

1 Vivek Mittal (CA SBN #266623)
2 Email: vivek.ucimm@law.ucdavis.edu
3 UC Immigrant Legal Services Center
4 c/o UC Davis School of Law
5 400 Mrak Hall Drive
6 Davis, CA 95616
7 Telephone: (530) 219-7256
8 Facsimile: (530) 752-3034

9 Aidin Castillo (CA SBN #280262)
10 Email: aidin.ucimm@law.ucdavis.edu
11 UC Immigrant Legal Services Center
12 c/o UC Davis School of Law
13 400 Mrak Hall Drive
14 Davis, CA 95616
15 Telephone: (530) 219-5091

16 Amber Spring (CA SBN #311064)
17 Email: amber.ucimm@law.ucdavis.edu
18 UC Immigrant Legal Services Center
19 c/o Office of Legal Affairs
20 900 University Ave.
21 Hinderaker Hall, Suite 3148
22 Riverside, CA 92521
23 Telephone: (530) 574-9134

24 Pro Bono Counsel for Petitioner

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

Manuel SOTO MUNOZ,

Petitioner,

v.

Case No. 5:25-cv-2898

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR**

1 Fereti SEMAIA, Warden of Desert View
2 Annex Detention Facility; Ernesto M.
3 SANTACRUZ, JR., Acting ICE Field
4 Office Director, Los Angeles
5 Enforcement and Removal Operations;
6 Todd LYONS, Executive Associate
7 Director of IMMIGRATION CUSTOMS
8 ENFORCEMENT (ICE) Enforcement
9 and Removal Operations (ERO); Pamela
10 BONDI, U.S. Attorney General;
11 EXECUTIVE OFFICE FOR
12 IMMIGRATION REVIEW; and Kristi
13 NOEM, Secretary, U.S. Department of
14 Homeland Security; U.S.
15 DEPARTMENT OF HOMELAND
16 SECURITY (DHS);

17 Respondents.

**DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. Petitioner Manuel Soto Munoz has been residing in the United States for the past thirty-five years as a law abiding and productive member of his community, and and father to three U.S. Citizen children, yet, Immigration authorities arrested Mr. Soto Munoz in California on September 29, 2025, as part of an Immigration and Customs Enforcement (“ICE”) enforcement action on his way to work.

2. He is currently being held in ICE’s custody in Adelanto, California at the Desert View Annex pending full removal proceedings.

3. Mr. Soto Munoz is being illegally detained without process because the Department of Homeland Security (DHS) and the Board of Immigration Appeals (BIA) have erroneously concluded Petitioner is subject to mandatory detention. This is true even though every federal court to have considered this issue—including many in the Central District of California—have rejected DHS and the BIA’s newly invented misclassification as illegal and ordered the detainees to be released from detention or receive a prompt bond hearing before an Immigration Judge (“IJ”).

4. Petitioner was denied release from immigration custody by DHS, consistent with a July 8, 2025 DHS policy, instructing all ICE employees to consider anyone who is alleged to have entered the United States without admission or inspection to be subject to mandatory detention under Section 1225(b)(2)(A) of the

1 Immigration and Nationality Act (“INA”) and therefore ineligible to be released on
2 bond.

3
4 5. Similarly, on September 5, 2025, the Board of Immigration Appeals
5 (“BIA” or “Board”) issued a precedent decision, binding on all IJ’s, holding that an
6 IJ has no authority to consider bond requests for any person who entered the United
7 States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
8 2025). The Board determined that such individuals are subject to mandatory
9 detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on
10 bond.

11
12 6. Respondents’ new legal interpretation is plainly contrary to the
13 statutory framework as well as contrary to decades of agency practice and precedent
14 that applied § 1226(a) to people like Petitioner. Several Judges in the Central District
15 of California, and other districts around the country, have unanimously held that the
16 DHS and the Department of Justice, which oversees the EOIR and BIA,
17 interpretation of section 1225(b)(2)(A) is incorrect and have accordingly granted
18 emergency habeas relief. *See infra* ¶ 35.

19
20 7. Petitioner’s detention on this basis violates basic precepts of statutory
21 construction of the Immigration and Nationality Act, its legislative history, and
22 longstanding agency practice. Section 1225(b)(2)(A) does not apply to individuals
23 like Petitioner who are alleged to have previously entered the United States without
24

1 inspection and reside in the United States. Instead, such individuals are subject to a
2 different statute, 8 U.S.C. § 1226(a), that allows for release on conditional parole or
3 bond, as well as review of that decision by an IJ. Section 1226(a) expressly applies
4 to people who, like Petitioner, are charged as inadmissible for having entered the
5 United States without inspection.
6

7 8. Accordingly, Petitioner seeks immediate release from detention, or in
8 the alternative, to provide him with an individualized hearing before a neutral
9 adjudicator within seven days of the issuance of the TRO at which the government
10 bears the burden by clear and convincing evidence that he is either a danger or such
11 a flight risk that no bond conditions could mitigate.
12

13 JURISDICTION

14 9. Petitioner is in the physical custody of Respondents. Petitioner is
15 detained at the Desert View Annex in Adelanto, California.

16 10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
17 corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 2201-2 (declaratory
18 judgment) and Article I, section 9, clause 2 of the United States Constitution (the
19 Suspension Clause).
20

21 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
22 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
23 § 1651.
24

VENUE

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

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

PARTIES

14. Petitioner Manuel Soto Munoz is alleged to be a citizen of Mexico who has been in immigration detention since September 29, 2025. After arresting Petitioner in Chino, California on the way to work, ICE refused to set bond and Petitioner is unable to obtain review of his custody by an IJ as requesting a bond hearing would be futile, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

15. Respondent Fereti Semaia is employed as Warden of the GEO Group Desert View Annex Detention Facility, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

16. Respondent Ernesto M. Santacruz, Jr., is the Los Angeles Acting Field Office Director of the Enforcement and Removal Operations of the U.S.

1 Immigration and Customs Enforcement, which oversees the Desert View Annex. He
2 is sued in his official capacity. Respondent Santacruz, Jr., is responsible for the
3 detention and removal of Petitioner.
4

5 17. Respondent Todd Lyons is the Acting Director of ICE and is sued in
6 his official capacity. ICE is responsible for the detention and removal of Petitioner.
7

8 18. Respondent Pamela Bondi is the Attorney General of the United States.
9 She is responsible for the Department of Justice, of which the Executive Office for
10 Immigration Review and the immigration court system it operates is a component
11 agency. She is sued in her official capacity.

12 19. Respondent Executive Office for Immigration Review (“EOIR”) is the
13 federal agency responsible for implementing and enforcing the INA in removal
14 proceedings, including for custody redeterminations in bond hearings.

15 20. Respondent Kristi Noem is the Secretary of the Department of
16 Homeland Security. She is responsible for the implementation and enforcement of
17 the INA, and oversees ICE, which is responsible for Petitioner’s detention. Secretary
18 Noem has ultimate custodial authority over Petitioner and is sued in her official
19 capacity.
20

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

LEGAL FRAMEWORK

22. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings—also known as 240 proceedings—before an IJ. *See* 8 U.S.C. § 1229a (codifying INA section 240 for standard removal proceedings). This section “sets out the default rule” for detention. *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018). Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c). *Id.* at 289.

24. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2). *Id.* at 287-288.

25. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b). *See, e.g., id.* at 298-299 (discussing section 1231(a)(6)).

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

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

7 28. Following the enactment of the IIRIRA, EOIR drafted new regulations
8 explaining that, in general, people who entered the country without inspection were
9 not considered detained under § 1225 and that they were instead detained under §
10 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal
11 of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg.
12 10312, 10323 (Mar. 6, 1997) (“...aliens who are present without having been
13 admitted or paroled (formerly referred to as aliens who entered without inspection)
14 will be eligible for bond and bond redetermination.”).
15

16 29. Thus, in the decades that followed, people who entered without
17 inspection and were placed in standard removal proceedings received bond hearings,
18 unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c).
19 That practice was consistent with many more decades of practice prior to the
20 enactment of IIRIRA, in which noncitizens who were not lawfully present in the
21 United States were entitled to a custody hearing before an IJ or other hearing officer.
22 *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996)
23
24

1 (noting that § 1226(a) simply “restates” the detention authority previously found at
2 § 1252(a)).
3

4 30. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new
5 policy that rejected well-established understanding of the statutory framework and
6 reversed decades of practice.

7 31. The new policy, entitled “Interim Guidance Regarding Detention
8 Authority for Applicants for Admission,” claims that all persons who entered the
9 United States without inspection shall now be subject to mandatory detention
10 provision under § 1225(b)(2)(A). *ICE Memo: Interim Guidance Regarding*
11 *Detention Authority for Applications for Admission*, available at
12 <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention->
13 [authority-for-applications-for-admission](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-), last accessed 10/28/2025. The policy
14 applies regardless of when a person is apprehended, and affects those who have
15 resided in the United States for months, years, and even decades.
16

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

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

6 34. Even before ICE or the BIA introduced these nationwide policies, IJs
7 in 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. There, the U.S. District Court in the Western District of Washington
10 found that such a reading of the INA is likely unlawful and that § 1226(a), not §
11 1225(b), applies to noncitizens who are not apprehended upon arriving in the United
12 States. *See Rodriguez Vazquez v. Bostock*, --- F.Supp.3d ---, [2025 WL 2782499](#)
13 (W.D. Wash. 2025) (granting summary judgement in favor of Petitioner).
14

15 35. Subsequently, court after court has adopted the same reading of the
16 INA's detention authorities and rejected ICE and EOIR's new interpretation. *See*,
17 *e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, [2025 WL 1869299](#) (D. Mass. July 7,
18 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, [2025](#)
19 [WL 2084238](#) (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX
20 DLR (CDB), [2025 WL 2337099](#) (D. Ariz. Aug. 11, 2025), *report and*
21 *recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), [2025 WL 2349133](#)
22 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
23
24

1 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-
2 SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v.*
3 *Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15,
4 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19,
5 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug.
6 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263
7 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025
8 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-
9 KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-
10 CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27,
11 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL
12 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-
13 DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v.*
14 *Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8,
15 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich.
16 Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D.
17 Mass. Sept. 9, 2025); *Guerrero Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept.
18 23, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566,
19 at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a)
20 and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-
21
22
23
24

1 JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v.*
2 *Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14,
3 2025) (same).

4
5 36. Courts have uniformly rejected DHS’s and EOIR’s new interpretation
6 because it defies a plain reading of the INA, legislative history, and longstanding
7 agency practice. As the *Rodriguez Vazquez* court and others have explained, when
8 following the standard canons of construction, the plain text taken with the
9 legislative history, and longstanding agency practice demonstrates that § 1226(a),
10 not § 1225(b), applies to people like Petitioner. *See, e.g., Rodriguez*, 2025 WL
11 2782499 (W.D. Wash. Sept. 30, 2025).

12
13 37. Section 1226(a) applies by default to all persons “pending a decision
14 on whether the [noncitizen] is to be removed from the United States.” These removal
15 hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of
16 a[] [noncitizen].”

17
18 38. The text of § 1226 also explicitly applies to people charged as being
19 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
20 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by
21 default, such people are afforded a bond hearing under section 1226(a). As the
22 *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific exceptions’
23 to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute
24

generally applies.” *Rodriguez*, 2025 WL 2782499 at *17 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see also *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, *7 (D. Mass. July 7, 2025).

39. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

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

41. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who had been residing in the United States for over thirty-five years at the time they were apprehended.

FACTS

1 42. Petitioner has resided in the United States since 1990 and lives in
2 Jurupa Valley, California. Petitioner grew up in Santa Ana, California, where he
3 attended elementary, middle, and high school.
4

5 43. Petitioner is married and has four children, three are United States
6 citizens and the oldest is a student at the University of California, Riverside
7 (“UCR”). Petitioner is employed and works full-time as a landscaper.
8

9 44. On September 29, 2025, Petitioner was returning to work in a white
10 truck driven by a co-worker after purchasing coffee at a coffee shop. Almost
11 immediately after leaving the coffee shop, Petitioner heard sirens and two vehicles
12 stopped in front of the truck and three stopped to the left of the truck. When the
13 driver stopped the truck, the individuals to the left and right of Petitioner exited the
14 vehicle and began to run. Petitioner did not run.
15

16 45. The agents told Petitioner not to move, approached him, placed him in
17 handcuffs, and placed him into a vehicle. The officers confiscated Petitioner’s
18 cellular phone and wallet and asked Petitioner for his name. The officer speaking
19 with Petitioner indicated that Petitioner resembled someone they were looking for.
20 The officer told Petitioner that they would take him to their office in San Bernardino,
21 California.
22

23 46. At the San Bernardino Field Office, the agents confiscated Petitioner’s
24 shoes, took his fingerprints, and directed him to a room where other detainees were

1 waiting. Petitioner was then brought to a separate room where an officer asked him
2 to sign documents without explaining what they were. Petitioner refused to sign the
3 documents and asked to speak with an attorney. The officer explained that because
4 Petitioner refused to sign, he would be sent to a detention center where he would be
5 held for ten or more days.
6

7 47. Petitioner's only verbal exchange with officers was regarding his name
8 and whether he wanted to sign the documents at the San Bernardino Field Office.
9

10 48. Petitioner was then brought to Desert View Annex Facility in Adelanto,
11 California where he is currently detained.

12 49. DHS placed Petitioner in removal proceedings before the Adelanto
13 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with,
14 *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as an alien present
15 in the United States without being admitted or paroled, or who arrived in the United
16 States at any time or place other than as designated by the Attorney General.
17

18 50. Following Petitioner's arrest and transfer to Desert View Annex, ICE
19 determined that it would not release Petitioner on bond or release him on other
20 conditions. On October 2, 2025, and later on October 14, 2025, Officer Cervantes,
21 the Deportation Officer overseeing Petitioner's case indicated that "[a]ny form of
22 relief such as parole or bond for release will have to be granted by the immigration
23 judge."
24

1 51. Petitioner attended his first immigration court hearing, known as
2 Master Calendar Hearing, before an IJ on October 16, 2025, where he requested a
3 continuance to find an attorney to represent him. His next hearing in immigration
4 court is on November 10, 2025.
5

6 52. Pursuant to *Yajure Hurtado*, the IJ does not have jurisdiction to conduct
7 a bond hearing for Mr. Soto Munoz who are alleged to be present in the U.S. without
8 admission or parole, and therefore it would be futile to request bond from the
9 immigration judge.
10

11 53. Petitioner is neither a flight risk nor a danger to the community.
12 Petitioner is the primary financial support for his four children. Petitioner's three
13 youngest children are United States citizens. His son Jose, who graduated high
14 school in June 2025, is planning on enlisting in the U.S. Navy but has put those plans
15 on hold due to his father's detention. Jose has had to shift his focus to working nights
16 as a cleaner for commercial office buildings to help his mother, who is now the
17 family's sole financial support. Jose is worried because he planned on using his time
18 in the U.S. Navy to support his future goals of attending college. His daughter is in
19 her final year at UCR and Petitioner wishes to be present for her graduation and
20 support her. Petitioner speaks with his youngest children regularly and it saddens
21 him when they ask when he is coming home.
22
23
24

1 54. Petitioner's daughter J.S.¹ suffers from asthma, which has been
2 documented by medical professionals to be exacerbated by stress and anxiety
3 induced by having a parental figure suddenly disappear from their daily life. *See,*
4 *e.g., Stress and Asthma*, WebMd, Medically Reviewed by Carmelita Swiner, MD,
5 Oct. 24, 2024, available at <https://www.webmd.com/asthma/stress-asthma> (last
6 accessed Sep. 30, 2025). Petitioner is concerned for J.S.'s health and wellbeing and
7 wishes to return home to continue emotionally and financially support her. Similarly,
8 Petitioner's daughter T.S.² requires surgery soon for as growth behind her ear.
9 Petitioner is concerned that his spouse, who is now the primary financial support for
10 their family, will be unable to take time off work to care for T.S. post-surgery. J.S.
11 and T.S. are struggling without Petitioner's guidance and support.

14 55. Petitioner has no criminal history, which ICE also indicates in its I-213.
15 Petitioner is a married and doting father of four, who attends church and encourages
16 his children to engage with and support their community. Petitioner wants the
17 opportunity to return home to his family while he continues to work with his
18 attorneys on his immigration defense.

20 56. As a result, Petitioner remains in detention. Petitioner is concerned that
21 it will take months, or years, to gain relief in front of an IJ at an individual calendar
22

23 ¹ Name redacted. Fed. R. Civ. P 5.2; C.D. Cal Local Rules 5.2-1. *See also Jorge M. F. v. Wilkinson*, No. 21-cv01434-
24 JST, [2021 WL 783561](#) (N.D. Cal. Mar. 1, 2021)(citing Committee on Court Administration and Case Management of
the Judicial Conference of the United States).

² *Id.*

1 hearing, and if he loses, he plans to appeal to the BIA and then the Ninth Circuit.
2 Without relief from this court, he faces the prospect of months, or even years, of
3 unlawful detention in immigration custody, separated from his family and
4 community.
5

6 **CLAIMS FOR RELIEF**

7 **COUNT I**

8 **Violation of the INA**

9 57. Petitioner incorporates by reference the allegations of fact set forth in
10 the preceding paragraphs.
11

12 58. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
13 apply to Mr. Soto Munoz. As Petitioner allegedly entered the country without
14 inspection and is allegedly present in the U.S. without admission or parole and has
15 been residing in the United States for over thirty-five years, his detention is
16 authorized by § 1226(a), and is discretionary.
17

18 59. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
19 continued detention without individual review and violates the INA.

20 **COUNT II**

21 **Violation of the Administrative Procedure Act**

22 60. Petitioner repeats, re-alleges, and incorporates by reference each and
23 every allegation in the preceding paragraphs as if fully set forth herein.
24

1 61. The mandatory detention provision at 8 U.S.C. § 1225(b)(2)(A) does
2 not apply to all noncitizens residing in the United States who are subject to the
3 grounds of inadmissibility. As relevant here, it does not apply to those who
4 previously entered the country and have been residing in the United States prior to
5 being apprehended and placed in removal proceedings by Respondents. Such
6 noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), §
7 1226(c), or § 1231.
8

9 62. The application of § 1225(b)(2) to Petitioner is arbitrary, capricious,
10 and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. §
11 706(2).
12

13 63. The decision of the BIA in *Yajure Hurtado*, 29 I&N Dec. 216 (BIA
14 2025) is arbitrary, capricious, and not in accordance with law, and as such, it violates
15 the APA. *See* 5 U.S.C. § 706(2).
16

17 **COUNT III**

18 **Violation of Substantive Due Process**

19 64. Petitioner repeats, re-alleges, and incorporates by reference each and
20 every allegation in the preceding paragraphs as if fully set forth herein.

21 65. The government may not deprive a person of life, liberty, or property
22 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—
23 from government custody, detention, or other forms of physical restraint—lies at the
24

1 heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690
2 (2001).

3
4 66. Petitioner has a fundamental interest in liberty and being free from
5 official restraint.

6 67. The government’s detention of Petitioner without a bond
7 redetermination hearing to determine whether he is a flight risk or danger to others
8 violates his right to substantive due process.

9
10 **COUNT IV**

11 **Violation of Procedural Due Process**

12 68. Petitioner repeats, re-alleges, and incorporates by reference each and
13 every allegation in the preceding paragraphs as if fully set forth herein.

14 69. The government may not deprive a person of life, liberty, or property
15 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—
16 from government custody, detention, or other forms of physical restraint—lies at the
17 heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690
18 (2001).

19
20 70. Petitioner has a fundamental interest in liberty and being free from
21 official restraint.

1 71. The government's detention of Petitioner without a bond
2 redetermination hearing to determine whether he is a flight risk or danger to others
3 violates his right to procedural due process.
4

5 **PRAYER FOR RELIEF**

6 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 7 a. Assume jurisdiction over this matter;
- 8 b. Order that Petitioner shall not be transferred outside the Central District
9 of California while this habeas petition is pending;
- 10 c. Issue an Order to Show Cause ordering Respondents to show cause why
11 this Petition should not be granted within three days;
- 12 d. Enjoin Respondents-Defendants from Continuing to Detain Petitioner
13 without a bond hearing before a neutral adjudicator pursuant to 8 U.S.C. § 1226(a)
14 within seven days at which the government bears the burden by clear and convincing
15 evidence that he is either a danger or such a flight risk that no bond conditions could
16 mitigate;
17
- 18 e. Declare that the refusal to allow Petitioner a bond redetermination
19 hearing before a neutral adjudicator violates the INA, APA, and Due Process;
- 20 f. Award Petitioner attorney's fees and costs under the Equal Access to
21 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified
22 under law; and
23
24

1 g. Grant any other and further relief that this Court deems just and proper.
2

3
4 DATED October 30, 2025.

Respectfully Submitted

5 /s/Vivek Mittal

Vivek Mittal (CA SBN #266623)

6 Email: vivek.ucimm@law.ucdavis.edu

7 UC Immigrant Legal Services Center

c/o UC Davis School of Law

8 400 Mrak Hall Drive

Davis, CA 95616

9 Telephone: (530) 219-7256

10 Facsimile: (530) 752-3034

11 Pro Bono Counsel for Petitioner
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