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UNITED STATES DISTRICT COURT

FOR THE CENTAL DISTRICT OF CALIFORNIA

Pablo JUAN TOMAS; Rosa LOPEZ

Petitioner,

v.

Kristi NOEM, Secretary, Department of Homeland Security; Todd LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; Pam BONDI, Attorney General of the United States; Ernesto SANTACRUZ Jr., Acting Director, Los Angeles ICE Field Office; and Fereti SEMAIA, Warden, Adelanto ICE Processing Center.

Respondents.

Civil Case No.:

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Petitioners are two noncitizens who are detained at the immigration detention facility in Adelanto, California.

2. Petitioners are charged as having entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i). They are ineligible for bond under the September 5, 2025 recent decision of the immigration judge in *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025), holding that individuals charged with having entered the United States without inspection are ineligible for bond redetermination hearings before an immigration judge, relying on the statute at 8 U.S.C. § 1225(b)(2)(A).

3. Section 1225(b)(2)(A) states that an applicant for admission seeking admission shall be detained for a removal proceeding. However, 8 U.S.C. § 1225(b)(2)(A) does not apply to individuals, like Petitioners, who are charged with having entered in the United States without inspection. Instead, such individuals are subject to detention under a different statute, 8 U.S.C. § 1226(a), and eligible for release on bond.

4. Almost every court to address this issue, even prior to the Board's September 5, 2025 decision in *Matter of YAJURE HURTADO*, has found that those charged with having entered the United States without inspection are eligible for bond hearings before immigration judges under § 1226(a).

5. The Board's decision in *Matter of YAJURE HURTADO* is a violation of the statute and due process.

6. As such, Petitioners seek an order of declaratory and injunctive relief that they be provided bond redetermination hearings before an immigration judge.

JURISDICTION AND VENUE

7. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201-2 (declaratory judgment); United States Constitution Article I, Section 9 (Suspension Clause).

8. Venue properly lies within the Central District of California under 28 U.S.C. § 1391, because this is a civil action in which Respondents are agencies of the United States, Petitioners are detained in this District, and a substantial part of the events or omissions giving rise to this action occurred in the District.

PARTIES

9. Petitioner Pablo Juan Tomas resides in Los Angeles, California and is currently detained at the Adelanto immigration detention center.

10. Petitioner Rosa Lopez resides in Los Angeles, California and is currently detained at the Adelanto immigration detention center.

11. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner. She is sued in her official capacity.

12. Respondent Todd Lyons is the Acting Director of ICE and has authority over the operations of ICE. In that capacity and through his agents, Respondent Lyons has broad authority over the operation and enforcement of the immigration laws. Respondent Lyons is sued in his official capacity.

13. Respondent Pam Bondi is the Attorney General of the United States. She is responsible for the Department of Justice and is sued in her official capacity.

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

15. Respondent Fereti Semaia is the Warden of the of the Adelanto ICE Processing Center, Adelanto, California, where Petitioner is detained. He has immediate physical custody of Petitioner and is sued in his official capacity.

LEGAL BACKGROUND

16. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for noncitizens in removal proceedings.

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

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

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

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

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

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

23. Thus, in the decades that followed, most people who entered without inspection—unless they were subject to some other detention authority—received bond

hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

24. On September 5, 2025, the Board of Immigration Appeals issued a precedent decision in *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025), finding that noncitizens who entered the United States without inspection were ineligible for bond redetermination hearings because they were seeking admission, and fell within 8 U.S.C. § 1225(b)(2)(A).

25. This legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings has been universally rejected by the district courts. *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *9 (W.D. Wash. Sept. 30, 2025); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *3 (C.D. Cal. Sept. 8, 2025); *Guzman v. Andrews*, No. 1:25-CV-01015-KES-SKO (HC), 2025 WL 2617256, at *9 (E.D. Cal. Sept. 9, 2025); *Vasquez Garcia v. Noem*, 3:25-cv-02180-DMS-MMP (SD. Cal. Sept. 3, 2025); *Benitez v. Noem*, No. 5:25-cv-02190-RGK-AS) C.D. Cal. Aug. 26, 2025); *Arrazola Gonzalez v. Noem*, 5:25-cv-01789-ODW-DFM (C.D. Cal. Aug. 15, 2025); *Maldonado Bautista v. Santacruz,* 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Carmona-Lorenzo v. Trump*, No. 4:25CV3172, 2025 WL 2531521, at *2 (D. Neb. Sept. 3, 2025); *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), 2025 WL 2466670, at *6 (D. Minn. Aug. 27, 2025); *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025) *Rodriguez v. Bostock,* 2025 WL 1193850 (W.D. Wa. Apr. 24, 2025).

26. The Board's interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioners.

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

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

29. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).

30. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioners who are alleged to have entered the United States without admission or parole.

FACTS

31. Petitioner Juan Tomas is a citizen of Guatemala who has lived in the United States since 2019, after having entered the United States without inspection at the age of 15.

32. Petitioner Juan Tomas applied for Special Immigrant Juvenile (SIJ) Status, which was approved on May 20, 2025.

33. SIJ status is available to alien children subject to state juvenile court proceedings related to abuse, neglect, abandonment, or a similar basis under state law.

34. The approved petition is the first step in applying for permanent resident status. However, the approved petition does not confer an immigration benefit independently.

35. Petitioner Juan Tomas is not yet eligible to apply for permanent residency, as his petition was filed on January 22, 2025, and the priority date for applications for SIJ permanent resident status is not current.

36. On June 27, 2025, Petitioner Juan Tomas was arrested by immigration authorities. Petitioner was transferred to the Adelanto detention center and has been detained there since that time.

37. Petitioner Juan Tomas was placed into removal proceedings and charged with inadmissibility for having entered the United States without inspection or admission. 8 U.S.C. § 1182(a)(6)(A)(i).

38. He is next scheduled for a hearing before an immigration judge on November 6, 2025.

39. Petitioner Juan Tomas is not eligible for a bond redetermination hearing before an immigration judge in light of the Board of Immigration Appeals' precedent decision in *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025).

40. Petitioner Rosa Lopez is a citizen of Guatemala who entered the United States without inspection in 2008.

41. She resides with her family in Los Angeles, California.

42. Petitioner Rosa Lopez had no contact with immigration authorities until she was arrested at a Home Depot August 9, 2025 as part of a large scale immigration enforcement action.

43. Petitioner Rosa Lopez was placed into removal proceedings and was charged with inadmissibility for having entered the United States without inspection or admission. 8 U.S.C. § 1182(a)(6)(A)(i).

44. Petitioner Rosa Lopez is not eligible for a bond redetermination hearing before an immigration judge in light of the Board of Immigration Appeals' precedent

decision in *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025). That decision was issued on September 5, 2025.

45. On October 8, 2025, Rosa Lopez's request for a bond redetermination hearing was denied by the immigration judge based on lack of jurisdiction. This was required by *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025). Any appeal to the Board is futile in light of this precedent decision.

46. Petitioner Rosa Lopez remains in detention at the Adelanto immigration detention center. Her next hearing is scheduled for December 3, 2025.

CAUSES OF ACTION

COUNT I

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Bond Hearing

47. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

48. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

49. The application of § 1225(b)(2) to bar Petitioners from receiving a bond redetermination hearing before an immigration judge violates the Immigration and Nationality Act.

COUNT II

Violation of the Administrative Procedure Act

Unlawful Denial of Bond

50. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

51. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

52. The application of § 1225(b)(2) to bar Petitioners from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

COUNT III

Violation of Procedural Due Process

53. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

54. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." Zadvydas v. Davis, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

55. Petitioners have a fundamental interest in liberty and being free from official restraint.

56. The government's detention of Petitioners without a bond redetermination hearing to determine whether they are a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request that this Court:

a. Assume jurisdiction over this matter;

b. Declare that the refusal to allow Petitioners a bond redetermination hearing before an immigration judge violates the INA, APA, and Due Process;

c. Issue a writ of habeas corpus requiring that Defendants release them or provide the bond hearing to which they are entitled within 7 days;

d. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and

e. Order further relief as this Court deems just and appropriate.

Dated: October 21, 2025

Respectfully Submitted,

S/Stacy Tolchin

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