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12 UNITED STATES DISTRICT COURT
13 FOR THE CENTRAL DISTRICT OF CALIFORNIA
14

15 GERMAN ESPINOZA MAXIMO,
16
17 Petitioner,

18 vs.

19 FERETI SEMAIA, WARDEN OF THE GEO
20 GROUP ADELANTO ICE PROCESSING
21 CENTER,

22 DAVID MARIN, DIRECTOR OF LOS
23 ANGELES FIELD OFFICE, U.S.
24 IMMIGRATION AND CUSTOMS
25 ENFORCEMENT;

26 KRISTI NOEM, SECRETARY OF THE U.S.
27 DEPARTMENT OF HOMELAND SECURITY;
28 AND

PAM BONDI, ATTORNEY GENERAL OF
THE UNITED STATES,

IN THEIR OFFICIAL CAPACITIES,

Respondents

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

Case No. 2:25-cv-10299

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

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INTRODUCTION

1. This habeas petition challenges the unlawful detention of German Espinoza Maximo, a longtime Los Angeles resident, husband, and father of three U.S.-citizen children, who has lived in this country for more than twenty-five years. Mr. Maximo was arrested in a Home Depot parking lot by a newly minted ICE officer—barely four months out of the Border Patrol Academy—who was acting under a directive to maximize arrests of undocumented workers. He was not fleeing, concealing himself, or violating any law; he was simply working, as he has for decades, to support his family.

2. Now, despite his deep community ties, clean record, and pending relief, Mr. Maximo has been held without a bond hearing under an unlawful expansion of 8 U.S.C. § 1225(b). The Department of Homeland Security’s new policy—treating nearly all interior arrests as “arriving” cases—defies statutory text, agency practice, and constitutional limits. Courts throughout this Circuit have uniformly rejected the government’s position, finding that such detention must fall under § 1226(a), where a custody redetermination hearing is required.

3. Mr. Maximo’s confinement has devastated his family and serves no legitimate governmental purpose. His detention is not justified by flight risk or danger, but by a bureaucratic policy that sweeps far beyond Congress’s intent. This Court should order his immediate release or, at minimum, require that he be afforded an individualized bond hearing without further delay.

JURISDICTION & VENUE

4. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States and seeks a writ of habeas corpus. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution, laws, and treaties of the United States, and under 5 U.S.C. §§ 701–706 because Petitioner challenges agency action that is arbitrary, capricious, and not in accordance with law.

1 5. This Court has authority to grant declaratory and injunctive relief pursuant to 28 U.S.C.
2 §§ 2201–2202.

3 6. Venue is proper in the Central District of California under 28 U.S.C. § 1391(e) because
4 Petitioner is detained at the Desert View Facility at Adelanto ICE Processing Center, located
5 within this judicial district, and because a substantial part of the events or omissions giving rise
6 to this action occurred in this district.

7 **PARTIES**

8 7. Petitioner GERMAN ESPINOZA MAXIMO is a 45-year-old devoted husband and father
9 of three who has been detained in Adelanto ICE Processing Center without any meaningful or
10 individualized bond hearing, despite living in this country for over twenty-five years.

11 8. Respondent FERETI SEMAIA is the Warden of the GEO Group Adelanto ICE
12 Processing Center, where Petitioner is currently detained. He has immediate custody over
13 Petitioner.

14 9. Respondent DAVID MARIN is the Director of the Los Angeles Field Office of U.S.
15 Immigration and Customs Enforcement (“ICE”). He exercises authority over the detention and
16 removal of noncitizens in the Los Angeles region, including Petitioner.

17 10. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland
18 Security (“DHS”), the federal agency responsible for immigration enforcement and detention.
19 She is sued in her official capacity.

20 11. Respondent PAM BONDY is the Attorney General of the United States and the head of
21 the U.S. Department of Justice, which oversees the Executive Office for Immigration Review
22 (“EOIR”) and immigration judges. She is sued in her official capacity.

23 **REQUIREMENTS OF 28 U.S.C. § 2243**

24 12. The habeas statute requires courts to act swiftly in reviewing unlawful detention. Under
25 28 U.S.C. § 2243, the court must “forthwith” grant the writ or issue an order to show cause
26 unless it appears from the petition that the petitioner is not entitled to relief.

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

1 13. If an order to show cause is issued, the statute directs that the respondent must file a
 2 return “within three days unless for good cause additional time, not exceeding twenty days, is
 3 allowed.” *Id.* This statutory framework underscores the urgency of habeas relief, reflecting the
 4 historic role of the Great Writ as “perhaps the most important writ known to the constitutional
 5 law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint
 6 or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

7 **FACTUAL BACKGROUND**

8 **Mr. Espinoza Maximo’s Life and Family in the United States**

9 14. German Espinoza Maximo has spent more than half his life in the United States, where
 10 he built not just a livelihood but a family and community that depend entirely on him. He arrived
 11 from Puebla, Mexico, in 1999, a 19-year-old with nothing but the will to work and create a better
 12 life. In 2004 he met Rosario Hernandez, who had recently come to Los Angeles from El
 13 Salvador. Within months they began their life together. Over the next two decades, they raised
 14 three children—Freddy, Diego, and —all U.S. citizens born and raised in Los Angeles
 15 County. *See* Exhibit A, Petitioner’s Bond Packet.

16 15. From the start, German defined himself by devotion and work. He supported the family
 17 through long days of construction and landscaping, leaving before dawn and returning long after
 18 dark. Rosario wrote that he “has always been a father and husband of exemplary conduct—full
 19 of great values, good principles, and moral character,” a man “who has never gotten into any
 20 kind of trouble” and who “has always done things the right way because this is the country
 21 where our children were born.” *See* Exhibit A.

22 16. Their eldest son Freddy remembers his father’s arrival as the foundation of everything the
 23 family has built since: “He made it his mission that we would never lack anything—food, rent,
 24 school supplies. He works tirelessly, sometimes through the night, so we can live without
 25 worry.” Freddy, a Brentwood School graduate now attending California State University at
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1 Fresno, was forced to withdraw after his father's detention so he could help support the
2 household. *See* Exhibit A.

3 17. Diego, 18, described a father who "never puts himself before his family" and who "has
4 built kitchens, bathrooms, and friendships all around L.A." through his work as a landscaper.
5 "He is our top priority forever and always," Diego wrote, adding that "his absence is greatly felt:
6 my mother lacks a husband, my siblings and I lack a father." *See* Exhibit A

7 18. C  16, wrote from her private-school classroom: "I cannot recall a day when I
8 didn't see him in the mornings before school or at night before bed. His presence has shaped me
9 into the person I am. He works hard so our life is stable, and he still shows up to every school
10 event with a smile." She explained that he is "a generous person who gives without thinking,
11 who shows up because he wants to be part of our lives." *See* Exhibit A.

12 19. The family's bond extends beyond their immediate home. German's sister Gilda Aquino,
13 a lawful permanent resident who has lived in California for 38 years, attested that he is "a good
14 man who has never been in trouble," pledging to house him and ensure his appearance in court if
15 released. Tax records, employment paystubs, and property documents corroborate the family's
16 long-standing presence and deep roots in Los Angeles County. *See* Exhibit A.

17 20. Together these testimonials depict a man whose identity is inseparable from his role as
18 husband, father, and provider—a person whose entire adult life has been spent working, paying
19 taxes, and raising American children in the same Inglewood neighborhood for over twenty years.

20 **Arrest & Initiation of Proceedings**

21 21. On the morning of September 28, 2025, Mr. Espinoza Maximo was arrested by Border
22 Patrol Agent Aaron Padda during a large-scale enforcement sweep called "Operation At Large,"
23 a six-month nationwide operation targeting "illegal aliens" in civilian areas of Los Angeles. *See*
24 Exhibit B, I-213 Form.

25 22. According to the arrest report, Agent Padda—less than five months out of the Border
26 Patrol Academy—arrived at a Home Depot parking lot at 4925 W. Slauson Avenue, Los

1 Angeles, in full tactical gear and body armor. He stated that his “Operation At Large” team was
 2 conducting arrests at day-labor sites like Home Depot parking lots and car washes because, in his
 3 words, “illegal aliens seek day-labor jobs ... because they lack documentation.” The report
 4 matter-of-factly noted that Border Patrol had recently arrested “hundreds” of such workers—
 5 ordinary laborers looking for daily wages—at these same civilian gathering spots. *See Exhibit B*

6 23. At approximately 8:30 a.m., Agent Padda approached Mr. Espinoza Maximo as he was
 7 loading construction equipment into a vehicle, asked his country of citizenship, and—after Mr.
 8 Espinoza Maximo answered “Mexico” and explained he was “in proceedings”—took him into
 9 custody without incident. *See Exhibit B*

10 24. He was transported to ICE custody and booked at the Los Angeles ERO facility. The I-
 11 213 confirms he had no criminal record, no prior immigration history, and that he “claimed good
 12 health” and expressed fear of returning to Mexico.

13 25. That same day, DHS served Mr. Espinoza Maximo with a Notice to Appear commencing
 14 removal proceedings under INA § 240, charging him under § 212(a)(6)(A)(i) as “an alien present
 15 in the United States without being admitted or paroled.” The NTA alleged entry “at or near
 16 unknown, on or about unknown date,” and did not designate him as an arriving alien. *See Exhibit*
 17 *C, Notice to Appear.*

18 26. On October 10, 2025, counsel filed a Motion for Bond Determination under INA §
 19 236(a), supported by documentation of his long residence, family, and employment.

20 **Bond Proceedings and Denial Under *Matter of Hurtado***

21 27. On October 16, Mr. Espinoza Maximo appeared via WebEx for a Master Calendar
 22 Hearing before Immigration Judge Chan, who granted a continuance and scheduled a bond
 23 hearing for October 22, 2025.

24 28. At that hearing, Judge Chan denied bond for lack of jurisdiction based on the Board of
 25 Immigration Appeals’ decision in *Matter of Hurtado*, 28 I. & N. Dec. 216 (BIA 2020).

29. Because of that classification, Mr. Espinoza Maximo—who has lived in the U.S. for over twenty-five years, raised three citizen children, and has no criminal record—remains detained without any individualized custody determination.

Ongoing Detention and Family Hardship

30. Since his arrest on September 28, 2025, Mr. Espinoza Maximo's absence has torn through the center of a family that had never known a day apart. His wife, Rosario Hernandez, now struggles to hold together the home they built over twenty years. In her letter, she describes sleepless nights and mounting panic as bills accumulate: "I cannot sleep thinking about what will happen to him. The rent, the food—everything is too much alone." She writes that their children "cry every day and ask me when their father will come home. I have no answer."

31. Their eldest son, Freddy, once a college student at California State University at Fresno, withdrew after his father's detention to work full-time and keep the family afloat. "We have lost our only income," he wrote. "I now work long hours to help my mom and younger siblings. My father always told me education was the path forward—now I've had to leave school so our family can eat."

32. Diego, eighteen, expressed how the household has changed: "Our home is quiet now. We try to stay strong for my mom, but there is a sadness in everything. He is the one who fixes things, who calms us down when we fight. Without him, nothing feels safe."

33. For C  the youngest, the separation has been unbearable. "I cannot remember a day he wasn't there in the morning or at night," she wrote. "He helped me with homework and came to every school event. Now I look for him in the crowd and he isn't there. My heart hurts."

34. Extended family members have stepped in where they can. His sister, Gilda Aquino, a lawful permanent resident who has lived in California for nearly four decades, wrote that the detention has "affected the entire family ... we have lost our joy." She offered her home to ensure his appearance in court and emphasized that "all we want is for him to be home to watch his children grow."

1 35. Financially, the family is unraveling. Rosario has fallen behind on rent and utility
2 payments. Freddy’s income barely covers groceries. The children’s grades have dropped, and the
3 family has relied on neighbors and church friends for meals. Every letter echoes the same refrain:
4 that German’s detention has not only taken away their provider, but the emotional core of their
5 household.

6 36. More than three weeks into detention, he remains at the Desert View Facility in Adelanto,
7 held without the possibility of a bond hearing under *Matter of Hurtado*. Each passing day
8 compounds the emotional and financial collapse of a family that has lived, worked, and loved in
9 Los Angeles for over twenty years.

10 11 **LEGAL FRAMEWORK**

12 37. Federal immigration detention prior to a final order of removal is governed by two
13 statutory provisions—8 U.S.C. §§ 1225 and 1226—which operate in distinct and mutually
14 exclusive spheres. The Supreme Court has emphasized that § 1225 applies to “aliens seeking
15 admission into the country,” whereas § 1226 applies to “aliens already in the country pending the
16 outcome of removal proceedings.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).
17 Understanding this division is essential to determining the scope of the government’s detention
18 authority and the procedural protections that accompany it.

19 38. Section 1225’s text and structure confirm its border focus. Its subsections reference
20 “arriving” aliens, “stowaways,” and “examining immigration officers,” reflecting Congress’s
21 intent to regulate the inspection process at ports of entry. See *Lepe v. Andrews*, 2025 WL
22 2716910, at *4 (E.D. Cal. Sept. 23, 2025); *Vazquez v. Feeley*, No. 2:25-CV-01542-RFB-EJY,
23 2025 WL 2676082, at *12–14 (D. Nev. Sept. 17, 2025). The phrase “seeking admission” denotes
24 an ongoing attempt to enter—not the status of someone who entered years ago and resides in the
25 interior. Applying § 1225(b)(2)(A) to such individuals “pushes the statutory text beyond its
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1 breaking point.” *Lopez Benitez v. Francis*, 2025 WL 2371588, at *7 (S.D.N.Y. Aug. 13, 2025);
 2 see also *U.S. v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir. 2024).

3 39. Section 1226, in contrast, authorizes arrest and detention of persons already present in the
 4 United States “pending a decision on whether the alien is to be removed,” and—critically—
 5 permits release on bond or conditional parole “except as provided in subsection (c).” 8 U.S.C. §
 6 1226(a)(1)–(2). Implementing regulations provide for bond hearings before a neutral
 7 immigration judge, where a detainee may present evidence regarding danger and flight risk. 8
 8 C.F.R. § 1236.1(d); *In re Guerra*, 24 I. & N. Dec. 37, 40 (BIA 2006); *Martinez v. Clark*, 124
 9 F.4th 775, 783 (9th Cir. 2024).

10 40. This framework embodies Congress’s design: discretionary, individualized custody
 11 determinations for those already living within the United States. *Lopez Benitez*, 2025 WL
 12 2371588, at *8; *Lepe*, 2025 WL 2716910, at *5.

13 41. Reading § 1225 to reach long-time residents apprehended deep in the interior would erase
 14 this carefully maintained distinction, collapse two separate detention schemes into one, and
 15 contradict decades of agency practice applying § 1226(a) to inadmissible noncitizens already
 16 residing in the country. See *Rodriguez v. Bostock*, 2025 WL 2782499, at *3 (W.D. Wash. Sept.
 17 30, 2025).

18 **Harmonizing §§ 1225 and 1226: Statutory Structure, Legislative History, and Judicial**
 19 **Consensus**

20 42. Reading § 1225 to reach noncitizens arrested in the interior would collapse Congress’s
 21 two-track scheme and override the limits it placed on detention authority. See *Jennings v.*
 22 *Rodriguez*, 583 U.S. 281, 288–89 (2018) (recognizing § 1225 covers “aliens seeking admission”
 23 while § 1226 “generally governs” detention of those already here).

24 43. Congress’s 2025 enactment of the Laken Riley Act confirms that dichotomy. By adding §
 25 1226(c)(1)(E), Congress required mandatory detention only for certain “inadmissible”
 26 noncitizens — including those “present in the United States without being admitted or paroled,”
 27

1 8 U.S.C. § 1182(a)(6)(A) — who are charged with or convicted of enumerated crimes. See
2 *Vazquez v. Feeley*, 2025 WL 2676082, at *19 (D. Nev. Sept. 17, 2025). By negative implication,
3 § 1226(a) continues to govern all other inadmissible individuals arrested in the interior. As the
4 Supreme Court has long held, when Congress carves out specific exceptions to a rule, “the
5 specific exceptions prove that the rule applies generally.” *Shady Grove Orthopedic Assocs., P.A.*
6 *v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010). Were § 1225(b) read to mandate detention for
7 everyone “present in the United States who has not been admitted,” the newly enacted §
8 1226(c)(1)(E) would be meaningless — a result forbidden by the anti-surplusage canon. See
9 *Corley v. United States*, 556 U.S. 303, 314 n.5 (2009).

10 44. The statute’s history and administrative application reinforce this reading. For decades
11 after IIRIRA, DHS and EOIR consistently placed long-term residents who entered without
12 inspection into § 1229a proceedings and afforded them bond hearings under § 1226(a), unless §
13 1226(c) applied. See *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1259 (W.D. Wash. 2025)
14 (describing the government’s “longstanding agency practice [of] applying § 1226(a) to
15 inadmissible noncitizens already residing in the country”); *Matter of Yajure Hurtado*, 29 I. & N.
16 Dec. 216 n.6 (BIA 2025). When Congress amended § 1226 in 2025, it legislated against that
17 settled backdrop, triggering the interpretive presumption that new provisions “should be
18 understood to work in harmony with what has come before.” *Monsalvo Velazquez v. Bondi*, 145
19 S. Ct. 1232, 1242 (2025) (quoting *Haig v. Agee*, 453 U.S. 280, 297–98 (1981)).

20 45. Courts applying ordinary canons of construction have reached the same conclusion. They
21 have consistently held that § 1225(b)(2)(A) applies only where a noncitizen is “seeking
22 admission” in the active, border-inspection sense — not to those arrested years after entry. See,
23 e.g., *Martinez v. Hyde*, 2025 WL 2084238, at *6 (D. Mass. July 24, 2025); *Lopez Benitez v.*
24 *Francis*, 2025 WL 2371588, at 5–7 (*S.D.N.Y. Aug. 13, 2025*). As those courts explain,
25 interpreting § 1225 to govern anyone merely “present” without admission would render the term
26 “seeking admission” superfluous, erase the role of § 1226(c)(1)(E), and contradict *Jennings*’

1 recognition that § 1226 “generally governs” the detention of persons already in the United States.
2 See also *Oliveros v. Kaiser*, No. 25-cv-07117-BLF, [2025 WL 2677125](#), at *4 (N.D. Cal. Sept.
3 18, 2025); *Vazquez*, [2025 WL 2676082](#), at 15–16.

4 46. The judiciary has now spoken with near-total unanimity. Every district court to consider
5 the question — across the First, Second, Fourth, Fifth, Sixth, Eighth, Ninth, and Tenth Circuits
6 — has held that noncitizens arrested in the interior are detained under § 1226(a), not § 1225(b).
7 See, e.g., *Lopez Benitez v. Francis*, No. 25-Civ-5937, [2025 WL 2267803](#) (S.D.N.Y. Aug. 8,
8 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM, — F.Supp.3d —, —, [2025 WL](#)
9 [2084238](#), at *9 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, [2025 WL](#)
10 [1869299](#), at *8 (D. Mass. July 7, 2025); *Vasquez Garcia v. Noem*, [2025 WL 2549431](#) (S.D. Cal.
11 Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, — F.Supp.3d —, [2025 WL](#)
12 [2496379](#) (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE, [Doc. 20. 2025](#)
13 [WL 2472136](#) (W.D. La. Aug. 27, 2025); [Doc. 11](#), *Benitez v. Noem*, No. 5:25-cv-02190 (C.D.
14 Cal. Aug. 26, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, [2025 WL 2430025](#) (D.
15 Md. Aug. 24, 2025); *Romero v. Hyde*, No. 25-11631-BEM, — F.Supp.3d —, [2025 WL](#)
16 [2403827](#) (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW, [2025](#)
17 [WL 2379285](#) (C.D. Cal. Aug. 15, 2025); *Aguilar Maldonado v. Olson*, No. 25-cv-3142, —
18 F.Supp.3d —, [2025 WL 2374411](#) (D. Minn. Aug. 15, 2025); *Dos Santos v. Noem*, No. 1:25-
19 cv-12052-JEK, [2025 WL 2370988](#) (D. Mass. Aug. 14, 2025); *Rocha Rosado v. Figueroa*, No.
20 CV 25-02157, [2025 WL 2337099](#) (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*
21 [2025 WL 2349133](#) (D. Ariz. Aug. 13, 2025); [Doc. 11](#), *Maldonado Bautista v. Santacruz*, No.
22 5:25-cv-01874-SSS-BFM, *13 (C.D. Cal. July 28, 2025); *Lepe v. Andrews*, [2025 WL 2716910](#),
23 at *4 (E.D. Cal. Sept. 23, 2025). No court has adopted the government’s expansive § 1225
24 theory.

25 47. In sum, the text, structure, legislative context, and overwhelming judicial consensus all
26 confirm that § 1226 — not § 1225 — governs the detention of noncitizens like Mr. Maximo who

1 have resided within the United States for years. His detention is therefore governed by §
2 1226(a)'s discretionary framework, which guarantees individualized bond consideration before a
3 neutral adjudicator.

4 **Constitutional Backdrop**

5 48. This statutory distinction reflects fundamental constitutional limits on immigration
6 detention and Congress's recognition of the different due process rights afforded to those already
7 inside the United States. "The relevant distinction ... is between persons inside the United States
8 and persons outside the United States. That distinction is consistent with the long history of our
9 immigration laws and with the Constitution." *Lepe v. Andrews*, 2025 WL 2716910, at 5 (E.D.
10 Cal. Sept. 23, 2025) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)). Once a person
11 enters the country, "the legal circumstance changes, for the Due Process Clause applies to all
12 'persons' within the United States, including aliens, whether their presence here is lawful,
13 unlawful, temporary, or permanent." *Id.*

14 49. Congress legislated with that constitutional understanding. In distinguishing between
15 "arriving" and "residing" noncitizens, Congress reflected "its understanding of longstanding due
16 process precedent that recognizes the more substantial due process rights of noncitizens already
17 residing in the U.S. [as compared to] those of noncitizens recently arriving." *Vazquez v. Feeley*,
18 2025 WL 2676082, at 4 (*D. Nev. Sept. 17, 2025*) (citing *Knauff v. Shaughnessy*, 338 U.S. 537
19 (1950)). This framework underscores that detention authority under § 1226(a) governs those
20 already within the country, while § 1225 applies only to individuals seeking initial admission at
21 the border.

22 50. Civil immigration detention, which is "nonpunitive in purpose and effect," is
23 constitutionally permissible only where it serves the narrow purposes of preventing flight or
24 protecting the community. *Zadvydas*, 533 U.S. at 690; *Padilla v. ICE*, 704 F. Supp. 3d 1163,
25 1172 (W.D. Wash. 2023). Extending § 1225(b)(2)(A)'s mandatory, unreviewable detention
26 scheme to residents like Mr. Maximo—arrested in the interior decades after entry, with a stable
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1 home, family, and employment—would contravene those constitutional limits. As multiple
2 courts have found, such an interpretation “violated detainees’ due process rights.” *Romero v.*
3 *Hyde*, 2025 WL 2403827, at 12–13 (D. Mass. Aug. 19, 2025); *Lopez-Campos v. Raycraft*, 2025
4 WL 2496379, at 9–10 (E.D. Mich. Aug. 29, 2025).

5 51. Interpreting the INA in light of these constitutional constraints is both consistent with the
6 Supreme Court’s mandate and compelled by it. “It is therefore reasonable to read these statutes
7 ‘against [that] backdrop,’” ensuring that mandatory detention without individualized process
8 remains confined to the narrow border-entry context Congress intended. *Romero*, 2025 WL
9 2403827, at 13 (quoting *Hewitt v. United States*, 145 S. Ct. 2165, 2173 (2025)). Mr. Agustín—
10 arrested years after his re-entry and never afforded any individualized custody determination—is
11 entitled to the due process protections that attach to those residing within the United States,
12 including a bond hearing under § 1226(a).

13 **Burden of Proof**

14 52. Although § 1226(a) does not specify who bears the burden of proof at a custody
15 redetermination hearing, and the Board of Immigration Appeals (“BIA”) has interpreted the
16 statute to place that burden on the noncitizen (*In re Guerra*, 24 I. & N. Dec. 37 (BIA 2006); *In re*
17 *Adeniji*, 22 I. & N. Dec. 1102, 1116 (BIA 1999)), courts within the Ninth Circuit have made
18 clear that this regulatory allocation cannot control once a constitutional violation has occurred,
19 including in the § 1226(a) context. See *Singh v. Barr*, 400 F. Supp. 3d 1005, 1018 (S.D. Cal.
20 2019) (citing *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011)).

21 53. Where a noncitizen has been detained without the individualized bond hearing that due
22 process requires, the Fifth Amendment itself—not the INA or its implementing regulations—
23 dictates the procedural framework for any remedial hearing. And under that framework, the
24 government must bear the burden of proving, by clear and convincing evidence, that continued
25 detention is necessary. See *Singh v. Holder*, 638 F.3d 1196, 1203–04 (9th Cir. 2011) (holding
26 that due process requires the government to justify detention by clear and convincing evidence at
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1 a § 1226(a) bond hearing); *Singh v. Barr*, 400 F. Supp. 3d 1005, 1018 (S.D. Cal. 2019) (same);
2 *Rajnish v. Jennings*, No. 3:20-cv-07819-WHO, 2020 WL 7626414, at *4–5 (N.D. Cal. Dec. 22,
3 2020) (holding that placing the burden on the detained noncitizen at a § 1226(a) bond hearing
4 violates the Constitution); *Hernandez v. Wofford*, No. 1:25-cv-00986-KES-CDB (HC), 2025 WL
5 2420390, at *7–8 (E.D. Cal. Aug. 21, 2025) (ordering immediate release in the context of §
6 1226(a) unless and until the government proves by clear and convincing evidence that continued
7 detention is justified).

8 54. A growing number of courts across the country have likewise concluded that due process
9 requires the government to bear the burden of justifying continued detention by clear and
10 convincing evidence when a noncitizen has been denied a proper § 1226(a) bond hearing. The
11 Second Circuit, for example, has held that “the Government bears the burden of proving by clear
12 and convincing evidence that the alien’s continued detention is justified.” *Velasco Lopez v.*
13 *Decker*, 978 F.3d 842, 855–56 (2d Cir. 2020). Other courts have described this view as the
14 “consensus” among district courts nationwide. *Ixchop Perez v. McAleenan*, 435 F. Supp. 3d
15 1055, 1062 (N.D. Cal. 2020) (collecting cases). See also *Darko v. Sessions*, 342 F. Supp. 3d 429,
16 436 (S.D.N.Y. 2018) (“Joining with a growing body of persuasive authority, the Court concludes
17 that the Due Process Clause required that the Government bear the burden of proving that Ms.
18 Darko’s detention was justified.”); *Brito v. Barr*, 415 F. Supp. 3d 258, 266 (D. Mass. 2019)
19 (“[T]he Court holds that the Due Process Clause requires the Government bear the burden of
20 proof in § 1226(a) bond hearings.”); *Singh v. Barr*, 400 F. Supp. 3d 1005, 1018 (S.D. Cal. 2019)
21 (agreeing with the “reasoning of its sister courts” and concluding that the Due Process Clause
22 requires the government to bear this burden). As the court in *Rajnish* observed, there is no need
23 to “gild the lily” with further citations; the growing national consensus is clear. *Rajnish v.*
24 *Jennings*, No. 3:20-cv-07819-WHO, 2020 WL 7626414, at *4–5 (N.D. Cal. Dec. 22, 2020).

25 55. In sum, where the government has deprived a noncitizen of the individualized § 1226(a)
26 bond hearing that due process requires, the Constitution—not agency regulations—controls the
27

1 procedure and allocation of proof at any remedial hearing. Consistent with longstanding
2 Supreme Court precedent and an expanding consensus among federal courts, that means the
3 government must bear the burden of demonstrating, by clear and convincing evidence, that
4 continued detention is warranted. This safeguard is essential to minimize the risk of erroneous
5 deprivation of liberty and to ensure that the fundamental due process protections guaranteed by
6 the Fifth Amendment have real and enforceable meaning.

8 EXHAUSTION OF REMEDIES

9 56. There is no statutory exhaustion requirement applicable to this habeas petition. *McKart v.*
10 *United States*, 395 U.S. 185, 193 (1969); *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004).
11 Accordingly, any exhaustion requirement is prudential, not jurisdictional.

12 57. Prudential exhaustion is excused where (1) agency expertise is unnecessary, (2)
13 administrative review would be futile, or (3) the petitioner would suffer irreparable harm. *Puga*
14 *v. Chertoff*, 488 F.3d 812, 815 (9th Cir. 2007). Each of these factors supports waiver here.

15 58. Agency expertise is not necessary to resolve the question presented because there are no
16 disputed facts. The issue is a pure question of statutory interpretation—whether Petitioner’s
17 detention is governed by § 1225(b)(2)(A) or § 1226(a). The Board of Immigration Appeals
18 (“BIA”) has no special competence in resolving questions of habeas jurisdiction or the statutory
19 reach of these provisions. See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024).

20 59. Administrative review would be futile. The BIA has already adopted DHS’s position in
21 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), concluding that noncitizens
22 apprehended in the interior who entered without inspection are subject to mandatory detention
23 under § 1225(b)(2)(A). Because the BIA has spoken definitively on this issue, it lacks authority
24 to grant the relief Petitioner seeks. Courts regularly excuse exhaustion where the agency’s
25 precedent forecloses the argument or renders review meaningless. See *Singh v. Holder*, 638 F.3d
26 1196, 1203 n.3 (9th Cir. 2011); *Leonardo v. Crawford*, 646 F.3d 1157, 1160 (9th Cir. 2011).

1 60. Requiring exhaustion would also cause irreparable harm. Petitioner has already endured
2 the deprivation of his liberty without any opportunity for bond or individualized custody review.
3 His next master-calendar hearing is not scheduled until November 2025, leaving him confined
4 indefinitely without a meaningful avenue for release. As multiple courts have recognized, each
5 additional day of civil detention without access to a bond hearing constitutes irreparable harm
6 that cannot later be remedied. *Vazquez v. Feeley*, 2025 WL 2676082, at *10 (D. Nev. Sept. 17,
7 2025); *Iraheta-Martinez v. Garland*, 12 F.4th 942, 949 (9th Cir. 2021) (quoting *Sola v. Holder*,
8 720 F.3d 1134, 1135 (9th Cir. 2013) (per curiam)) (alterations in original)); *Rodriguez v.*
9 *Bostock*, 779 F. Supp. 3d 1239, 1254 (W.D. Wash. 2025)

10 61. The Central District of California recently reached the same conclusion in *Mosqueda v.*
11 *Noem*, No. 5:25-cv-02304 CAS (BFM), 2025 WL 2591530, at 6–7 (C.D. Cal. Sept. 8, 2025),
12 holding that the question of whether detention is governed by § 1225(b) or § 1226(a) is purely
13 legal, that BIA review is futile in light of *Hurtado*, and that “[p]etitioners would be immediately
14 and irreparably harmed by their continued deprivation of liberty without bond hearings that they
15 are entitled to under section 1226(a).”

16 62. Because this petition raises a pure question of law, administrative review would be futile,
17 and continued detention causes ongoing irreparable harm, exhaustion is not required. Habeas
18 corpus under 28 U.S.C. § 2241 is therefore the only adequate and appropriate remedy.

19
20 **CLAIMS FOR RELIEF**

21
22 **COUNT ONE**

23 ***(Unlawful Detention Under the Immigration and Nationality Act and***
24 ***the Administrative Procedure Act)***

25 63. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though
26 fully set forth herein.

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

1 64. Petitioner is detained under an unlawful and unauthorized application of 8 U.S.C. §
2 1225(b)(2)(A). As set forth in the governing statutory framework, § 1225 governs detention of
3 individuals seeking admission at the border, while § 1226 governs detention of individuals
4 already inside the United States *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018).

5 65. Petitioner has resided continuously in the United States since approximately 1999. He
6 lives in Inglewood, California, with his U.S.-citizen wife, Rosario Hernandez, and their three
7 U.S.-citizen children—Freddy (19), Diego (18), and C [REDACTED] (16)—all of whom were born and
8 raised in Los Angeles County. For more than two decades he has supported his family through
9 steady work in construction and landscaping, paid taxes, and maintained an unblemished record.
10 He was arrested by Border Patrol agents on September 28, 2025 while loading work equipment
11 at a Home Depot parking lot in Los Angeles—far from any border or port of entry—and has
12 been detained ever since at the Desert View Facility in Adelanto.

13 66. Federal district courts in the Ninth Circuit confronting nearly identical circumstances
14 have uniformly held that such detention is governed by § 1226(a) and that reliance on *Hurtado* is
15 contrary to law. See, *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *1
16 (W.D. Wash. Sept. 30, 2025) (“Every district court to address this question has concluded that
17 the government's position belies the statutory text of the INA, canons of statutory interpretation,
18 legislative history, and longstanding agency practice.”); See *GARCIA et al., Plaintiffs, v.*
19 *KRISTI NOEM et al.*, 2025 WL 2986672, at *6 (C.D. Cal. Oct. 22, 2025) (“The government's
20 argument that section 1225(b) applies to all noncitizens present in the United States without
21 admission is implausible.”); *Aceros v. Kaiser*, No. 25-cv-06924-EMC (EMC), 2025 U.S. Dist.
22 LEXIS 179594, at *23 (N.D. Cal. Sep. 12, 2025) (Finding the BIA's new ruling “unpersuasive”
23 and “thus entitled to little deference”). See also, *Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal.
24 Sept. 23, 2025); *Vazquez v. Feeley*, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Mosqueda v.*
25 *Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530, at *4–5 (C.D. Cal. Sept. 8, 2025).

1 *Pelico, et al. v. Kaiser, et al.*, No. 25-CV-07286-EMC, 2025 WL 2822876, at *9 (N.D. Cal. Oct.
2 3, 2025).

3 67. The most recent district court decisions out of this circuit addressing this issue have
4 maintained that position. In *Menjivar Sanchez v. Wofford*, the Eastern District of California
5 granted a temporary restraining order and held that the petitioner—an El Salvadoran mother
6 arrested outside her place of work after twenty years in the United States—was properly detained
7 under § 1226(a), not § 1225(b), because she was apprehended in the interior and had deep
8 community ties. Likewise, in *Gomez Garcia v. Noem*, a court in this very district granted
9 immediate release or, alternatively, a bond hearing within seven days, finding that DHS’s newly
10 issued “Interim Guidance Regarding Detention Authority for Applications for Admission” was
11 inconsistent with the statutory text, structure, and purpose of the INA.

12 68. These courts, echoing a growing consensus across the Ninth Circuit, have concluded that
13 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), is unpersuasive and entitled to little
14 or no deference. The same reasoning applies here: Mr. Espinoza Maximo’s arrest deep within
15 Los Angeles County, his twenty-five years of residence, and his U.S.-citizen family place him
16 squarely within § 1226(a)’s discretionary framework, not § 1225(b)’s mandatory regime.

17 18 **COUNT TWO**

19 ***(Violation of Fifth Amendment’s Due Process Clause)***

20 69. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though
21 fully set forth herein.

22 70. Petitioner’s continued detention violates the Due Process Clause of the Fifth Amendment,
23 which protects all persons within the United States from arbitrary or unjustified deprivations of
24 liberty. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Civil immigration detention, being
25 nonpunitive, may be justified only when it serves legitimate regulatory goals—such as ensuring
26

1 appearance or protecting the public—and only when accompanied by adequate procedural
2 safeguards. *Id.* at 690; *Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017).

3 71. The Supreme Court’s decision in *Mathews v. Eldridge*, 424 U.S. 319 (1976), provides the
4 governing framework for determining what process is constitutionally due when the government
5 seeks to deprive a person of liberty. The Ninth Circuit applies the *Mathews* balancing test in the
6 immigration-detention context, and district courts throughout the circuit have done so routinely.
7 See, e.g., *Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022); *Cordero Pelico v. Kaiser*,
8 No. 25-CV-07286-EMC, 2025 WL 2822876, at *6 (N.D. Cal. Oct. 3, 2025); *Naser Noori v.*
9 *Larose, et al.*, No. 25-CV-1824-GPC-MSB, 2025 WL 2800149, at *10 (S.D. Cal. Oct. 1, 2025);
10 *Hernandez v. Wofford*, No. 1:25-CV-00986-KES-CDB (HC), 2025 WL 2420390, at *3 (E.D.
11 Cal. Aug. 21, 2025); *Hernandez Nieves v. Kaiser*, No. 25-CV-06921-LB, 2025 WL 2533110, at
12 4 (N.D. Cal. Sept. 3, 2025).

13 72. Under *Mathews*, courts weigh the following three factors: (1) “the private interest that
14 will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest
15 through the procedures used, and the probable value, if any, of additional or substitute procedural
16 safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal
17 and administrative burdens that the additional or substitute procedural requirement would entail.”
18 *Mathews*, 424 U.S. at 335. *Vazquez v. Feeley*, 2025 WL 2676082, at *17 (D. Nev. Sept. 17,
19 2025)

20 73. **Private Interest at Stake:** As the Ninth Circuit has recognized, “as the length of
21 detention grows, so too does the weight of the detainee’s liberty interest.” *Hernandez v. Sessions*,
22 872 F.3d 976, 993 (9th Cir. 2017). Mr. Espinoza Maximo’s liberty interest is immense. He has
23 lived in Los Angeles County for more than twenty-five years, shares a home in Inglewood with
24 his wife, Rosario Hernández (who has lived in the United States since 2003), and is the father of
25 three U.S.-citizen children — Freddy, Diego, and C 

74. The Supreme Court has long recognized that “[t]he time spent in jail awaiting trial has a detrimental impact on the individual. It often means loss of a job [and] it disrupts family life.” *Barker v. Wingo*, 407 U.S. 514, 532–33 (1972); accord *Nat’l Ctr. for Immigrants Rights, Inc. v. INS*, 743 F.2d 1365, 1369 (9th Cir. 1984). Likewise, the Ninth Circuit has recognized “in concrete terms the irreparable harms imposed on anyone subject to immigration detention,” including “subpar medical and psychiatric care in ICE detention facilities, the economic burdens imposed on detainees and their families as a result of detention, and the collateral harms to children of detainees whose parents are detained.” *Hernandez*, 872 F.3d at 995; see also *Oliveros v. Kaiser*, No. 25-cv-07117-BLF, 2025 WL 2677125, at *9 (N.D. Cal. Sept. 18, 2025).

75. Mr. Espinoza Maximo’s arrest and detention have torn him from the only family and community he has known as an adult. Letters in his bond record recount the family’s financial and emotional collapse: his wife cannot pay rent or buy groceries without borrowing; his eldest son withdrew from college to work full-time; and his two younger children struggle to sleep and concentrate at school. As *Gomez Garcia v. Noem*, No. 5:25-cv-02304 (C.D. Cal. Oct. 22, 2025), observed, the loss of liberty for long-time residents with deep community roots “falls at the very core of the Fifth Amendment’s protection.”

76. Taken together, Mr. Espinoza Maximo’s decades of residence, family unity, and deep integration into his community place his liberty interest at the highest end of the constitutional scale. His detention does not merely restrict movement—it destabilizes an entire household and community dependent on him. The first *Mathews* factor therefore weighs decisively in his favor.

77. Risk of Erroneous Deprivation and Probable Value of Additional Safeguards: The risk of error here could not be more stark. Mr. Espinoza Maximo was not stopped near a border or at an airport—he was arrested in a Home Depot parking lot in Los Angeles while loading tools for work. The arresting officer, Border Patrol Agent Aaron Padda, had graduated from the Border Patrol Academy only four months earlier. In his own report, he described his role in “Operation At Large,” a campaign he characterized as an effort to seek out and arrest “illegal

1 aliens” in the course of their day-labor employment. In other words, a newly minted officer—
2 zealously acting under a self-declared mandate to maximize arrest numbers at the expense of
3 constitutional limits—targeted a man peacefully engaged in lawful, day-to-day labor.

4 78. From that encounter, DHS mechanically labeled Mr. Espinoza Maximo an “arriving
5 alien” under § 1225(b)(2)(A)—a category meant for individuals stopped at the border—and
6 summarily denied him any chance to demonstrate that he is neither dangerous nor a flight risk.
7 The designation was not based on law or fact; it was a bureaucratic reflex. As *Menjivar Sanchez*
8 *v. Wofford* and *Gomez Garcia v. Noem* both recognized, this new *Hurtado*-based policy strips
9 long-time residents of the individualized process Congress required and “invites arbitrary
10 detention divorced from the statute’s purpose.” A simple safeguard—a brief § 1226(a) bond
11 hearing before a neutral adjudicator—would almost entirely eliminate that risk and restore the
12 minimal process the Constitution demands.

13 79. This mechanical application of § 1225(b) to interior arrests—contrary to the statute’s text
14 and history—creates a systemic risk of erroneous deprivation. As both *Menjivar Sanchez v.*
15 *Wofford*, No. 1:25-cv-01208 (E.D. Cal. Oct. 17, 2025), and *Gomez Garcia v. Noem*, No. 5:25-cv-
16 02304 (C.D. Cal. Oct. 22, 2025), recognized, the new “Interim Guidance Regarding Detention
17 Authority for Applications for Admission” deprives long-time residents of meaningful process
18 and contradicts the INA’s structure. The addition of one simple safeguard—a prompt bond
19 hearing under § 1226(a) before a neutral adjudicator—would all but eliminate that risk.

20 80. In sum, Mr. Espinoza Maximo’s arrest and detention exemplify the precise risk of
21 arbitrary and erroneous deprivation the Due Process Clause guards against. A novice
22 enforcement officer—acting under an indiscriminate mandate to inflate arrest numbers—
23 misapplied the law to a man with deep roots and no flight risk, and that misapplication has been
24 left uncorrected through a policy of categorical detention. Absent judicial intervention, the error
25 will persist indefinitely. The second *Mathews* factor therefore weighs heavily in favor of relief.

1 81. **Government Interest:** The Government’s interest in detaining Mr. Espinoza Maximo
2 without an individualized bond hearing is minimal. Civil immigration detention is a regulatory
3 measure, not a punitive one, and it may be justified only where it furthers legitimate objectives
4 such as ensuring appearance or protecting the community. *Zadvydas v. Davis*, 533 U.S. 678, 690
5 (2001). None of those concerns apply here. Mr. Espinoza Maximo has lived in Los Angeles for
6 more than twenty years, has no criminal record, and is the sole provider for his three U.S.-citizen
7 children. There is no evidence that he poses a danger or would fail to appear if released.

8 82. Courts across the country have recognized that where detention serves no individualized
9 purpose, the government’s interest in maintaining custody “carries little weight.” *Vazquez v.*
10 *Feeley*, 2025 WL 2676082, at *21 (D. Nev. Sept. 17, 2025); see also *Lopez Benitez v. Francis*,
11 No. 25-cv-5937 (DEH), 2025 WL 2371588, at *13 (S.D.N.Y. Aug. 13, 2025) (finding
12 respondents “failed to show a significant interest in continued detention” where the petitioner
13 was not a danger or flight risk); *Rico-Tapia v. Smith*, No. CV 25-00379 SASP-KJM, 2025 WL
14 2950089, at *9 (D. Haw. Oct. 10, 2025) (holding that respondents’ interest in detention is “low”
15 where the petitioner remained compliant and posed no risk).

16 83. The administrative burden of providing a bond hearing is negligible. Immigration courts
17 already conduct such hearings routinely under § 1226(a). As Judge Chen observed in *Cordero*
18 *Pelico v. Kaiser*, “the government cannot claim a cognizable interest in avoiding procedures that
19 ensure compliance with the Constitution.” No. 25-CV-07286-EMC, 2025 WL 2822876, at *6
20 (N.D. Cal. Oct. 3, 2025). See also *Baird v. Garland*, 81 F.4th 95, 104 (9th Cir. 2024) (“Courts
21 cannot allow constitutional violations to continue simply because a remedy would involve
22 intrusion into an agency’s administration.”).

23 84. Nor can the government’s asserted “interest in uniform enforcement” outweigh the
24 constitutional guarantee of due process. As the Central District of California recently observed in
25 *Gomez Garcia v. Noem*, “neither equity nor the public’s interest are furthered by allowing
26 violations of federal law to continue,” and any claimed interest in preserving agency policy “is
27

1 unpersuasive when that policy itself hinders due process rights.” No. 5:25-CV-02771-ODW,
2 2025 WL 2986672, at *6 (C.D. Cal. Oct. 22, 2025) (quoting *Galvez v. Jaddou*, 52 F.4th 821, 832
3 (9th Cir. 2022)).

4 85. Finally, as the Ninth Circuit has recognized, the financial and human costs of detention
5 are enormous—averaging \$158 per detainee per day—while supervised release programs cost as
6 little as 17 cents. *Hernandez v. Sessions*, 872 F.3d 976, 996 (9th Cir. 2017). The government’s
7 interests, by contrast, are minimal where detention “serves no individualized purpose.” *Id.*

8 86. In sum, the government’s asserted interest in detaining Mr. Espinoza Maximo without a
9 hearing is negligible. He presents no threat to public safety and has complied with every prior
10 immigration process. The administrative cost of providing a bond hearing—an established and
11 routine procedure—is minimal compared to the immense human and constitutional costs of
12 continued detention. When the only effect of due process is to ensure lawful and individualized
13 decision-making, “the government cannot claim a cognizable interest in avoiding procedures that
14 ensure compliance with the Constitution.” *Cordero Pelico v. Kaiser*, 2025 WL 2822876, at *6
15 (N.D. Cal. Oct. 3, 2025). The third *Mathews* factor thus also favors Petitioner.

16 COUNT THREE

17 *(Violation of the Administrative Procedure Act)*

18 87. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though
19 fully set forth herein.

20 88. The Administrative Procedure Act (“APA”) requires that “[t]he reviewing court shall ...
21 compel agency action unlawfully withheld or unreasonably delayed,” and “shall ... hold
22 unlawful and set aside agency action ... found to be ... not in accordance with law [or] in excess
23 of statutory jurisdiction.” 5 U.S.C. § 706(1), (2)(A), (C).

24 89. The Department of Homeland Security, through Immigration and Customs Enforcement
25 and the Board of Immigration Appeals, has adopted and implemented a policy and practice of
26 classifying long-term residents arrested in the interior of the United States as “arriving aliens”
27

1 subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). See *Matter of Hurtado*, 28 I. &
2 N. Dec. 216 (BIA 2020). This policy constitutes final agency action within the meaning of 5
3 U.S.C. § 704. It binds adjudicators, dictates outcomes, and leaves no meaningful discretion to
4 treat interior arrests under § 1226(a).

5 90. 77. The policy is contrary to the plain text, structure, and history of the Immigration
6 and Nationality Act, which limits § 1225 to individuals seeking admission at the border and
7 reserves § 1226 for those—like Petitioner—already present in the United States. *Jennings v.*
8 *Rodriguez*, 583 U.S. 281, 288 (2018); *Vazquez v. Feeley*, 2025 WL 2676082, at 19–21 (D. Nev.
9 Sept. 17, 2025).

10 91. 78. Federal courts across the Ninth Circuit have found DHS’s application of *Hurtado* to
11 interior arrests unlawful and have ordered release or bond hearings within seven days. See *Pelico*
12 *v. Kaiser*, No. 25-CV-07286-EMC, 2025 WL 2822876, at 9 (N.D. Cal. Oct. 3, 2025); *Lepe v.*
13 *Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Mosqueda v. Noem*, No. 5:25-CV-
14 02304-CAS (BFM), 2025 WL 2591530, at 4–5 (C.D. Cal. Sept. 8, 2025); *Maldonado Vazquez*,
15 2025 WL 2676082, at 21.

16 92. 79. By treating Petitioner as an applicant for admission and denying him a custody
17 redetermination hearing, Respondents have acted “not in accordance with law,” “in excess of
18 statutory jurisdiction,” and “arbitrary, capricious, [and] an abuse of discretion,” within the
19 meaning of 5 U.S.C. § 706(2)(A)–(C).

20 93. This misclassification has deprived Mr. Maximo of the statutory and constitutional
21 safeguards guaranteed to individuals already present in the United States and has resulted in an
22 ongoing, unlawful deprivation of liberty that the APA requires this Court to set aside.

23 94. Accordingly, Petitioner is entitled to declaratory and injunctive relief under the APA,
24 including vacatur of Respondents’ unlawful application of *Matter of Hurtado* to his detention
25 and an order directing that he receive an individualized bond hearing under § 1226(a) or be
26 immediately released.

PRAYER FOR RELIEF

WHEREFORE, Mr. German Espinoza Maximo respectfully prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter pursuant to 28 U.S.C. § 2241 and the Administrative Procedure Act, 5 U.S.C. §§ 701–706;
- b. Declare that Mr. Espinoza Maximo’s detention under 8 U.S.C. § 1225(b) is unlawful because he was arrested in the interior of the United States and is properly subject to custody under § 1226(a);
- c. Declare that the Department of Homeland Security’s application of its “arriving-alien” classification and detention policy to Mr. Espinoza Maximo violates the Immigration and Nationality Act, the Administrative Procedure Act, and the Fifth Amendment’s guarantee of due process;
- d. Order the immediate release of Mr. Espinoza Maximo from immigration detention; or, in the alternative,
- e. Order that Mr. Espinoza Maximo be provided an individualized bond hearing before a neutral adjudicator within seven (7) days, at which the government must demonstrate, by clear and convincing evidence, that (1) Mr. Espinoza Maximo is a flight risk or a danger to the community, and (2) continued detention is the least restrictive means of ensuring his appearance at future proceedings and the safety of the community;
- f. Enjoin Respondents from re-arresting Mr. Espinoza Maximo unless and until such a hearing is held and the government meets that burden;
- g. Award reasonable costs and attorney’s fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- h. Grant such further relief as the Court deems just and proper.

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED: October 27, 2025

Respectfully Submitted,



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