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

Miguel PORTILLO;
Francisco DIAZ GUTIERREZ;
Rudy MENDEZ ESCARENO;
Olmer Alfredo BERNAL MENDEZ;
Yenni PEREZ QUINILLA;
Florentina RAMIREZ GATICA;
Felix Cesario MORALES GOMEZ; and
Miguel ARGUETA REYES,
Petitioners,

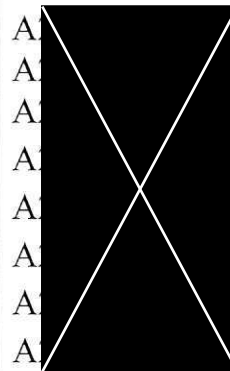
v.

Kristi NOEM, Secretary, U.S. Department of
Homeland Security; Pamela BONDI, U.S.
Attorney General; Todd LYONS, Acting
Director, Immigration and Customs
Enforcement; Ernesto SANTACRUZ JR.,
Acting Director, Los Angeles Field Office,
Immigration and Customs Enforcement,
Enforcement and Removal Operations;
Feret SEMAIA, Warden, Adelanto ICE
Processing Center; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; IMMIGRATION
AND CUSTOMS ENFORCEMENT; and U.S.
DEPARTMENT OF HOMELAND
SECURITY,
Respondents.

Case No. 5:25-cv-2892

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

PETITIONERS' DHS NOS:



INTRODUCTION

1. Petitioners Miguel PORTILLO (DHS No. A [REDACTED]); Francisco DIAZ GUTIERREZ (DHS No. A [REDACTED]); Rudy MENDEZ ESCARENO (DHS No. A [REDACTED]); Olmer Alfredo BERNAL MENDEZ (DHS No. A [REDACTED]); Yenni PEREZ QUINILLA (DHS No. A [REDACTED]); Florentina RAMIREZ GATICA (DHS No. A [REDACTED]); Felix Cesario MORALES GOMEZ (DHS No. A [REDACTED]) and Miguel ARGUETA REYES (DHS No. A [REDACTED]) 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, Riverside, and Orange Counties in 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).

1 4. Based on this allegation in Petitioners’ removal proceedings, DHS has
2 denied each Petitioner release from immigration custody, consistent with a new
3 DHS policy¹ issued on July 8, 2025, instructing all Immigration and Customs
4 Enforcement (ICE) employees to consider anyone inadmissible under §
5 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or
6 inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore
7 ineligible to be released on bond during the removal hearing process.
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9

10 5. Similarly, on September 5, 2025, the Board of Immigration Appeals
11 (BIA or Board), a component of EOIR, issued a precedent decision, binding on all
12 immigration judges, holding that an immigration judge (“IJ”) has no authority to
13 consider bond requests for any person who entered the United States without
14 admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The
15 Board determined that such individuals are subject to mandatory detention under 8
16 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. Petitioners
17 therefore are unable to obtain a bond hearing before an immigration judge.
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19

20 6. Petitioners’ detention on this basis violates the plain language of the
21 Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* Section
22 1225(b)(2)(A) does not apply to individuals like Petitioners who previously entered
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24

25
26 ¹ “Interim Guidance Regarding Detention Authority for Applicants for Admission”,
27 ICE, July 8, 2025. Available at: [https://immpolicytracking.org/policies/ice-issues-](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents)
28 [memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents)
[documents](https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents).

1 and are now present and residing in the United States. Instead, such individuals are
2 subject to a different statute, § 1226(a), that allows for release on conditional parole
3 or bond. That statute expressly applies to people who, like Petitioners, are charged
4 as removable for having entered the United States without inspection and being
5 present without admission.
6

7
8 7. Respondents' new legal interpretation of the INA is plainly contrary to
9 the statutory framework and contrary to decades of agency practice applying §
10 1226(a) to people like Petitioners who are present within the United States.
11

12 8. Respondents' new legal interpretation of the INA also violates
13 Petitioners' right to due process. All individuals within the United States have
14 constitutional rights. "[T]he Due Process Clause applies to all 'persons' within the
15 United States, including aliens, whether their presence here is lawful, unlawful,
16 temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).
17

18
19 9. Accordingly, Petitioners seek a writ of habeas corpus requiring that
20 they be released unless Respondents provide a bond hearing under § 1226(a) within
21 seven days.
22

23 10. Petitioners also seek a declaration that their detention is governed by 8
24 U.S.C. § 1226(a) and that detention under 8 U.S.C. § 1225(b)(2) is unlawful.
25

26 JURISDICTION

27 11. Jurisdiction is proper and relief is available pursuant to 28 U.S.C. §
28

1 1331 (federal question), 28 U.S.C. § 1346 (original jurisdiction), 5 U.S.C. § 702
2 (waiver of sovereign immunity), 28 U.S.C. § 2241 (habeas corpus jurisdiction), and
3 Article I, Section 9, clause 2 of the United States Constitution (the Suspension
4 Clause).

5
6 12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
7 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
8 U.S.C. § 1651.

10 **VENUE**

11
12 13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
13 484, 493- 500 (1973), venue lies in the United States District Court for the Central
14 District of California, the judicial district in which Petitioners are currently
15 detained.

16
17 14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
18 because Respondents are employees, officers, and agencies of the United States,
19 and because a substantial part of the events or omissions giving rise to the claims
20 occurred in the Central District of California.

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

23
24 15. The Court must grant a petition for writ of habeas corpus or order
25 Respondents to show cause “forthwith,” unless a petitioner is not entitled to relief.
26 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a
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1 return “within three days unless for good cause additional time, not exceeding
2 twenty days, is allowed.” *Id.*

3
4 16. Habeas corpus is “perhaps the most important writ known to the
5 constitutional law . . . affording as it does a swift and imperative remedy in all cases
6 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The
7 application for the writ usurps the attention and displaces the calendar of the judge
8 or justice who entertains it and receives prompt action from him within the four
9 corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000)
10 (citation omitted).
11
12

13 PARTIES

14 *Petitioners*

15
16 17. Petitioner Miguel PORTILLO (DHS No. A ) was arrested by
17 Border Patrol agents on June 30, 2025 in Garden Grove, California. He has been in
18 immigration detention since that date. ICE has charged Petitioner with being
19 present without admission. After arresting Petitioner, ICE did not set bond and
20 Petitioner requested review of his custody by an IJ. On September 11, 2025,
21 Petitioner was denied bond by an IJ at the Adelanto Immigration Court because the
22 IJ concluded there was “No Jurisdiction.”
23
24

25 18. Petitioner Francisco DIAZ GUTIERREZ (DHS No. A ) was
26 arrested by Border Patrol agents on August 24, 2025 in Walnut, California. He has
27 been in immigration detention since that date. ICE has charged Petitioner with
28

1 being present without admission. After arresting Petitioner, ICE did not set bond
2 and Petitioner requested review of his custody by an IJ. On September 30, 2025,
3
4 Petitioner was denied bond by an IJ at the Adelanto Immigration Court because the
5 IJ concluded there was “No Jurisdiction” and Petitioner was an “Applicant for
6 Admission.”
7

8 19. Petitioner Rudy MENDEZ ESCARENO (DHS No. A [REDACTED]) was
9 arrested by immigration officials on August 17, 2025 in Los Angeles, California.
10 He has been in immigration detention since that date. ICE has charged Petitioner
11 with being present without admission. After arresting Petitioner, ICE did not set
12 bond and Petitioner requested review of his custody by an IJ. On September 24,
13 2025, Petitioner was denied bond by an IJ at the Adelanto Immigration Court
14 because the IJ concluded “The Court does not have jurisdiction to consider the
15 [petitioner]'s bond request pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216
16 (BIA 2025).”
17
18
19

20 20. Petitioner Olmer Alfredo BERNAL MENDEZ (DHS No. A [REDACTED])
21 was arrested by Border Patrol agents on August 17, 2025 in Garden Grove,
22 California. He has been in immigration detention since that date. After arresting
23 Petitioner, ICE did not set bond. ICE has charged Petitioner with being present
24 without admission. In light of the BIA’s September 5, 2025 decision in *Matter of*
25 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), Petitioner is unable to obtain a
26
27 bond hearing before an IJ.
28

1 21. Petitioner Yenni PEREZ QUINILLA (DHS No. A [REDACTED]) was
2 arrested by Border Patrol agents on August 15, 2025 in Van Nuys, California. She
3 has been in immigration detention since that date. ICE has charged Petitioner with
4 being present without admission. After arresting Petitioner, ICE did not set bond
5 and Petitioner requested review of her custody by an IJ. On October 8, 2025,
6 Petitioner was denied bond by an IJ at the Adelanto Immigration Court because the
7 IJ concluded there was “No jurisdiction.”
8

9 22. Petitioner Florentina RAMIREZ GATICA (DHS No. A [REDACTED]) was
10 arrested by Border Patrol agents on September 20, 2025 in Santa Ana, California.
11 She has been in immigration detention since that date. After arresting Petitioner,
12 ICE did not set bond. ICE has charged Petitioner with being present without
13 admission. In light of the BIA’s September 5, 2025 decision in *Matter of Yajure*
14 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), Petitioner is unable to obtain a bond
15 hearing before an IJ.
16

17 23. Petitioner Felix Cesario MORALES GOMEZ (DHS No. A [REDACTED])
18 was arrested by Border Patrol agents on September 29, 2025 in Corona, California.
19 He has been in immigration detention since that date. After arresting Petitioner, ICE
20 did not set bond. ICE has charged Petitioner with being present without admission.
21 In light of the BIA’s September 5, 2025 decision in *Matter of Yajure Hurtado*, 29 I.
22 & N. Dec. 216 (BIA 2025), Petitioner is unable to obtain a bond hearing before an
23 IJ.
24

1 24. Petitioner Miguel ARGUETA REYES (DHS No. A [REDACTED]) was
2 arrested by immigration officials on September 3, 2025 in Los Angeles, California.
3 He has been in immigration detention since that date. ICE has charged Petitioner
4 with being present without admission. After arresting Petitioner, ICE did not set
5 bond and Petitioner requested review of his custody by an IJ. On October 29, 2025,
6 Petitioner was denied bond by an IJ at the Adelanto Immigration Court because the
7 IJ concluded there was “No jurisdiction” and “Respondent is an applicant for
8 admission charged under INA 212(a)(6)(A)(i).”
9
10

11
12 ***Respondents***

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

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

25 27. Todd Lyons is the Acting Director of Immigration and Customs
26 Enforcement, a federal law enforcement agency within the Department of
27 Homeland Security. ICE’s responsibilities include operating the immigration
28

1 detention system. In his capacity as ICE Acting Director, Respondent Lyons
2 exercises control over and is a custodian of persons held at ICE facilities nationally.
3
4 He is Petitioners' immediate custodian and is responsible for Petitioners' detention.
5 He is sued in his official capacity.

6 28. Respondent Ernesto Santacruz Jr. is the Acting Director of the
7
8 Los Angeles Field Office of ICE's Enforcement and Removal Operations division.
9 As such, he is the custodian of all persons held at the ICE facilities within the Los
10 Angeles Field Office. He is Petitioners' immediate custodian and is responsible for
11
12 Petitioners' detention. He is sued in his official capacity.

13 29. Respondent Fereti Semaia, is the Warden of the Adelanto ICE
14
15 Processing Center, Adelanto, California, where Petitioners are detained. He has
16 immediate physical custody of Petitioners. He is sued in his official capacity.

17 30. Respondent Executive Office for Immigration Review (EOIR) is the
18
19 federal agency within the Department of Justice responsible for implementing the
20 INA in removal proceedings, including for custody redeterminations or bond
21 hearings.

22 31. Respondent Department of Homeland Security (DHS) is the federal
23
24 agency responsible for implementing and enforcing the INA, including the
25 detention and removal of noncitizens.

26 32. Respondent Immigration and Customs Enforcement (ICE) is the agency
27
28

1 within DHS responsible for implementing and enforcing the INA, including the
2 detention and removal of noncitizens.

3 4 **LEGAL FRAMEWORK**

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

7
8 34. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in § 1229a
9 removal proceedings before an IJ. Individuals covered by § 1226(a) detention are
10 generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§
11 1003.19(a), 1236.1(d), while certain noncitizens who have been arrested, charged
12 with, or convicted of certain crimes are subject to mandatory detention. *See* 8
13 U.S.C. § 1226(c).

14
15
16 35. Second, the INA provides for mandatory detention of noncitizens
17 subjected to an Expedited Removal order imposed pursuant to 8 U.S.C. §
18 1225(b)(1) and for certain other noncitizen applicants for admission to the U.S. who
19 are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2).

20
21 36. Last, the INA provides for detention of noncitizens who have been
22 ordered removed, including individuals in withholding-only proceedings. *See* 8
23 U.S.C. § 1231(a)–(b).

24
25 37. This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and
26 1225(b)(2).

27
28 38. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as

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

5
6 39. Following the enactment of the IIRIRA in 1996, EOIR drafted new
7 Regulations applicable to proceedings before immigration judges explaining that, in
8 general, people who entered the country without inspection – also referred to as
9 being “present without admission” - were not considered detained under § 1225 and
10 that they were instead detained under § 1226(a). *See* Inspection and Expedited
11 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
12 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

13
14 40. Thus, in the decades that followed, most noncitizens who entered without
15 inspection and were placed in standard § 1229a removal proceedings received bond
16 hearings before IJs, unless their criminal history rendered them ineligible pursuant
17 to § 1226(c). That practice was consistent with many more decades of practice prior
18 to IIRIRA, in which noncitizens who were not deemed “arriving” were entitled to a
19 custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
20 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a)
21 simply “restates” the detention authority previously found at § 1252(a)).
22
23

24 41. This practice both pre- and post-enactment of IIRIRA in 1996 is
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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).
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7
8 42. 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 43. 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
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20 44. 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

27
28 ² Available at: <https://immpolicytracking.org/policies/ice-issues-memo-eliminating-bond-hearings-for-undocumented-immigrants/#/tab-policy-documents>.

1 45. 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 46. 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*, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (Partial Summary
14 Judgment Order).
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19 47. Court after court has adopted the same reading of the INA's detention
20 authorities and rejected ICE and EOIR's new interpretation, including at least
21 eleven in the Central District of California. *See Suy Tol v. Noem*, No. 5:25-cv-
22 2806-JFW-AS (C.D. Cal Oct. 29, 2025); *Gomez Garcia v. Noem*, No. 5:25-cv-
23 2772-ODW-PDx (C.D. Cal. Oct. 22, 2025); *Coc Tut v. Noem*, No. 5:25-cv-2701-
24 DOC-AGR (C.D. Cal. Oct. 16, 2025); *Lopez Pop v. Noem*, No. 5:25-cv-2589-SSS-
25 SSC (C.D. Cal. Oct. 3, 2025); *Santiago Flores v. Noem*, No. 5:25-cv-2490-AB-AJR
26 (C.D. Cal. Sept. 29, 2025); *Arreola Armenta v. Noem*, No. 5:25-cv-2416-JFW-SP
27
28

(C.D. Cal. Sept. 16, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304-CAS-BFM, [2025 WL 2591530](#) (C.D. Cal. Sept. 8, 2025); *Benitez v. Noem*, No. 5:25-cv-2190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Ceja Gonzalez v. Noem*, No. 5:25-cv-2054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW-DFM, [2025 WL 2379285](#) (C.D. Cal. Aug. 15, 2025); and *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025). In addition to the eleven Central District cases, over forty other courts have rejected ICE and EOIR's new interpretation. *See Gomes v. Hyde*, No. 1:25-CV-11571-JEK, [2025 WL 1869299](#) (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, [2025 WL 2084238](#) (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), [2025 WL 2337099](#) (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), [2025 WL 2349133](#) (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), [2025 WL 2371588](#) (S.D.N.Y. Aug. 13, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052-JEK, [2025 WL 2370988](#) (D. Mass. Aug. 14, 2025); *Garcia Jimenez v. Kramer*, No. 4:25-cv-03162-JFB-RCC, [2025 WL 2374223](#) (D. Neb. Aug. 14, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, [2025 WL 2374411](#) (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, [2025 WL 2403827](#) (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), [2025 WL 2398831](#) (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, [2025 WL 2419263](#) (N.D. Cal. Aug. 21,

1 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, [2025 WL 2430025](#) (D.
2 Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, [2025 WL](#)
3 [2472136](#) (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
4 (E.C.T./D.J.F.), --- F. Supp. 3d ----, [2025 WL 2466670](#) (D. Minn. Aug. 27, 2025); *Diaz*
5 *Diaz v. Mattivelo*, No. 25-cv-12226, [2025 WL 2457610](#) (D. Mass. Aug. 27, 2025);
6 *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, [2025 WL 2496379](#)
7 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-
8 MM, [2025 WL 2549431](#) (S.D. Cal. Sept. 3, 2025); *Doe v. Moniz*, --- F.Supp.3d ---
9 -, No. 1:25-cv-12094-IT, [2025 WL 2576819](#) (D. Mass. Sept. 5, 2025); *Pizarro*
10 *Reyes v. Raycraft*, No. 25-CV-12546, [2025 WL 2609425](#) (E.D. Mich. Sept. 9,
11 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, [2025 WL 2607924](#) (D. Mass.
12 Sept. 9, 2025); *Salcedo Aceros v. Polly Kaiser et al.*, No. 25-cv-5624, [2025 WL](#)
13 [2637503](#) (N.D. Cal. Sept. 12, 2025); *Lamidi v. FCI Berlin, Warden*, No. 1:25-cv-
14 00297-LM-TSM (D.N.H. Sept. 15, 2025); *Garcia Cortes, v. Noem et al.*, No. 25-
15 cv-02677, [2025 WL 2652880](#) (D. Colo. Sept. 16, 2025); *Maldonado Vazquez v.*
16 *Feeley et al.*, No. 25-cv-01542, [2025 WL 2676082](#) (D. Nev. Sept. 17, 2025);
17 *Velasquez Salazar v. Dedos et al.*, No. 25-cv-00835, [2025 WL 2676729](#) (D.N.M.
18 Sept. 17, 2025); *Hasan v. Crawford*, ---F.Supp.3d ----, No. 25-cv-1408, [2025 WL](#)
19 [2682255](#) (E.D. Va. Sept. 19, 2025); *Yumbillo v. Stamper*, No. 25-cv-00479, [2025](#)
20 [WL 2688160](#) (D. Me. Sept. 19, 2025); *Barrera v. Tindall*, No. 25-cv-541, [2025 WL](#)
21 [2690565](#) (W.D. Ky. Sept. 19, 2025); *Chogllo Chafila v. Scott et al.*, No. 2:25-cv-

00437-SDN, [2025 WL 2688541](#) (D. Me. Sept. 22, 2025); *Lepe v. Andrews*, --- F. Supp. 3d ----, No. 1:25-cv-01163-KES-SKO, [2025 WL 2716910](#) (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, ---F. Supp. 3d ----, No. 25-CV-4048, [2025 WL 2712427](#) (N.D. Iowa Sept. 23, 2025); *Barrajas v. Noem et al.*, No. 25-cv-00322, [2025 WL 2717650](#) (S.D. Iowa Sept. 23, 2025); *Valencia Zapata v. Kaiser*, ---F. Supp. 3d ----, No. 25-cv-07492, [2025 WL 2741654](#) (N.D. Cal. Sept. 26, 2025); *Quispe v. Crawford, et al.*, No. 1:25-cv-1471-AJT-LRV, [2025 WL 2783799](#) (E.D. Va. Sept. 29, 2025); *Belsai D.S. v. Bondi, et al.*, No. 25-cv-3682, [2025 WL 2802947](#) (D. Minn. Oct. 1, 2025); *Echevarria v. Bondi, et al.*, No. cv-25-03252-PHX-DWL, [2025 WL 2821282](#) (D. Ariz. Oct. 3, 2025); *Guerrero Orellana v. Moniz*, ---F. Supp. 3d ----, No. 25-cv- 12664-PBS, [2025 WL 2809996](#) (D. Mass. Oct. 3, 2025); *Hyppolite v. Noem, et al.*, No. 25-cv- 4304, [2025 WL 2829511](#) (E.D.N.Y. Oct. 6, 2025); *Contreras Cervantes v. Raycraft*, No. 2:25-cv-13073-BRM-EAS (ED. Mich. Oct. 17, 2025); *Mendoza Gutierrez v. Baltasar*, No. 1:25-cv-2720-RMR (D. Colo. Oct. 17, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, [2025 WL 2531566](#), at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, [2025 WL 2402271](#) at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, [2025 WL 2374224](#) at *2 (D. Neb. Aug. 14, 2025) (same).

48. *But see, Sixtos Chavez v. Noem*, No. 3:25-cv-2325-CAB-SBC (S.D. Cal.

1 Sept. 24, 2025) (denying TRO and accepting government’s interpretation of §
2 1225(b)(2)).
3

4 49. The courts have rejected DHS’s and EOIR’s new interpretation
5 because it defies the INA. As the *Rodriguez Vazquez* court and others have
6 explained, the plain text of the statutory provisions demonstrates that § 1226(a), not
7 § 1225(b), applies to people like Petitioners.
8

9 50. Section 1226(a) applies by default to all persons “pending a decision on
10 whether the [noncitizen] is to be removed from the United States.” Removal
11 hearings are held pursuant to § 1229a, to “decid[e] the inadmissibility or
12 deportability of a[] [noncitizen].”
13

14 51. The text of § 1226(a) also explicitly applies to individuals charged as
15 being inadmissible, including those who entered without inspection. *See 8 U.S.C. §*
16 *1226(c)(1)(E)*. Subparagraph (E)’s reference to inadmissible individuals makes
17 clear that, by default, such individuals are afforded a bond hearing under subsection
18 (a). As the *Rodriguez Vazquez* court explained in its preliminary injunction order,
19 “[w]hen Congress creates “specific exceptions” to a statute’s applicability, it
20 “proves” that absent those exceptions, the statute generally applies. *Rodriguez*
21 *Vazquez*, 779 F.Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v.*
22 *Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at
23 *7.
24
25
26
27

28 52. Section 1226 therefore leaves no doubt that it applies to noncitizens

1 present in the United States who face charges of being inadmissible to the United
2 States, including those who are present without admission or parole.

3
4 53. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or
5 who recently entered the United States and are encountered at or near the border.
6 The statute's entire framework is premised on inspections at the border of people
7 who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).
8 Indeed, the Supreme Court has explained that this mandatory detention scheme
9 applies "at the Nation's borders and ports of entry, where the Government must
10 determine whether a[] [noncitizen] seeking to enter the country is admissible."
11 *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

12
13
14 54. Accordingly, the mandatory detention provision of § 1225(b)(2) does not
15 apply to people like Petitioners, who have already entered and were residing in the
16 United States at the time they were apprehended.

17 18 **FACTS**

19 20 **Petitioner Miguel PORTILLO**

21 55. Petitioner Miguel PORTILLO resides in California. He has no criminal
22 record and no previous contact with immigration authorities.

23
24 56. On June 30, 2025, Petitioner was arrested in Garden Grove, California.
25 Petitioner is now detained at the Adelanto ICE Processing Center in Adelanto,
26 California.

27
28 57. 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 58. 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 59. 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 hearing.
13

14 **Petitioner Francisco DIAZ GUTIERREZ**
15

16 60. Petitioner Francisco DIAZ GUTIERREZ resides in California. He has no
17 previous contact with immigration authorities. He has no criminal record and no
18 previous contact with immigration authorities.
19

20 61. On August 24, 2025, Petitioner was arrested in Walnut, California.
21 Petitioner is now detained at the Adelanto ICE Processing Center in Adelanto,
22 California.
23

24 62. ICE placed Petitioner in removal proceedings before the Adelanto
25 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
26 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
27 without admission in the United States.
28

1 63. Upon information and belief, following Petitioner's arrest and transfer to
2 the Adelanto ICE Processing Center, ICE issued a custody determination to
3 continue Petitioner's detention without an opportunity to post bond or be released
4 on other conditions.
5

6 64. Petitioner subsequently requested a bond redetermination hearing before
7 an IJ. On September 30, 2025, an IJ denied the request and issued a decision that
8 the court lacked jurisdiction to conduct a bond redetermination hearing because
9 petitioner was an applicant for admission.
10

11
12 **Petitioner Rudy MENDEZ ESCARENO**

13 65. Petitioner Rudy MENDEZ ESCARENO resides in California and has
14 resided in the United States for about 20 years. He has no criminal record and no
15 previous contact with immigration authorities.
16

17 66. On August 17, 2025, Petitioner was arrested in Los Angeles, California.
18 Petitioner is now detained at the ICE Desert View Annex Facility in Adelanto,
19 California.
20

21 67. ICE placed Petitioner in removal proceedings before the Adelanto
22 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
23 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
24 without admission in the United States.
25

26 68. Upon information and belief, following Petitioner's arrest and transfer to
27
28

1 the ICE Desert View Annex Facility, ICE issued a custody determination to
2 continue Petitioner's detention without an opportunity to post bond or be released
3 on other conditions.
4

5 69. Petitioner subsequently requested a bond redetermination hearing before
6 an IJ. On September 24, 2025, an IJ denied the request and issued a decision that
7 the court lacked jurisdiction to conduct a bond redetermination hearing pursuant to
8 *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
9

10 **Petitioner Olmer Alfredo BERNAL MENDEZ**
11

12 70. Petitioner Olmer Alfredo BERNAL MENDEZ resides in California. He
13 has no criminal record and no previous contact with immigration authorities.
14

15 71. On August 17, 2025, Petitioner was arrested in Garden Grove, CA.
16 Petitioner is now detained at the ICE Desert View Annex Facility in Adelanto,
17 California.
18

19 72. ICE placed Petitioner in removal proceedings before the Adelanto
20 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner, *inter*
21 *alia*, with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is
22 present without admission in the United States.
23

24 73. Upon information and belief, following Petitioner's arrest and transfer
25 to the ICE Desert View Annex Facility, ICE issued a custody determination to
26 continue Petitioner's detention without an opportunity to post bond or be released
27 on other conditions.
28

1 74. In light of the BIA's September 5, 2025 decision in *Matter of Yajure*
2 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), Petitioner is unable to obtain a bond
3
4 hearing before an IJ pursuant to 8 U.S.C. § 1226(a).

5 **Petitioner Yenni PEREZ QUINILLA**

6 75. Petitioner Yenni PEREZ QUINILLA resides in Panorama City,
7
8 California. She has no criminal record and no previous contact with immigration
9 authorities.

10 76. On August 15, 2025, Petitioner was arrested in Van Nuys, California.
11
12 Petitioner is now detained at the Adelanto ICE Processing Center in Adelanto,
13 California.

14 77. ICE placed Petitioner in removal proceedings before the Adelanto
15
16 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with
17 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who is present
18 without admission in the United States.

19
20 78. Upon information and belief, following Petitioner's arrest and transfer to
21 the Adelanto ICE Processing Center, ICE issued a custody determination to
22 continue Petitioner's detention without an opportunity to post bond or be released
23 on other conditions.

24
25 79. Petitioner subsequently requested a bond redetermination hearing before
26 an IJ. On October 8, 2025, an IJ denied the request and issued a decision that the
27 court lacked jurisdiction to conduct a bond redetermination.
28

Petitioner Florentina RAMIREZ GATICA

80. Petitioner Florentina RAMIREZ GATICA resides in California. She has no criminal record. Her previous contact with immigration authorities does not trigger mandatory detention pursuant to 8 U.S.C. § 1226(c) or on any other basis.

81. On September 20, 2025, Petitioner was arrested in Santa Ana, California. Petitioner is now detained at the Adelanto ICE Processing Center in Adelanto, California.

82. 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.

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

84. 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 Felix Cesario MORALES GOMEZ

85. Petitioner Felix Cesario MORALES GOMEZ resides in Perris,

1 California. He has no criminal record and no previous contact with immigration
2 authorities.

3
4 86. On September 29, 2025, Petitioner was arrested in Corona, California.
5 Petitioner is now detained at the Adelanto ICE Processing Center in Adelanto,
6 California.

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

12
13 88. Upon information and belief, following Petitioner's arrest and transfer to
14 the Adelanto ICE Processing Center, ICE issued a custody determination to
15 continue Petitioner's detention without an opportunity to post bond or be released
16 on other conditions.

17
18 89. In light of the BIA's September 5, 2025 decision in *Matter of Yajure*
19 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), Petitioner is unable to obtain a bond
20 hearing before an IJ pursuant to 8 U.S.C. § 1226(a).

21
22 **Petitioner Miguel ARGUETA REYES**

23
24 90. Petitioner Miguel ARGUETA REYES resides in California and has
25 resided in the United States for over 15 years. He has no criminal record and no
26 previous contact with immigration authorities.

27
28 91. On September 3, 2025, Petitioner was arrested in Los Angeles,

1 California. Petitioner is now detained at the Adelanto ICE Processing Center in
2 Adelanto, California.

3
4 92. 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 93. Upon information and belief, following Petitioner's arrest and transfer to
10 the Adelanto ICE Processing Center, ICE issued a custody determination to
11 continue Petitioner's detention without an opportunity to post bond or be released
12 on other conditions.
13

14 94. Petitioner subsequently requested a bond redetermination hearing before
15 an IJ. On October 29, 2025, an IJ denied the request and issued a decision that the
16 court lacked jurisdiction to conduct a bond redetermination pursuant to *Matter of*
17 *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
18
19

20 FIRST CLAIM FOR RELIEF

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

22 95. Petitioners incorporate by reference the allegations of fact set forth
23 in the preceding paragraphs.
24

25 96. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does
26 not apply to noncitizens who have entered and were residing in the United States
27 prior to being arrested, have been placed under § 1229a removal proceedings, and
28

1 been charged with a ground of inadmissibility, including 8 U.S.C. §
2 1182(a)(6)(A)(i), by Respondents. Such noncitizens may only be detained pursuant
3 to § 1226(a), unless subject to § 1225(b)(1), § 1226(c), or § 1231.
4

5 97. The application of § 1225(b)(2) to Petitioners unlawfully
6 mandates their continued detention without a bond hearing and violates 8 U.S.C. §
7 1226(a).
8

9 **SECOND CLAIM FOR RELIEF**

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

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

14 99. In 1997, after Congress amended the INA through IIRIRA, EOIR
15 and the then-Immigration and Naturalization Service issued an interim rule to
16 interpret and apply IIRIRA. Specifically, under the heading of "Apprehension,
17 Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite
18 being applicants for admission, [noncitizens] who are present without having been
19 admitted or paroled (formerly referred to as [noncitizens] who entered without
20 inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at
21 10323. The agencies thus made clear that individuals who had entered without
22 inspection were eligible for consideration for bond and bond hearings before IJs
23 under 8 U.S.C. § 1226 and its implementing regulations.
24
25
26
27

28 100. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a

1 policy and practice of applying § 1225(b)(2) to individuals like Petitioners and,
2 pursuant to the July 8, 2025 “Interim Guidance Regarding Detention Authority for
3 Applicants for Admission,” DHS has a policy and practice of applying § 1225(b)(2)
4 to individuals like Petitioners.
5

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

9 **THIRD CLAIM FOR RELIEF**

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

11 **5 U.S.C. § 706(2)**

12 102. Petitioners incorporate by reference the allegations of fact set forth
13 In the preceding paragraphs.
14

15 103. 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

21 104. 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 ///

26 ///

FOURTH CLAIM FOR RELIEF

Petitioners' Detention Violates Their Fifth Amendment Right to Due Process

105. Petitioners incorporate by reference the allegations of fact set forth
In the preceding paragraphs.

106. 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 (2001).

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

108. The Respondents' detention of Petitioners without providing
Petitioners a bond redetermination hearing to determine whether they are a flight
risk or a danger to others violates their right to Due Process.

PRAYER FOR RELIEF

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

- a. Order that Petitioners shall not be transferred outside of the Central
District of California while this petition is pending;
- b. Issue an Order to Show Cause ordering Respondents to show cause
within three days why this Petition should not be granted;

- 1 c. Issue a Writ of Habeas Corpus requiring Respondents to release
2 Petitioners or provide Petitioners with a bond hearing pursuant to 8
3 U.S.C. § 1226(a) within seven days;
4
5 d. Declare that Petitioners' detention is governed by 8 U.S.C. § 1226(a)
6 and that their detention under 8 U.S.C. § 1225(b)(2) is unlawful;
7
8 e. Award Petitioners attorney's fees and costs under the Equal Access to
9 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other
10 basis justified under law; and
11
12 f. Grant any other and further relief that this Court deems just and
13 proper.

14 DATED: October 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 October 30, 2025.

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

Attorney for Petitioners