Dec. 216 (BIA 2025).
4

5 11. Plaintiffs seek to represent three classes of noncitizens to challenge these
6 agency policies and practices denying bond and preventing any meaningful appeal.

7 12. First, Plaintiffs seek to represent a class of noncitizens detained at the NSDC
8 who (1) have entered or will enter the United States without inspection, (2) are not apprehended
9 upon arrival into the United States, and (3) are not or will not be subject to detention under 8
10 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is scheduled for or requests a
11 bond hearing and has been or will be granted a bond by an immigration judge in the Las Vegas
12 Immigration Court (“Bond Stay Class”). This class of individuals seeks declaratory relief that
13 establishes class members are not subject to bond decision stays under 8 C.F.R. § 1003.19 and
14 therefore entitled to immediately post the determined bond amount with ICE and be released
15 from detention.
16
17

18 13. Second, Plaintiffs seek to represent a class of noncitizens who have a pending
19 appeal, or will file an appeal or respond to an appeal filed by government counsel, of an IJ’s
20 bond hearing ruling to the BIA (“Bond Appeal Class”). This class of individuals seeks
21 declaratory relief that establishes their right to a bond appeal decision by the BIA within thirty
22 days of filing the notice of appeal.
23

24 14. Third, Plaintiffs seek to represent a class of noncitizens who have been denied
25 bond by the Las Vegas Immigration Court or the BIA based on the decision Matter of YAJURE
26 HURTADO, 29 I&N Dec. 216 (BIA 2025).
27
28

JURISDICTION AND VENUE

15. This case arises under the Immigration and Nationality Act (INA), 8 U.S.C. §§ 1101–1538, and its implementing regulations; the Administrative Procedure Act (APA), 5 U.S.C. §§ 500–596, 701–706; and the U.S. Constitution.

16. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, as this is a civil action arising under the laws of the United States, and under 28 U.S.C. § 2241, as the case challenges Plaintiffs’ and class members’ unlawful detention.

17. The Court may grant relief pursuant to 28 U.S.C. § 2241; the Declaratory Judgment Act, 28 U.S.C. § 2201; the APA, 5 U.S.C. §§ 702, 706; the All Writs Act, 28 U.S.C. § 1651; Federal Rule of Civil Procedure 65; and the Court’s inherent equitable powers.

18. Venue is proper in this judicial district pursuant to 28 U.S.C. § 1391(e) because Defendants are U.S. agencies and officers of the United States acting in their official capacities or because they reside in this district. In addition, a substantial part of the events or omissions giving rise to the claims occurred in this District, Plaintiffs are detained in this District, and no real property is involved in this action.

PARTIES

19. Plaintiff Jefferson Dominguez-Lara is currently detained at NSDC. He is a resident of Las Vegas, NV. The immigration court granted him bond in the amount of \$3,000.00 on July 21, 2025, which was immediately stayed by government counsel filing a Notice of Intent to Appeal.

20. Plaintiff Jose Ramirez is currently detained at NSDC. He is a resident of Las Vegas, NV. The immigration court granted him bond in the amount of \$3,000.00 on

1 July 16, 2025, which was immediately stayed by government counsel filing a Notice of Intent to
2 Appeal.

3 21. Defendant Bryan Wilcox is the Field Office Director for ICE Enforcement
4 and Removal Operations (ERO) in Salt Lake City, UT. As the ERO Salt Lake City Field Office
5 Director, he is Plaintiffs' immediate custodian, responsible for their detention at NSDC, and the
6 person with the authority to authorize their detention or release. Defendant Wilcox is sued in his
7 official capacity.
8

9 22. John Mattos is the Warden of the NSDC, oversees the day-to-day functioning
10 of NSDC, and has immediate physical custody of Plaintiffs pursuant to a contract with ICE to
11 detain noncitizens. Mr. Mattos is sued in his official capacity as the Warden of a federal
12 detention facility.
13

14 23. Defendant Kristi Noem is the Secretary of the Department of Homeland
15 Security. As Secretary, she oversees the federal agency responsible for implementing and
16 enforcing the INA, including the detention of noncitizens. She is sued in her official capacity.
17

18 24. Defendant Department of Homeland Security (DHS) is the federal agency
19 responsible for implementing and enforcing the INA, including the detention of noncitizens.
20

21 25. Defendant Pamela Bondi is the Attorney General of the United States and
22 head of the U.S. Department of Justice. In that capacity, she oversees administrative warrants
23 issued under Section 236 of the INA. She is sued in her official capacity.

24 26. Defendant EOIR is a component agency of the Department of Justice
25 responsible for conducting removal and bond hearings of noncitizens. EOIR is comprised of a
26 lower adjudicatory body administered by IJs and an appellate body known as the Board of
27 Immigration Appeals.
28

1 27. Defendant Sirce Owen is the Director of EOIR and has ultimate responsibility
2 for overseeing the operation of the immigration courts and the Board of Immigration Appeals,
3 including bond hearings. She is sued in her official capacity.
4

5 LEGAL BACKGROUND

6 Detention under 8 U.S.C. § 1226(a) and § 1225(b)(2)

7 28. The INA prescribes three basic forms of detention for noncitizens in removal
8 proceedings.
9

10 29. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non
11 expedited removal proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in §1226(a)
12 detention are entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§
13 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of
14 certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).
15

16 30. Second, the INA provides for mandatory detention of noncitizens subject to
17 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
18 referred to under § 1225(b)(2).
19

20 31. Last, the Act also provides for detention of noncitizens who have been
21 previously ordered removed, including individuals in withholding-only proceedings, see 8
22 U.S.C. § 1231(a)–(b).
23

24 32. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
25

26 33. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part
27 of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L.
28 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

1 by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

2 34. Following enactment of the IIRIRA, EOIR drafted new regulations explaining
3 that, in general, people who entered the country without inspection were not considered detained
4 under § 1225 and that they were instead detained under §1226(a). See, Inspection and Expedited
5 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
6 Asylum Procedures, 62 Fed. Reg.10312, 10323 (Mar. 6, 1997).

7 35. Thus, in the decades that followed, most people who entered without
8 inspection unless they were subject to some other detention authority—received bond
9 hearings. That practice was consistent with many more decades of prior practice, in which
10 noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or
11 other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at
12 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at §
13 1252(a)).
14
15
16

17 36. Starting in July of 2025, government counsel for ICE started arguing in bond
18 hearing before the Las Vegas Immigration Court that all individuals who entered the U.S.
19 without inspection are subject to expedited removal, regardless of how long they have resided
20 in the U.S. or where in the interior of the U.S. they were encountered by ICE, over twenty-five
21 years after IIRIRA was enacted.
22

23 37. ICE reasons that the mandatory detention provision of § 1225(b)(2)(A) applies
24 to people who enter without inspection because that subparagraph of the statute references
25 “applicant[s] for admission.” According to ICE, the paragraph therefore applies to all individuals
26 who are subject to the grounds of inadmissibility at §1182, including § 1182(a)(6)(A) and (a)(7).
27 Those two provisions make inadmissible people who entered the United States without
28

1 inspection or who do not have adequate documentation to allow them to enter or remain in the
2 United States. When the immigration judges of the Las Vegas Immigration Court recognized that
3 this position is without merit or any legal basis, continuing to grant bond to individuals who have
4 resided in the U.S. for over two years and arrested by ICE under Section 236 of the INA, ICE
5 started immediately filing frivolous appeals for every single bond grant.
6

7 38. This policy change has dramatic consequences. As a result of it, all
8 noncitizens detained at NSDC who have entered the United States without inspection and are
9 subject to the grounds of inadmissibility, including long-time U.S. residents, are now in de facto
10 mandatory detention under § 1225(b) and ineligible to post their bonds because of the stays
11 exercised by ICE.
12

13 39. This interpretation defies the INA. The plain text of the statutory provisions
14 demonstrates that § 1226(a), not § 1225(b), applies to people similarly situated to the Plaintiffs.
15

16 40. Section 1226(a) applies by default to all persons “pending a decision on
17 whether the [noncitizen] is to be removed from the United States.” These removal hearings are
18 held under § 1229a, which “decid[e] the inadmissibility or deportability of a[] [noncitizen].”
19

20 41. The text of § 1226 also explicitly applies to people charged as being
21 inadmissible, including those who entered without inspection. See 8 U.S.C. §1226(c)(1)(E).
22 Subparagraph (E)’s reference to such people makes clear that, by default, such people are
23 afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it
24 applies to people who face charges of being inadmissible to the United States, including those
25 who are present without admission or parole.
26

27 42. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
28 recently entered the United States. The statute’s entire framework is premised on

1 inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. §
2 1225(b)(2)(A).

3 43. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
4 apply to people such as the Plaintiffs and other putative class members.
5

6 44. Notably, ICE counsels adopted their interpretation of § 1225(b) even though
7 DHS, the agency responsible for arresting and detaining noncitizens at NSDC, initially detains
8 noncitizens through a contrary section of the INA.

9 45. DHS continues to issue arrest warrants pursuant to § 1226 for people who
10 have entered without inspection and who have since resided in the United States.
11

12 46. When DHS arrests individuals such as the Plaintiffs, the agency typically
13 issues a Notice of Custody Determination (Form I-286). That Notice states that the basis
14 for the individual’s detention is § 236 of the INA, which corresponds to 8 U.S.C. §1226.
15

16 47. The BIA’s appellate process does not offer a meaningful avenue to correct
17 ICE’s manipulative legal maneuvering.

18 48. According to the agency’s own data, during FY 2024, the agency’s average
19 processing time for a bond appeal was 204 days, or nearly seven months.
20

21 49. The lengthy delays in bond appeal determinations affect all noncitizens who
22 are detained, who have a right to a bond hearing, and who have their request for a bond denied or
23 cannot afford the bond they are provided.

24 50. This average of 204 days tells only part of the story. The data released by
25 EOIR shows that in many cases, the BIA review takes far longer—in some cases, a year
26 or more—to decide a person’s bond appeal.
27

28 51. These processing times defy the Due Process Clause.

1 52. The Supreme Court and the Ninth Circuit have explained that appellate review
2 is a critical component of a constitutional civil detention scheme, including in immigration cases.
3 See, e.g., *Schall v. Martin*, 467 U.S. 253, 280 (1984); *Singh v. Holder*, 638 F.3d 1196, 1209 (9th
4 Cir. 2011); *Prieto-Romero v. Clark*, 534 F.3d 1053, 1065–66 (9th Cir. 2008).

5
6 53. The Supreme Court has also made clear that timely appellate review is a key
7 feature of any civil detention scheme. As the Court has explained, “[r]elief [when seeking review
8 of detention] must be speedy if it is to be effective.” *Stack v. Boyle*, 342 U.S. 1, 4 (1951).

9
10 54. Most notably, the Court upheld the federal pretrial detention under the Bail
11 Reform Act in part because the statute “provide[s] for immediate appellate review of the
12 detention decision.” *United States v. Salerno*, 481 U.S. 739, 752 (1987). As the Ninth Circuit
13 later elaborated, “[e]ffective review of pretrial detention orders necessarily entails a speedy
14 review in order to prevent unnecessary and lengthy periods of incarceration on the basis of an
15 incorrect magistrate’s decision.” *United States v. Fernandez-Alfonso*, 813 F.2d 1571, 1572 (9th
16 Cir. 1987).

17
18 55. These principles derive from the federal pretrial context, where, by definition,
19 individuals are subject to federal criminal proceedings. Yet here, where only civil proceedings
20 are at issue, the BIA provides nothing like the speedy review federal district and appellate courts
21 provide of magistrate judge detention decisions.

22
23 56. Without timely review, appellate review is meaningless. Indeed, the Supreme
24 Court has explained that the opportunity to obtain “freedom before conviction permits the
25 unhampered preparation of a defense, and serves to prevent the infliction of punishment prior to
26 conviction.” *Stack*, 342 U.S. at 4. Additionally, such detention “may imperil the [detained
27 person’s] job, interrupt his source of
28

1 income, and impair his family relationships.” *Gerstein v. Pugh*, 420 U.S. 103, 114(1975).

2 57. During the many months the BIA takes to review a bond appeal, a detained
3 noncitizen will be forced to defend themselves against their removal on the merits, depriving
4 them of a meaningful chance to assemble evidence outside detention, coordinate with family, or
5 communicate with potential witnesses in other countries.

7 58. Indeed, their very detention significantly reduces their likelihood of obtaining
8 legal representation. In removal proceedings, noncitizens have the right to be represented by
9 legal counsel but “at no expense to the government.” 8 U.S.C. §1362. Those detained while in
10 removal proceedings face significant challenges to accessing and communicating with counsel or
11 other forms of legal assistance. See, e.g., ACLU, No Fighting Chance: ICE’s Denial of Access to
12 Counsel in U.S. Immigration Detention Centers 6 (June 9, 2022), [https://www.aclu.org/
13 publications/no-fighting-chance-ices-denial-access-counsel-us-immigration-detention-centers](https://www.aclu.org/publications/no-fighting-chance-ices-denial-access-counsel-us-immigration-detention-centers).

15 59. The lack of legal representation in turn dramatically reduces the potential for
16 successful outcomes in their underlying removal proceedings. *Id.* at 12.

18 60. The months a noncitizen waits for appellate review also deprives them of time
19 with their spouses, children, parents, and other family members. These individuals—who are
20 often U.S. citizens or lawful permanent residents—are similarly deprived of the love, care, and
21 financial support that the detained person provides.

23 61. Time in detention is also difficult in other ways. Detained persons are often
24 incarcerated in jail-like settings, forced to sleep in communal spaces, receive inadequate medical
25 care, and subjected to other degrading treatment.

26 62. While not all noncitizens succeed in their appeals, some do. The BIA’s
27 months-long appellate review means that for those individuals, they have spent months of
28

unnecessary time in detention and suffered the many harms outlined above.

63. Such review processing times violate the Due Process Clause and do not constitute a reasonable time as required by the APA.

CLASS ALLEGATIONS

64. Plaintiffs bring this action on behalf of themselves and all other persons who are similarly situated, pursuant to Federal Rules of Civil Procedure 23(a) and 23(b)(2). A class action is proper because this action involves questions of law and fact common to the class; the class is so numerous that joinder of all members is impractical; the claims of the Plaintiffs are typical of the claims of the class, Plaintiffs will fairly and adequately protect the interests of the class; and Defendants have acted on grounds that apply generally to the class, so that final declaratory relief is appropriate with respect to the class as a whole. Bond Stay Class

65. Plaintiffs seek to represent a "Bond Stay Class" comprised of the following: All noncitizens detained at the Northwest ICE Processing Center who (1) have entered or will enter the United States without inspection, (2) are not apprehended upon arrival into the United States, and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the noncitizen is scheduled for or requests a bond hearing and has been or will be granted a bond by an immigration judge in the Las Vegas Immigration Court ("Bond Stay Class") that has been statutorily stayed.

66. The Bond Stay Class is so numerous that joinder of all members is impracticable. Plaintiffs are not aware of the exact number of putative class members as Defendants are uniquely positioned to identify such persons. Upon information and belief, there are hundreds of individuals detained each year at NSDC to whom the ICE automatic, frivolous appeal policy applies. The class is also comprised of many future members.

1 67. The proposed class meets the commonality requirement of Federal Rule of
2 Civil Procedure 23(a)(2). All class members present the same question of whether ICE's abuse
3 of the statutory stay under 8 C.F.R. §1003.19 constitutes a Due Process violation.
4

5 68. Plaintiffs' claims are typical of the class, as they face the same injury as the
6 class and assert the same claims and rights as the class. The proposed class meets the adequacy
7 requirement of Federal Rule of Civil Procedure 23(a)(4). The Named Plaintiffs seek a declaration
8 of rights applicable to the whole class, are represented by competent class counsel, and will
9 fairly and adequately protect the class's interest. Bond Appeal Class
10

11 69. Plaintiffs seek to represent a class entitled the "Bond Appeal Class," where
12 detained noncitizens have a pending appeal, will file an appeal of, or will respond to an appeal
13 filed by ICE of an immigration judge's bond hearing ruling before the Board of Immigration
14 Appeals.
15

16 70. The Bond Appeal Class is so numerous that joinder of all members is
17 impracticable. Plaintiffs are not aware of the exact number of potential class members because
18 Defendants are uniquely positioned to identify such persons. However, upon information and
19 belief, there are thousands of noncitizens who file an appeal in their bond proceedings each year.
20

21 71. The proposed class meets the commonality requirement of Federal Rule of
22 Civil Procedure 23(a)(2). All class members present the same question of whether the Due
23 Process Clause or the APA entitles them to timely adjudication of their bond hearing appeals.

24 72. Plaintiffs' claims are typical of the class, as they face the same injury as the
25 class and assert the same claims and rights as the class.

26 73. The proposed class meets the adequacy requirement of Federal Rule of Civil
27
28

1 Procedure 23(a)(4). The proposed class seeks a declaration of rights applicable to the whole
2 class, is represented by competent immigration counsel, and Plaintiffs will fairly and adequately
3 protect the class's interest.

4 HURTADO BOND DENIAL CLASS

5
6 74. The Hurtado Bond Denial Class is so numerous that joinder of all members is
7 impracticable. Plaintiffs are not aware of the exact number of potential class members because
8 Defendants are uniquely positioned to identify such persons.

9
10 75. The proposed class meets the commonality requirement of Federal Rule of
11 Civil Procedure 23(a)(2). All class members present the same question of whether the
12 Due Process Clause or the APA means that the Las Vegas Immigration Court and the BIA must
13 be enjoined from following Matter of Hurtado.

14
15 76. Plaintiffs' claims are typical of the class, as they face the same injury as the
16 class and assert the same claims and rights as the class.

17
18 77. The proposed class meets the adequacy requirement of Federal Rule of Civil
19 Procedure 23(a)(4). The proposed class seeks a declaration of rights applicable to the whole
20 class, is represented by competent immigration counsel, and Plaintiffs will fairly and adequately
21 protect the class's interest.

22 CAUSES OF ACTION

23 COUNT I

24 Violation of the Due Process Clause of the Fifth Amendment Delayed Posting of Bonds (on
25 Behalf of Plaintiffs and the Bond Stay Class)

26
27 78. Plaintiffs incorporate by reference the allegations of fact set forth in paragraphs 1-77.

28 79. The Due Process Clause protects noncitizens' vested interests in bond grants.

1 80. By automatically staying bond grants with frivolous appeals that lack timely
2 adjudication, said vested interests are deprived without any procedural safeguards.

3 81. This failure to protect against unlawful taking violates the Due Process Clause
4 of the Fifth Amendment.
5

6 COUNT II

7 Violation of the Administrative Procedure Act Unlawful Stay of Bond Grants (on Behalf of
8 Plaintiffs and the Bond Stay Class)

9 82. Plaintiffs incorporate by reference the allegations of fact set forth in
10 paragraphs 1–81.
11

12 83. The application of 8 C.F.R. §1003.19 to Bond Stay Class members is
13 arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See
14 U.S.C. § 706(2).
15

16 COUNT III

17 Violation of the Due Process Clause of the Fifth Amendment Delayed Adjudication of Bond
18 Appeals (on Behalf of Plaintiff and the Bond Appeal Class)

19 84. Plaintiffs incorporate by reference the allegations of fact set forth in
20 paragraphs 1–83.108. The Due Process Clause guarantees persons in civil detention timely
21 appellate review of the decision to detain.
22

23 85. By not adjudicating appeals within thirty days of the filing of a notice of
24 appeal, the BIA does not provide timely appellate review of detention decisions.

25 86. This failure to provide timely appellate review violates the Due Process
26 Clause of the Fifth Amendment.
27

COUNT IV

Violation of the Administrative Procedure Act Delayed Adjudication of Bond Appeals (on Behalf of Plaintiff and the Bond Appeal Class)

87. Plaintiffs incorporate by reference the allegations of fact set forth in paragraphs 1–86.

88. The APA requires that agencies act on matters presented to them within a “reasonable time.” 5 U.S.C. § 555(b). It also empowers individuals to sue for “agency action unlawfully withheld or unreasonably delayed.” Id. § 706(1)

89. In the context of physical liberty, a reasonable time for appellate review of a civil detention decision is thirty days from the filing of the notice of appeal.

90. The BIA’s appellate review extends far longer than thirty days in the cases of proposed Bond Appeal Class members.

91. This failure to provide timely appellate review violates the APA.

PRAYER FOR RELIEF WHEREFORE,

A. Plaintiff respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Certify this case as a class action, and certify a Bond Stay Class and a Bond Appeal Class and Hurtado Bond Denial Class;
3. Appoint Named Plaintiffs as representatives of the Bond Stay Class;
4. Appoint Named Plaintiffs as representatives of the Bond Appeal Class;
5. Appoint Named Plaintiffs as representatives of the Hurtado Bond Denial Class;
6. Appoint undersigned counsel as class counsel pursuant to Federal Rule of Civil Procedure 23(g).

1 B. As remedies for each of the causes of action asserted above, Plaintiffs and proposed class
2 members request:

3 1. A declaratory judgment finding Defendants' policy and practice of staying
4 bonds under 8 C.F.R. §1003.19 violate the INA, Due Process Clause and the APA;

5 2. A writ of habeas corpus as to Named Plaintiffs, requiring that Defendants
6 release them or allow them to post their respective bonds within 7 days;

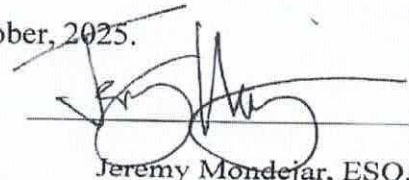
7 3. A declaratory judgment finding that the Due Process Clause or the APA
8 provides that the Named Plaintiffs and the Bond Appeal Class Members have a right to timely
9 adjudication of their bond appeal by receiving a decision within 30 days of filing the notice of
10 appeal so long as the noncitizen remains detained;

11 4. A writ of habeas corpus as to Named Plaintiffs, requiring that Defendants
12 release him or adjudicate his bond appeal within 30 days;

13 5. A declaratory judgment finding that the Due Process Clause or the APA
14 provides that Matter of Hurtado illegally prevents bail for individuals who fall under Section
15 236 of the INA and enjoining the Las Vegas Immigration Court and the BIA from applying it to
16 bond requests for said individuals; C. Reasonable attorneys' fees and costs pursuant to the Equal
17 Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and

18 D. Such further relief as this Court deems just and appropriate.
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23 DATED this 14th day of October, 2025.

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