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

Daniel Castellanos Lopez,

Petitioner,

vs.

Warden, Otay Mesa Detention Center,

San Diego Field Office Director,
Enforcement and Removal Operations,
U.S. Immigration and Customs
Enforcement,

U.S. Attorney General,

Respondents.

Case No.: '25CV2527 AJB SBC

PETITION FOR HABEAS CORPUS

Petitioner Daniel Castellanos Lopez ("Mr. Castellanos") is being unlawfully detained without a bond hearing by U.S. Immigration and Customs Enforcement ("ICE"). This is based on a recent policy change by the U.S. Department of Homeland Security ("DHS") and U.S. Department of Justice ("DOJ") that purported to reinterpret the detention statutes to deny bond to people apprehended

1 within the United States who had not been admitted on a visa. The government's
2 new practice conflicts with Supreme Court precedent, over a century of consistent
3 statutory tradition, and almost 40 years of consistent agency practice under the
4 current statutes. The new policy has been found unlawful by at least 46 district
5 court decisions, including one in this district. Mr. Castellanos asks the Court to
6 order his release or order that he be provided a bond hearing before an immigration
7 judge.

8 9 **Jurisdiction and Venue**

- 10 1. The Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas
11 corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the
12 United States Constitution (Suspension Clause).
- 13 2. Venue is proper under 28 U.S.C. § 1391(c)(1) because Petitioner is detained
14 in Otay Mesa, California which is in San Diego County, California.

15 16 **Parties**

- 17 3. Petitioner Daniel Castellanos Lopes is a citizen of Mexico who has been in
18 the Respondents' custody since August 21, 2025. He has been continuously
19 physically present in the United States since 2003. He is currently in the
20 custody of ICE.
- 21 4. Respondent Warden of the Otay Mesa Detention Center has immediate and
22 physical custody of Mr. Castellanos pursuant to the facility's contract with
23 ICE to detain noncitizens. Respondent is a legal custodian of Petitioner.
- 24 5. Respondent San Diego Field Office Director is responsible for the
25 implementation and enforcement of the Immigration and Nationality Act,
26 and they oversee Petitioner's detention by ICE. They are a legal custodian of
27

Petitioner.

6. Respondent U.S. Attorney General oversees the immigration court system, which is denying Respondent a bond hearing.
7. All government Respondents are sued in their official capacities.

Factual and Procedural History

8. Mr. Castellanos is a native and citizen of Mexico. He last arrived in the United States without a valid visa in or around 2003. He has remained in the United States since that time.
9. Mr. Castellanos has not been convicted of any crimes.
10. Mr. Castellanos is married to Lusarelis Mendiola ("Mrs. Mendiola"), a U.S. citizen. Together, the couple has one child, A.C., who is also a U.S. citizen. Mr. Castellanos has two additional adult U.S. citizen children from a previous relationship.
11. Mr. Castellanos enjoys widespread support from his community.
12. On January 22, 2018, Mrs. Mendiola filed a Form I-130, Petition for Alien Relative, on behalf of Mr. Castellanos. The petition was approved on December 14, 2018.
13. On August 21, 2025, Mr. Castellanos was detained by ICE officers at his residence in San Diego, California. He has since been held at the Otay Mesa Detention Center.
14. On September 5, 2025, the Board of Immigration Appeals ("BIA") published *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The decision proclaimed that any person who entered the United States without inspection is detained under 8 U.S.C. § 1225(b)(2) and ineligible for release on bond. This would mandate the detention of thousands or millions of

1 people who have been living peacefully in the United States, some of them
2 for decades.

3 15. Since Mr. Castellanos entered the United States without a visa, he has been
4 denied a bond hearing under *Matter of Yajure Hurtado*.

5 16. Mr. Castellanos is not a flight risk or danger to the community.

6
7 **Mr. Castellanos is Detained under 8 U.S.C. § 1226(a)**

8 17. The expedited removal statute at 8 U.S.C. § 1225(b)(2) does not apply to
9 Petitioner. Rather, his detention is governed by 8 U.S.C. § 1226(a), meaning
10 that he is entitled to a bond hearing. He has been unlawfully denied a bond
11 hearing.

12 18. The Supreme Court recognized in *Jennings v. Rodriguez* that § 1225(b) is
13 concerned “primarily [with those] seeking entry,” and is generally imposed
14 “at the Nation’s borders and ports of entry, where the Government must
15 determine whether [a noncitizen] seeking to enter the country is admissible.”
16 *Jennings v. Rodriguez*, 583 U.S. 281, 297, 187 (2018). By contrast, § 1226
17 detention relates to people “inside the United States” and “present in the
18 country.” *Id.* at 288.

19 19. There are clear statutory signals that § 1225(b) is only concerned with
20 “inspection” of travelers arriving in the United States.¹ The term
21 “inspection” is not defined in the Immigration and Nationality Act.
22 However, numerous statutes, regulations, and agency precedents discuss
23

24
25 ¹ 8 U.S.C. § 1225 (titled “Inspection by immigration officers; expedited removal of inadmissible
26 arriving aliens; referral for hearing”); 8 U.S.C. §§ 1225(b)(1)-(2) (referring to “inspection” in
27 their titles); 8 U.S.C. § 1225(d)(1) (authorizing immigration officials to search certain
28 conveyances in order to conduct “inspections” where noncitizens “are being brought into the
United States”).

1 “inspection” in the context of admission processes at ports of entry.² This
2 supports the conclusion that § 1225 is limited temporally and geographically
3 to the inspection process of travelers arriving at the border.

4 20. Section 1225 and its implementing regulations use present and present
5 progressive verbs, referring to people who are actively arriving and seeking
6 admission. Section § 1225(b)(1) is limited to presently “arriving”
7 noncitizens and those apprehended within two years of entry, and §
8 1225(b)(2) is limited to those in the process of “seeking admission.”
9 Likewise, the regulation at 8 C.F.R. § 1.2 addresses noncitizens who are
10 presently “coming or attempting to come into the United States at a port-of-
11 entry.” These word choices show that § 1225 does not apply to people like
12 Petitioner who were apprehended in the interior more than two years after
13 entry because they are no longer in the process of arriving or seeking
14 admission to the United States.

15 21. By contrast, 8 U.S.C. § 1226 clearly includes individuals who have not been
16 admitted. While § 1226(a) generally permits bond to be granted, § 1226(c)
17 disqualifies noncitizens with certain criminal convictions. Some of these
18 exceptions are specifically targeted at noncitizens who have not been
19 admitted. Section 1226(c) provides that a person is ineligible for bond if
20 they are inadmissible due to criminal convictions or terrorism.³ The grounds
21 of inadmissibility only apply to people who have not been admitted. There
22 would be no need to exempt certain unadmitted people from bond if all
23 unadmitted people were already ineligible for bond under section 1225.

24
25 ² See, e.g., 8 U.S.C. §§ 1187(h)(2)(B)(i), 1225(a); 8 U.S.C. § 1752a; 8 C.F.R. § 235.1; *Matter of Quilantan*, 25 I&N Dec. 285 (BIA 2010).

26 ³ 8 U.S.C. § 1226(c)(1) (exempting from bond any alien who “is inadmissible by reason of
27 having committed any offense covered in 8 U.S.C. § 1182(a)(2)” or who “is inadmissible under 8
28 U.S.C. § 1182(a)(3)(B).”).

When “Congress has created specific exceptions” to a rule, it proves the general applicability of the rule. *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010).

22. Congress recently passed the Laken Riley Act, which added another exception to bond eligibility that applies only to unadmitted people.⁴ Under the government’s reading, the contentious public debate and passage of the Laken Riley Act was pointless and redundant because all unadmitted people were already ineligible for bond. But “[w]hen Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.” *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995) (citations omitted).

23. Longstanding statutory and regulatory authority confirms that § 1225 does not apply to people apprehended within the interior of the United States more than two years after entry. The last major revision to the detention framework was in 1996 when Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996. IIRIRA maintained nearly a century of statutory tradition of allowing people inside the United States to seek release on bond.⁵ Immediately after the passage of IIRIRA, the Immigration and Naturalization Service issued a regulation confirming the tradition of providing bond hearings to people apprehended

⁴ 8 U.S.C. § 1226(c)(1)(E), *as amended by* Laken Riley Act, Pub. L. 119-1, 139 Stat. 3 (2025) (disqualifying from bond any noncitizen who “is inadmissible under section 1182(a)(3)(B) of this title or deportable under section 1227(a)(4)(B) of this title” and has an inchoate offense of theft, assault on a law enforcement officer, or causing death or serious bodily injury.).

⁵ See 34 Stat. 904-905, § 20 (1907) (providing for release on bond for noncitizens alleged to have entered the United States unlawfully); 39 Stat. 874, 890-91, §§ 19, 20 (1917) (similar); 66 Stat. 163, §§ 241(a)(2), 242(a) (1952) (last codified at 8 U.S.C. § 1252(a)(1) (1994)) (providing for release on bond, including for noncitizens alleged to have entered the United States without inspection).

inside the United States who had not been admitted.⁶ That interpretation has held steady for decades, across administrations, until recently. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025).

24. The United States Solicitor General recently affirmed this position to the Supreme Court. *Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at *4 n.9 (D. Mass. July 24, 2025) (citing the United States Solicitor General’s representation to the Supreme Court at oral argument that “DHS’s long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended.”).

25. In July 2025 DHS and DOJ colluded to upend this century-long tradition, even though DOJ is supposed to operate the immigration courts independently of the ICE prosecutors housed at DHS.⁷ The immigration courts have been subjected to political interference on this issue and not been left to operate in a normal, orderly fashion. Unsurprisingly, a few months later the Board of Immigration Appeals issued a precedent purporting to adopt this new practice as precedent. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 216 (BIA 2025) (holding that “Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.”). Even though the precedent is only a few weeks old, several district courts have already

⁶ Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.”).

⁷ Interim Guidance Regarding Detention Authority for Applicants for Admission, <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>, July 8, 2025 (DHS announcing change of practice “in coordination” with DOJ).

1 refused to give it deference.⁸

2 26. Dozens of district courts have recently ruled in conflict with *Matter of*
 3 *Yajure-Hurtado* and held that petitioners apprehended in the interior of the
 4 United States years after entry are eligible for bond under § 1226. An
 5 appendix is attached detailing 46 such decisions. One such decision is from
 6 this district. *Vasquez Garcia v. Noem*, 3:25-cv-2180, 2025 WL 2549431
 7 (S.D. Cal. Sept. 3, 2025). The courts have spoken with remarkable clarity in
 8 rejecting this attempted change in how the immigration laws function.

9
 10 **Cause of Action: 8 U.S.C. § 1226(a) and Associated Regulations**

11 27. Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a) and its
 12 associated regulations. *See* 8 C.F.R. §§ 236.1(d), 1236.1, 1003.19(a)-(f).

13
 14 **Prayer for Relief**

15 Therefore, Petitioner respectfully asks this Court to grant the following relief:

- 16 1) Declare that Petitioner's detention without a bond hearing is unlawful;
 17 2) Order that Petitioner not be transferred outside the Southern District of
 18 California;
 19 3) Order Petitioner's release from detention and/or order that he receive a
 20 bond hearing before an immigration judge at which the government is
 21 enjoined from finding him subject to mandatory detention under 8 U.S.C.

22
 23 ⁸ *See, e.g., Chogllo Chafila v. Scott*, No. 25-437, 2025 WL 2688541, at *7 (D. Me. Sept. 21,
 24 2025) ("I find Yajure Hurtado to be unavailing . . ."); *Hilario Rodriguez v. Moniz*, No. 25-
 25 12358, at 4 n.4 (D. Mass. Sept. 18, 2025); *Sampiao v. Hyde*, 1:25-cv-11981, 2025 WL 2607924,
 26 at *8 n.11 (D. Mass. Sept. 9, 2025) ("[T]he Court disagrees with the BIA for the reasons given
 27 herein."); *Pizarro Reyes v. Raycraft*, No. 25-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept.
 28 9, 2025) ("[T]he BIA's decision to pivot from three decades of consistent statutory interpretation
 and call for [petitioner's] detention under § 1225(b)(2)(A) is at odds with every District Court
 that has been confronted with the same question of statutory interpretation.").

§ 1225;

4) Award costs and fees under the Equal Access to Justice Act; and

5) Grant any other relief the Court deems just and proper.

Dated September 25, 2025

Signature: /s/Alexandra Fuxa Ramirez

Alexandra Fuxa Ramirez

VERIFICATION

I, Lusarelis Mendiola, am the wife of Petitioner Daniel Castellanos Lopez. I am familiar with the facts mentioned in the complaint and I submit this verification on my husband's behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated September 25, 2025

Signature: Lusarels Mendiola
Lusarels Mendiola

Appendix: District Court Decisions Classifying Unadmitted
Noncitizens as Detained Under 8 U.S.C. § 1226(a)

1. *Gomes v. Hyde*, 1:25-cv-11571, 2025 WL 1869299 (D. Mass. July 7, 2025)
2. *Martinez v. Hyde*, 1:25-cv-11613, 2025 WL 2084238 (D. Mass. July 24, 2025)
3. *Dos Santos v. Noem*, 1:25-cv-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025)
4. *Romero v. Hyde*, 1:25-cv-11631, 2025 WL 2403827 (D. Mass. Aug. 19, 2025)
5. *Doe v. Moniz*, 1:25-cv-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025)
6. *Sampiao v. Hyde*, 1:25-cv-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025)
7. *Hilario Rodriguez v. Moniz*, No. 25-12358 (D. Mass. Sept. 18, 2025)
8. *Chogllo Chafra v. Scott*, 2:24-cv-437 to -439, 2025 WL 2688541 (D. Me. Sept. 2, 2025)
9. *Jimenez v. FCI Berlin, Warden*, 1:25-cv-326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025)
10. *Lopez Benitze v. Francis*, 1:25-cv-5937, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025)
11. *Samb v. Joyce*, 1:25-cv-6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025)
12. *Leal-Hernandez v. Noem*, 1:25-cv-2428, 2025 WL 2430025 (D. Md. Aug. 24, 2025)
13. *Hasan v. Crawford*, 1:25-cv-1408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025)
14. *Kostak v. Trump*, 3:25-cv-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025)
15. *Lopez Santos v. Noem*, 3:25-cv-1193 (W.D. La. Sept. 11, 2025)
16. *Lopez-Camps v. Raycroft*, 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 28, 2025)
17. *Pizarro Reyes v. Raycraft*, 2:25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025)
18. *Beltran Barrera v. Tindall*, 3:25-cv-541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025)
19. *Singh v. Lewis*, 4:25-cv-96 (W.D. Ky. Sept. 22, 2025)
20. *Campos Leon v. Forestal*, 1:25-cv-1174, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025)
21. *Maldonado v. Olson*, 0:25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025)
22. *O.E. v. Bondi*, 0:25-cv-3051, 2025 WL 2466670 (D. Minn. Aug. 27, 2025)

23. *Garcia Jimenez v. Kramer*, 4:25-cv-3162, 2025 WL 2374223 (D. Neb. Aug. 14, 2025)
24. *Anicasio v. Kramer*, 4:25-cv-3158, 2025 WL 2374224 (D. Neb. Aug. 14, 2025)
25. *Jacinto v. Trump*, 4:25-cv-3161, 2025 WL 2402271 (D. Neb. Aug. 19, 2025)
26. *Carmona-Lopez v. Trump*, 4:25-cv-3172, 2025 WL 2531521 (D. Neb. Sept. 3, 2025)
27. *Cortes Fernandez v. Lyons*, 8:25-cv-506, 2025 WL 2531539 (D. Neb. Sept. 3, 2025)
28. *Palma Perez v. Berg*, 8:25-cv-494, 2025 WL 2531566 (D. Neb. Sept. 3, 2025)
29. *Lorenzo Perez v. Kramer*, 4:25-cv-3179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025)
30. *Ozuna Carlon v. Kramer*, 4:25-cv-3178, 2025 WL 2624386 (D. Neb. Sept. 11, 2025)
31. *Genchi Palma v. Trump*, 4:25-cv-3176, 2025 WL 2624385 (D. Neb. Sept. 11, 2025)
32. *Duenas Arce v. Trump*, 8:25-cv-520, 2025 WL 2675934 (D. Neb. Sept. 18, 2025)
33. *Hernandez Marcelo v. Trump*, 3:25-cv-94 (S.D. Iowa Sept. 10, 2025)
34. *Arrazola-Gonzalez v. Noem*, 5:25-cv-1789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025)
35. *Zaragoza Mosqueda v. Noem*, 5:25-cv-2304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025)
36. *Rosado v. Figueroa*, 2:25-cv-2157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (report and recommendation later adopted by district judge)
37. *Maldonado Vasquez v. Feeley*, 2:25-cv-1542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025)
38. *Jimenez v. Bostock*, 3:25-cv-570, 2025 WL 2430381 (D. Or. Aug. 22, 2025)
39. *Cuevas Guzman v. Andrews*, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025)
40. *Hernandez Nieves v. Kaiser*, 3:25-cv-6921, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025)
41. *Caicedo Hinestroza v. Kaiser*, 3:25-cv-7559, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025)
42. *Salcedo Aceros v. Kaiser*, 3:25-cv-6924, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025)
43. *Vasquez Garcia v. Noem*, 3:25-cv-2180, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025)
44. *Rodriguez Vasquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025)
45. *Garcia Cortes v. Noem*, 1:25-cv-2677 (D. Colo. Sept. 16, 2025)

1 46. *Zalazar v. Dedos*, 1:25-cv-835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025)