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

RAMIRO CHAVEZ VALDOVINOS

Petitioner

v.

Kristi NOEM, Secretary, U.S. Department of
Homeland Security;

Todd LYONS, Acting Director, U.S.

Immigration and Customs Enforcement;

Gregory J. ARCHAMBEAULT, Field Office

Director, San Diego Field Office, U.S.

Immigration and Customs Enforcement.

Christopher LAROSE, Senior Warden, Otay

Mesa Detention Center;

Sirce OWEN, Acting Director of the Executive

Office for Immigration Review (EOIR),

U.S. Department of Justice.

Pamela BONDI, Attorney General, U.S.

Department of Justice.

Respondents

Case No.: '25CV2439 TWR KSC

**PETITION FOR
WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Ramiro Chavez Valdovinos, is a Mexican national who has lived in the U.S. for over a decade and is currently in DHS custody at the Otay Mesa Detention Center.

2. Petitioner now faces unlawful detention because DHS and the Executive Office for Immigration Review (EOIR) of the Department of Justice (DOJ) have adopted a new interpretation of the Immigration and Nationality Act (INA), recently reinforced by the Board of Immigration Appeals in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which treats all individuals who entered the United States without inspection as “applicants for admission” and erroneously subjects them to mandatory detention under INA § 235(b)(2)(A) (8 U.S.C. § 1225(b)(2)(A)).

3. For decades, both the courts and the DHS have recognized that individuals, like Petitioner, who entered years ago and were later apprehended in the interior, fall under § 1226(a), which authorizes release on bond or conditional parole.

4. The newly adopted interpretation bars noncitizens like Petitioner from seeking release on bond under INA § 236 and the procedures provided in 8 C.F.R. §§ 1003.19(a), 1236.1(d).

5. Because the new legal interpretation eliminates Immigration Judge jurisdiction in such cases, any request for a bond hearing before EOIR would be futile. Exhaustion should therefore be excused in this case.

6. Petitioner’s detention on this basis violates the plain language of the INA, longstanding practice, and the constitutional guarantees of Due Process.

7. This habeas petition challenges the government’s position that Petitioner is subject to mandatory custody under INA § 235.

8. Petitioner seeks a writ of habeas corpus ordering his release, or alternatively, a constitutionally adequate bond hearing before a neutral decisionmaker, where the Government must prove by clear and convincing evidence that continued detention is warranted under the Due Process Clause of the Fifth Amendment.

JURISDICTION AND VENUE

9. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in the custody of the Department of Homeland Security within this District and he challenges the legality of that custody.

10. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, including the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

11. Neither 8 U.S.C. § 1252(g) nor § 1252(b)(9) strips this Court of jurisdiction. Section 1252(g) bars only challenges to the Attorney General's discretionary decisions to "commence proceedings, adjudicate cases, or execute removal orders," not independent challenges to unlawful detention. Likewise, § 1252(b)(9) consolidates review of removal orders in the courts of appeals, but does not foreclose habeas review of detention claims, which are collateral to the removal proceedings.

12. Venue is proper in this District under 28 U.S.C. § 1391(e) because Petitioner is detained at the Otay Mesa Detention Center, which lies within the jurisdiction of this Court.

PARTIES

13. Petitioner, Ramiro Chavez Valdovinos, is a Mexican national detained at the Otay Mesa Detention Center, in San Diego, California.

14. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS).

15. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE).

16. Respondent Gregory J. Archambeault is the Director of the San Diego Field Office of U.S. Immigration and Customs Enforcement.

17. Respondent Cristopher Larose is the Senior Warden of the Otay Mesa Detention Center.

1 18. Respondent Sirce Owen is the Acting Director of the Executive Office for
2 Immigration Review (EOIR).

3 19. Respondent Pamela Bondi is the Attorney General of the United States and the head
4 of the U.S. Department of Justice (DOJ).

5 20. All Respondents are named in their official capacities.

6 **LEGAL FRAMEWORK**

7 21. The Immigration and Nationality Act provides multiple detention authorities, but for
8 decades courts, Congress, and agencies have distinguished between (i) noncitizens apprehended
9 at the border seeking admission, and (ii) noncitizens already present in the United States who are
10 apprehended inside the country and placed in removal proceedings.

11 22. Section 235(b), 8 U.S.C. § 1225(b), was designed for noncitizens encountered at ports
12 of entry or apprehended immediately after crossing the border, who are undergoing inspection
13 and have not yet been admitted. Such individuals are treated as applicants for admission and are
14 subject either to expedited removal (§ 1225(b)(1)) or to detention pending a decision on
15 admission (§ 1225(b)(2)).

16 23. By contrast, Section 236(a), 8 U.S.C. § 1226(a), governs the detention of individuals
17 who entered years ago and were later apprehended in the interior, “pending a decision on
18 whether [they are] to be removed from the United States.” This provision authorizes the Attorney
19 General to detain or release such persons on bond or conditional parole, unless subject to §
20 236(c) (mandatory detention for certain criminal offenses and security-related grounds). Arrests
21 under this authority are usually made on warrants, and longstanding regulations confirm their
22 eligibility for Immigration Judge bond hearings. See 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
23 For decades, individuals who entered without inspection but lived in the United States and were
24 later arrested under warrants were treated this way, consistent with Congress’s description that §
25 236(a) merely “restates” the prior INA § 242(a) detention authority. See H.R. Rep. No. 104-469,
26 pt. 1, at 229 (1996).

1 24. Until 2025, the government consistently treated individuals apprehended inside the
2 United States—even if they had entered without inspection—as subject to § 236(a)’s
3 discretionary detention scheme. This included those who could not lawfully be placed in
4 expedited removal because they had been continuously present in the United States for more than
5 two years, as required under § 235(b)(1)(A)(iii)(II).

6 25. Only in 2025 did DHS and the BIA begin advancing a contrary interpretation,
7 asserting that all noncitizens who entered without inspection must be treated as detained under §
8 235(b)(2). This abrupt shift departed from decades of practice and contradicted settled
9 expectations of custody jurisdiction.

10 26. On July 8, 2025, ICE, “in coordination with the Department of Justice,” issued
11 Interim Guidance Regarding Detention Authority for Applicants for Admission. The policy
12 declared that all noncitizens who entered without inspection would henceforth be subject to
13 mandatory detention under § 235(b)(2)(A), regardless of when or where they were apprehended
14—even if they had resided in the United States for years.

15 27. That same interpretation was recently formalized in *Matter of Yajure Hurtado*, 29
16 I&N Dec. 216 (BIA 2025), a precedential decision eliminating Immigration Judge jurisdiction to
17 redetermine custody for such individuals.

18 28. Nonetheless, in January 2025, Congress confirmed that § 236(a), not § 235(b),
19 governs custody for noncitizens apprehended in the interior. In the Laken Riley Act of 2025,
20 Congress amended § 236(c) to add subparagraph (E), extending mandatory detention only to a
21 narrow category of individuals who (i) are inadmissible under § 1182(a)(6)–(7) and (ii) also meet
22 specified criminal-conduct criteria. By creating this limited carve-out, Congress reaffirmed that
23 the broader class of noncitizens present without admission or parole remain subject to § 236(a)’s
24 discretionary framework. If, as DHS and the BIA now contend, all such individuals were already
25 subject to mandatory detention under § 235(b)(2), Congress’s enactment would have been
26 superfluous.

FACTS

29. Petitioner is a Mexican national who has lived in the United States for more than a decade, after entering without inspection at a non-designated location around 2012.

30. On August 20, 2025, ICE agents arrested Petitioner outside his residence.

31. Petitioner was thereafter served with a Notice to Appear, and removal proceedings were initiated against him before the Otay Mesa Immigration Court.

32. Petitioner has deep and longstanding ties to his community.

33. Petitioner has no criminal record.

34. Petitioner is the father of a U.S.-born minor child.

35. Petitioner is *prima facie* eligible for Cancellation of Removal under INA § 240A(b).

36. On September 5, 2025, the Board of Immigration Appeals issued its precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The Board held that all noncitizens who entered without inspection are “applicants for admission” under INA § 235, regardless of how long ago they entered or their family and community ties.

37. The decision eliminated Immigration Judge jurisdiction to conduct custody redeterminations for such individuals.

38. Accordingly, any further efforts to seek a custody redetermination/bond hearing before EOIR would be futile. Exhaustion should therefore be excused.

39. Absent relief from this Court, Petitioner faces the prospect of unjustifiable and unreasonable prolonged immigration custody without ever receiving an individualized hearing to justify his detention, in violation of the INA and the Due Process Clause.

CLAIM FOR RELIEF

COUNT 1

Violation of the Immigration and Nationality Act (INA)

40. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

42. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the Immigration and Nationality Act (INA).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A) Assume jurisdiction over this matter;

B) Direct Respondents to refrain from transferring Petitioner outside the jurisdiction of this District while these proceedings are pending;

C) Declare that Petitioner's continued detention violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment by depriving him of a meaningful opportunity for release and prolonging his confinement without legitimate justification;

D) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately from custody, or, in the alternative, order a constitutionally adequate bond hearing before a neutral decisionmaker at which the Government must justify his continued detention by clear and convincing evidence;

E) Award Petitioner attorney's fees and costs, including under the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412, to the extent applicable, and on any other basis authorized by law; and

F) Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

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