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7 **UNITED STATES DISTRICT COURT**
8 **CENTRAL DISTRICT OF CALIFORNIA**

9 Daniel LOPEZ POP;
10 Alfonso ORTEGA MARIN;
11 Gilberto MARTINEZ ROJAS; and
12 Jose Placido HUEZO CORTEZ,

12 Petitioners,

13 v.

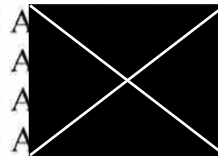
13 Kristi NOEM, Secretary, U.S. Department of
14 Homeland Security; Pamela BONDI, U.S.
15 Attorney General; Todd LYONS, Acting
16 Director, Immigration and Customs
17 Enforcement; Ernesto SANTACRUZ JR.,
18 Acting Director, Los Angeles Field Office,
19 Immigration and Customs Enforcement,
20 Enforcement and Removal Operations;
21 Fereti SEMAIA, Warden, Adelanto ICE
22 Processing Center; EXECUTIVE OFFICE FOR
23 IMMIGRATION REVIEW; IMMIGRATION
24 AND CUSTOMS ENFORCEMENT; and U.S.
25 DEPARTMENT OF HOMELAND
26 SECURITY,

21 Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241;
VERIFIED PETITION**

PETITIONERS' DHS NOS:



INTRODUCTION

1. Petitioners Daniel LOPEZ POP, Alfonso ORTEGA MARIN, Gilberto MARTINEZ ROJAS, and Jose Placido HUEZO CORTEZ are in the physical custody of Respondents at the Adelanto ICE Processing Center and Desert View Annex in Adelanto, California.

2. Petitioners are unlawfully detained. The Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have improperly concluded that Petitioners, despite being physically present within the interior of and residing in the United States when arrested in Los Angeles County, California, should be deemed to be seeking admission to the United States and therefore subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2)(A).

3. DHS has placed Petitioners in removal proceedings pursuant to 8 U.S.C. § 1229a and has charged each Petitioner with being present in the United States without admission and therefore removable pursuant to 8 U.S.C. § 1182(a)(6)(A)(i).

4. Based on this allegation in Petitioners' removal proceedings, DHS has denied each Petitioner release from immigration custody, consistent with a new DHS policy¹ issued on July 8, 2025, instructing all Immigration and Customs

¹ "Interim Guidance Regarding Detention Authority for Applicants for Admission", ICE, July 8, 2025. Available at: <https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy->

1 Enforcement (ICE) employees to consider anyone inadmissible under §
2 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or
3 inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore
4 ineligible to be released on bond during the removal hearing process.
5

6 5. Similarly, on September 5, 2025, the Board of Immigration Appeals
7 (BIA or Board), a component of EOIR, issued a precedent decision, binding on all
8 immigration judges, holding that an immigration judge has no authority to consider
9 bond requests for any person who entered the United States without admission. *See*
10 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined
11 that such individuals are subject to mandatory detention under 8 U.S.C. §
12 1225(b)(2)(A) and therefore ineligible to be released on bond.
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16 6. Petitioners' detention on this basis violates the plain language of the
17 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* Section
18 1225(b)(2)(A) does not apply to individuals like Petitioners who previously entered
19 and are now present and residing in the United States. Instead, such individuals are
20 subject to a different statute, § 1226(a), that allows for release on conditional parole
21 or bond. That statute expressly applies to people who, like Petitioners, are charged
22 as removable for having entered the United States without inspection and being
23 present without admission.
24
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27
28 documents.

1 7. Respondents' new legal interpretation of the INA is plainly contrary to
2 the statutory framework and contrary to decades of agency practice applying §
3 1226(a) to people like Petitioners who are present within the United States.
4

5 8. Respondents' new legal interpretation of the INA also violates
6 Petitioners' right to due process. All individuals within the United States have
7 constitutional rights. "[T]he Due Process Clause applies to all 'persons' within the
8 United States, including aliens, whether their presence here is lawful, unlawful,
9 temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
10
11

12 9. Accordingly, Petitioners seek a writ of habeas corpus requiring that
13 they be released unless Respondents provide a bond hearing under § 1226(a) within
14 seven days.
15

16 JURISDICTION

17 10. Jurisdiction is proper and relief is available pursuant to 28 U.S.C. §
18 1331 (federal question), 28 U.S.C. § 1346 (original jurisdiction), 5 U.S.C. § 702
19 (waiver of sovereign immunity), 28 U.S.C. § 2241 (habeas corpus jurisdiction), and
20 Article I, Section 9, clause 2 of the United States Constitution (the Suspension
21 Clause).
22
23

24 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
25 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
26 U.S.C. § 1651.
27
28

VENUE

12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Central District of California, the judicial district in which Petitioners are currently detained.

13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Central District of California.

REQUIREMENTS OF 28 U.S.C. § 2243

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

15. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . 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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four

1 corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000)
2 (citation omitted).
3

4 **PARTIES**

5 ***Petitioners***

6 16. Petitioner Daniel LOPEZ POP (DHS No. A [REDACTED]) was arrested by
7 HSI agents on June 6, 2025 in Los Angeles, California. He has been in
8 immigration detention since that date. After arresting Petitioner, ICE did not set
9 bond. In light of the BIA’s September 5, 2025 decision in *Matter of Yajure*
10 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), Petitioner is unable to obtain a bond
11 hearing before an IJ pursuant to 8 U.S.C. § 1226(a).
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14 17. Petitioner Alfonso ORTEGA MARIN (DHS No. A [REDACTED]) was
15 arrested by DHS officers on September 1, 2025 in Long Beach, California. He has
16 been in immigration detention since that date. After arresting Petitioner, ICE did
17 not set bond. Petitioner has requested a bond hearing before an IJ and is scheduled
18 for a bond hearing on October 1, 2025, but the IJ is obligated to find Petitioner
19 ineligible for bond pursuant to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
20 2025).
21
22

23 18. Petitioner Gilberto MARTINEZ ROJAS (DHS No. A [REDACTED]) was
24 arrested by immigration officials on August 20, 2025 in Beverly Hills, California.
25 He has been in immigration detention since that date. After arresting Petitioner, ICE
26 did not set bond. Petitioner requested review of his custody by an IJ. On September
27
28

1 11, 2025, Petitioner was denied bond by an IJ at the Adelanto Immigration Court
2 because the IJ concluded “The Court does not have jurisdiction to set bond pursuant
3 to *Matter of Yajure Hurtado*.”
4

5 19. Petitioner Jose Placido HUEZO CORTEZ (DHS No. A [REDACTED]) was
6 arrested by immigration agents on August 9, 2025 in La Puente, California. He has
7 been in immigration detention since that date. After arresting Petitioner, ICE did
8 not set bond. Petitioner requested review of his custody by an IJ. On September
9 16, 2025, Petitioner was denied bond by an IJ at the Adelanto Immigration Court
10 because he was deemed an “applicant for admission” and the IJ concluded the IJ
11 did not have jurisdiction.
12
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14 ***Respondents***
15

16 20. Respondent Kristi Noem is the Secretary of the Department of
17 Homeland Security. She is responsible for the implementation and enforcement of
18 the Immigration and Nationality Act and oversees ICE, which is responsible for
19 Petitioners’ detention. Ms. Noem has ultimate custodial authority over Petitioners.
20 She is sued in her official capacity.
21

22 21. Respondent Pamela Bondi is the Attorney General of the United
23 States. She is responsible for the Department of Justice, of which the Executive
24 Office for Immigration Review, and the BIA and immigration court system it
25 operates, is a component agency. She is sued in her official capacity.
26
27

28 22. Todd Lyons is the Acting Director of Immigration and Customs

1 Enforcement, a federal law enforcement agency within the Department of
2 Homeland Security. ICE's responsibilities include operating the immigration
3 detention system. In his capacity as ICE Acting Director, Respondent Lyons
4 exercises control over and is a custodian of persons held at ICE facilities nationally.
5 He is Petitioners' immediate custodian and is responsible for Petitioners' detention.
6 He is sued in his official capacity.
7

9 23. Respondent Ernesto Santacruz Jr. is the Acting Director of the
10 Los Angeles Field Office of ICE's Enforcement and Removal Operations division.
11 As such, he is the custodian of all persons held at the ICE facilities within the Los
12 Angeles Field Office. He is Petitioners' immediate custodian and is responsible for
13 Petitioners' detention. He is sued in his official capacity.
14

16 24. Respondent Fereti Semaia, is the Warden of the Adelanto ICE
17 Processing Center, Adelanto, California, where Petitioners are detained. He has
18 immediate physical custody of Petitioners. He is sued in his official capacity.
19

20 25. Respondent Executive Office for Immigration Review (EOIR) is the
21 federal agency within the Department of Justice responsible for implementing the
22 INA in removal proceedings, including for custody redeterminations or bond
23 hearings.
24

25 26. Respondent Department of Homeland Security (DHS) is the federal
26 agency responsible for implementing and enforcing the INA, including the
27 detention and removal of noncitizens.
28

27. Respondent Immigration and Customs Enforcement (ICE) is the agency within DHS responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

LEGAL FRAMEWORK

28. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings conducted pursuant to 8 U.S.C. § 1229a.

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

30. Second, the INA provides for mandatory detention of noncitizens subjected to an Expedited Removal order imposed pursuant to 8 U.S.C. § 1225(b)(1) and for certain other noncitizen applicants for admission to the U.S. who are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2).

31. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

32. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2).

1 33. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as
2 part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)
3 of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582
4 to 3009–583, 3009–585. Section 1226 was most recently amended in early 2025 by
5 the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
6

7
8 34. Following the enactment of the IIRIRA in 1996, EOIR drafted new
9 Regulations applicable to proceedings before immigration judges explaining that, in
10 general, people who entered the country without inspection – also referred to as
11 being “present without admission” - were not considered detained under § 1225 and
12 that they were instead detained under § 1226(a). *See* Inspection and Expedited
13 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
14 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
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16
17 35. Thus, in the decades that followed, most noncitizens who entered without
18 inspection and were placed in standard § 1229a removal proceedings received bond
19 hearings before IJs, unless their criminal history rendered them ineligible pursuant
20 to § 1226(c). That practice was consistent with many more decades of practice prior
21 to IIRIRA, in which noncitizens who were not deemed “arriving” were entitled to a
22 custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
23 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a)
24 simply “restates” the detention authority previously found at § 1252(a)).
25
26
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28 36. This practice both pre- and post-enactment of IIRIRA in 1996 is

1 consistent with the fact that noncitizens present within the United States – as
2 opposed to noncitizens present at the border and seeking admission - have
3 constitutional rights. “[T]he Due Process Clause applies to all ‘persons’ within the
4 United States, including aliens, whether their presence here is lawful, unlawful,
5 temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
6

7
8 37. On July 8, 2025, ICE, “in coordination with” the Department of Justice,
9 announced a new policy that rejected the well-established understanding of the
10 statutory framework and reversed decades of practice.
11

12 38. The new policy, entitled “Interim Guidance Regarding Detention
13 Authority for Applicants for Admission,”² claims that all noncitizens who entered
14 the United States without inspection shall now be deemed “applicants for
15 admission” and subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
16 The policy applies regardless of when a person is apprehended, and affects those
17 who have resided in the United States for months, years, and even decades.
18
19

20 39. On September 5, 2025, the BIA adopted this same position in a
21 published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
22 The Board held that all noncitizens who entered the United States without
23 admission or parole are subject to mandatory detention under § 1225(b)(2)(A) and
24 are ineligible for IJ bond hearings.
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26

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28 ² Available at: <https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents>.

1 40. Since Respondents adopted their new policies, dozens of federal courts
2 have rejected their new interpretation of the INA's detention authorities. Courts
3 have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of
4 the statute as ICE.
5

6 41. Even before ICE or the BIA introduced these nationwide policies, IJs in
7 the Tacoma, Washington immigration court stopped providing bond hearings for
8 persons who entered the United States without inspection and who have since
9 resided here. On September 30, 2025, the U.S. District Court for the Western
10 District of Washington issued a partial summary judgment order concluding that
11 such persons are subject to detention under 8 U.S.C. § 1226(a) and are not subject
12 to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *Rodriguez Vazquez v.*
13 *Bostock*, No. 3:25-cv-0524-TMC (W.D. Wash. Sept. 30, 2025), Order Granting
14 Plaintiffs' Partial Motion for Summary Judgment and Denying Defendants'
15 Motion to Dismiss, Dkt. 65.
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20 42. Court after court has adopted the same reading of the INA's detention
21 authorities and rejected ICE and EOIR's new interpretation, including at least seven
22 cases in the Central District of California. *See Santiago Flores v. Noem*, Case No.
23 5:25-cv-2490-AB-AJR (Sept. 29, 2025); *Arreola Armenta v. Noem*, 5:25-cv-2416-
24 JFW-SP (C.D. Cal. Sept. 16, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-
25 02304-CAS-BFM, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Benitez v. Noem*,
26 5:25-cv-2190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Ceja Gonzalez v. Noem*, 5:25-
27
28

1 cv-2054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *Arrazola-Gonzalez v. Noem*, No.
2 5:25-cv-01789-ODW-DFM, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); and
3
4 *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July
5 28, 2025). And outside of the Central District, *see also*, *Gomes v. Hyde*, No. 1:25-
6 CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v.*
7 *Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass.
8 July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL
9 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-
10 25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez*
11 *Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug.
12 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411
13 (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL
14 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025
15 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-
16 06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v.*
17 *Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak*
18 *v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27,
19 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025
20 WL 2466670 (D. Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-
21 12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia*
22 *v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025);
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1 *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept.
2 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
3 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL
4 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that
5 § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-
6 cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same);
7 *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D.
8 Neb. Aug. 14, 2025) (same); *but see, Sixtos Chavez v. Noem*, No. 3:25-cv-2325-
9 CAB-SBC (S.D. Cal. Sept. 24, 2025) (denying TRO and accepting government’s
10 interpretation of § 1225(b)(2)).
11

12
13
14 43. Numerous courts have rejected DHS’s and EOIR’s new interpretation
15 because it defies the INA. As the *Rodriguez Vazquez* court and others have
16 explained, the plain text of the statutory provisions demonstrates that § 1226(a), not
17 § 1225(b), applies to people like Petitioners.
18

19
20 44. Section 1226(a) applies by default to all persons “pending a decision on
21 whether the [noncitizen] is to be removed from the United States.” Removal
22 hearings are held pursuant to § 1229a, to “decid[e] the inadmissibility or
23 deportability of a[] [noncitizen].”
24

25 45. The text of § 1226(a) also explicitly applies to individuals charged as
26 being inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
27 1226(c)(1)(E). Subparagraph (E)’s reference to inadmissible individuals makes
28

1 clear that, by default, such individuals are afforded a bond hearing under subsection
2 (a). As the *Rodriguez Vazquez* court explained in its preliminary injunction order,
3 “[w]hen Congress creates “specific exceptions” to a statute’s applicability, it
4 “proves” that absent those exceptions, the statute generally applies. *Rodriguez*
5 *Vazquez*, 779 F.Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v.*
6 *Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at
7 *7.
8

9
10 46. Section 1226 therefore leaves no doubt that it applies to noncitizens
11 present in the United States who face charges of being inadmissible to the United
12 States, including those who are present without admission or parole.
13

14 47. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
15 who recently entered the United States and are encountered at or near the border.
16 The statute’s entire framework is premised on inspections at the border of people
17 who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A).
18 Indeed, the Supreme Court has explained that this mandatory detention scheme
19 applies “at the Nation’s borders and ports of entry, where the Government must
20 determine whether a[] [noncitizen] seeking to enter the country is admissible.”
21 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).
22

23
24 48. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
25 apply to people like Petitioners, who have already entered and were residing in the
26 United States at the time they were apprehended.
27
28

FACTS

Petitioner Daniel LOPEZ POP

49. Petitioner Daniel Lopez Pop resides in California. He has no previous contact with immigration authorities and his criminal record does not trigger mandatory detention pursuant to 8 U.S.C. § 1226(c) or on any other basis.

50. On June 6, 2025, Petitioner was arrested in Los Angeles, California. Petitioner is now detained at the ICE Desert View Annex in Adelanto, California.

51. ICE placed Petitioner in removal proceedings before the Adelanto Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present without admission in the United States.

52. Upon information and belief, following Petitioner's arrest and transfer to the Desert View Annex, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

53. In light of the BIA's September 5, 2025 decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), Petitioner is unable to obtain a bond hearing before an IJ pursuant to 8 U.S.C. § 1226(a).

Petitioner Alfonso ORTEGA MARIN

54. Petitioner Alfonso Ortega Marin resides in Long Beach, California. He has no criminal record and no previous contact with immigration authorities.

1 55. On September 1, 2025, Petitioner was arrested in Long Beach, California.
2 Petitioner is now detained at the ICE Desert View Annex in Adelanto, California.
3

4 56. ICE placed Petitioner in removal proceedings before the Adelanto
5 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
6 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
7 without admission in the United States.
8

9 57. Upon information and belief, following Petitioner's arrest and transfer to
10 Desert View Annex, ICE issued a custody determination to continue Petitioner's
11 detention without an opportunity to post bond or be released on other conditions.
12

13 58. Petitioner requested a bond hearing before an IJ and is scheduled for a
14 bond hearing on October 1, 2025, but the IJ is obligated to find Petitioner ineligible
15 for bond pursuant to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
16

17 **Petitioner Gilberto MARTINEZ ROJAS**

18 59. Petitioner Gilberto Martinez Rojas resides in California and has resided
19 in the United States for approximately thirteen years. He has no criminal record
20 and his previous contact with immigration authorities does not trigger mandatory
21 detention pursuant to 8 U.S.C. § 1226(c) or on any other basis.
22
23

24 60. On or about August 20, 2025, Petitioner was arrested in Beverly Hills,
25 California. Petitioner is now detained at the Adelanto ICE Processing Center in
26 Adelanto, California.
27

28 61. ICE placed Petitioner in removal proceedings before the Adelanto

1 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
2 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
3 without admission in the United States.
4

5 62. Upon information and belief, following Petitioner's arrest and transfer to
6 the Adelanto ICE Processing Center, ICE issued a custody determination to
7 continue Petitioner's detention without an opportunity to post bond or be released
8 on other conditions.
9

10 63. Petitioner subsequently requested a bond redetermination hearing before
11 an IJ. On September 11, 2025, an IJ denied the request and issued a decision that
12 the court lacked jurisdiction to conduct a bond redetermination pursuant to *Matter*
13 *of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
14
15

16 **Petitioner Jose Placido HUEZO CORTEZ**

17 64. Petitioner Jose Placido Huezo Cortez resides in California and has lived in
18 the United States for approximately eighteen years. He has no criminal record and
19 no previous contact with immigration authorities.
20

21 65. On August 9, 2025, Petitioner was arrested in La Puente, California.
22 Petitioner is now detained at the Adelanto ICE Processing Center in Adelanto,
23 California.
24

25 66. ICE placed Petitioner in removal proceedings before the Adelanto
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27
28

1 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
2 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
3 without admission in the United States.
4

5 67. Upon information and belief, following Petitioner's arrest and transfer
6 to the Adelanto ICE Processing Center, ICE issued a custody determination to
7 continue Petitioner's detention without an opportunity to post bond or be released
8 on other conditions.
9

10 68. Petitioner subsequently requested a bond redetermination hearing
11 before an IJ. On September 16, 2025, an IJ denied the request and issued a decision
12 that the court lacked jurisdiction to conduct a bond redetermination hearing because
13 Petitioner was detained pursuant to § 1225(b).
14
15

16 **FIRST CLAIM FOR RELIEF**

17 **Petitioners' Detention is in Violation of 8 U.S.C. § 1226(a)**

18 69. Petitioners incorporate by reference the allegations of fact set forth
19 in the preceding paragraphs.
20

21 70. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does
22 not apply to noncitizens who have entered and were residing in the United States
23 prior to being arrested, have been placed under § 1229a removal proceedings, and
24 been charged with a ground of inadmissibility, including 8 U.S.C. §
25 1182(a)(6)(A)(i), by Respondents. Such noncitizens may only be detained pursuant
26 to § 1226(a), unless subject to § 1225(b)(1), § 1226(c), or § 1231.
27
28

1 71. The application of § 1225(b)(2) to Petitioners unlawfully
2 mandates their continued detention without a bond hearing and violates 8 U.S.C. §
3 1226(a).
4

5 **SECOND CLAIM FOR RELIEF**

6 **Petitioners' Detention is in Violation of DHS and EOIR Bond Regulations**
7

8 72. Petitioners incorporate by reference the allegations of fact set forth
9 in the preceding paragraphs.

10 73. In 1997, after Congress amended the INA through IIRIRA, EOIR
11 and the then-Immigration and Naturalization Service issued an interim rule to
12 interpret and apply IIRIRA. Specifically, under the heading of "Apprehension,
13 Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite
14 being applicants for admission, [noncitizens] who are present without having been
15 admitted or paroled (formerly referred to as [noncitizens] who entered without
16 inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at
17 10323. The agencies thus made clear that individuals who had entered without
18 inspection were eligible for consideration for bond and bond hearings before IJs
19 under 8 U.S.C. § 1226 and its implementing regulations.
20
21
22
23

24 74. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a
25 policy and practice of applying § 1225(b)(2) to individuals like Petitioners and,
26
27
28

1 pursuant to the July 8, 2025 “Interim Guidance Regarding Detention Authority for
2 Applicants for Admission,” DHS has a policy and practice of applying § 1225(b)(2)
3 to individuals like Petitioners.
4

5 75. The application of § 1225(b)(2) to Petitioners unlawfully mandates their
6 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
7

8 **THIRD CLAIM FOR RELIEF**

9 **Petitioners’ Detention Violates the Administrative Procedure Act,**

10 **5 U.S.C. § 706(2)**

11
12 76. Petitioners incorporate by reference the allegations of fact set forth in
13 the preceding paragraphs.
14

15 77. Under the Administrative Procedure Act, a court must “hold
16 unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of
17 discretion, or otherwise not in accordance with the law,” that is “contrary to
18 constitutional right [or] power,” or that is “in excess of statutory jurisdiction,
19 authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(A)-(C).
20

21 78. Respondents’ detention of Petitioners pursuant to § 1225(b)(2) is
22 arbitrary and capricious, violates the INA and the Fifth Amendment, is not
23 authorized under § 1225(b)(2), and therefore is in violation of 5 U.S.C. § 706(2).
24

25 **FOURTH CLAIM FOR RELIEF**

26 **Petitioners’ Detention Violates Their Fifth Amendment Right to Due Process**

27
28 79. Petitioners incorporate by reference the allegations of fact set forth in

1 the preceding paragraphs.

2 80. The government may not deprive a person of life, liberty, or property
3 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—
4 from government custody, detention, or other forms of physical restraint—lies at
5 the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678,
6 690 (2001).
7

8
9 81. Petitioners have a fundamental interest in liberty and being free from
10 official restraint.
11

12 82. The Respondents’ detention of Petitioners without providing
13 Petitioners a bond redetermination hearing to determine whether they are a flight
14 risk or a danger to others violates their right to Due Process.
15

16 **PRAYER FOR RELIEF**

17 WHEREFORE, Petitioners respectfully ask that this Court take jurisdiction over
18 this matter and grant the following relief:
19

- 20 a. Order that Petitioners shall not be transferred outside of the Central
21 District of California while this petition is pending;
22
23 b. Issue an Order to Show Cause ordering Respondents to show cause
24 within three days why this Petition should not be granted;
25
26 c. Issue a Writ of Habeas Corpus requiring Respondents to release
27 Petitioners or provide Petitioners with a bond hearing pursuant to 8
28 U.S.C. § 1226(a) within seven days;

- 1 d. Declare that Petitioners' detention is unlawful;
- 2 e. Award Petitioners attorney's fees and costs under the Equal Access to
- 3 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other
- 4 basis justified under law; and
- 5
- 6 f. Grant any other and further relief that this Court deems just and
- 7
- 8 proper.

9 DATED: September 30, 2025.

s/ Niels W. Frenzen
NIELS W. FRENZEN
JEAN REISZ
USC GOULD SCHOOL OF LAW
IMMIGRATION CLINIC

Attorneys for Petitioners

VERIFICATION

I, Niels W. Frenzen, declare as follows:

I am an attorney admitted to practice law in the State of California.

Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioners, I am making this verification on their behalf.

I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on September 30, 2025.

s/ Niels W. Frenzen
NIELS W. FRENZEN
USC GOULD SCHOOL OF LAW
IMMIGRATION CLINIC

Attorney for Petitioners