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UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

HENRIQUE JAVIER MEJIA-PACHECO Petitioner, v. Ernesto SANTACRUZ JR., Acting Director, Los Angeles Field Office, Immigration and Customs Enforcement, Enforcement and Removal Operations; Todd LYONS, Acting Director, Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General; Fereti SEMAIA, Warden of Adelanto ICE Processing Center, Respondents.	Case No. **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. §2241** **PETITIONER'S DHS NO:** **A** [redacted]

INTRODUCTION

1. Petitioner, Henrique Javier Mejia-Pacheco (DHS No. A[redacted], was born on [redacted] in Honduras. *See* Ex. A at 1-3 (Birth Certificate with Certified English Translation).

2. On or about July 15, 2018, when he was 17 years old, Petitioner entered the United States without inspection. Petitioner was charged that he was subject to removal from the United States pursuant to the Immigration and Nationality Act (INA) §212(a)(6)(A)(i), codified at 8 U.S.C. § 1182(a)(6)(A)(i). *See* Ex. B at 4-5 (Form I-862 Notice to Appear).

3. On July 17, 2018, Petitioner was released on his own recognizance. ICE's Order or Release on Recognizance stated that Petitioner was released on his own recognizance "[i]n accordance with section 236 of the Immigration and Nationality Act," codified at 8 U.S.C. §1226. *See* Ex. E at 11-14 (Order of Release on Recognizance).

4. On November 22, 2019, an immigration judge (IJ) denied Petitioner's application for asylum and withholding of removal and ordered removal.

5. On November 26, 2019, Petitioner timely filed a notice of appeal with the Board of Immigration Appeals (BIA), and the appeal remains pending; the BIA has issued no final decision. At no time between November 2019 and October 2025 did immigration authorities seek to detain Petitioner or revoke his

release on recognizance, despite the IJ's adverse decision and the pendency of his BIA appeal.

6. On October 6, 2025, Petitioner appeared for his regularly scheduled ICE check-in appointment in San Bernardino, California. Petitioner has consistently appeared at all of his scheduled ICE check-in appointments, which occur every six (6) months.

7. Without warning or prior notice, on October 6, 2025, ICE officers arrested Petitioner during this check-in and took him into immigration custody. Since the time of his release on his recognizance in July 2018 till he was taken into custody by ICE, he has been living with his father, spending time with family, working, and developing ties with his community.

8. Since October 6, 2025, Petitioner has been detained at the Adelanto ICE Processing Center in Adelanto, California. *See* Ex. C at 6-7 (Petitioner's ICE Online Detainee Locator System Search Result).

9. Petitioner was not provided any hearing, notice, or opportunity to be heard before being taken into custody.

10. Petitioner has not engaged in any criminal conduct, violated any condition of his release, or failed to appear at any ICE appointment. There has been no change in Petitioner's circumstances that would justify his re-detention after seven (7) years of compliant community residence.

11. On or about October 20, 2025, Petitioner, through the undersigned counsel's office, sent a parole/bond request to the Adelanto ICE Processing Center, ICE Enforcement and Removal Operations (ERO) with supporting documentation.

12. On or about November 5, 2025, Petitioner was notified by email that ERO denied Petitioner's parole/bond request. There was no individualized assessment of Petitioner's circumstances, ties to the community, compliance history, and/or lack of dangerousness. *See* Ex. D at 8 (ICE ERO Notice Denying Parole/Bond Request).

13. Upon information and belief, ICE denied Petitioner's request based solely on a blanket policy categorizing him as an "applicant for admission" subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A).

14. Petitioner is unlawfully detained. The Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have improperly concluded Petitioner, despite being physically present within the interior of and residing in the United States and being arrested during his regular ICE check-in in San Bernardino, 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).

15. DHS has denied Petitioner release from immigration custody, pursuant to a new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone inadmissible under 8 U.S.C. §1182(a)(6)(A)(i) – i.e., present without admission – to be an "applicant for admission" under 8 U.S.C. §1225(b)(2)(A) and therefore subject to mandatory detention during the removal hearing process.

16. Petitioner's detention violates the plain language of the INA. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered the United States and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

17. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to individuals like Petitioner.

18. Petitioner has a strong pending appeal over the denial of his asylum application before the BIA, making him eligible for relief from removal.

19. Petitioner has a documented history of appearing at all scheduled immigration court hearings and ICE appointments since 2018.

20. There have been no material changes in circumstances that would justify Petitioner's present detention. The government's continued detention of Petitioner is unsupported by any new facts or developments in his immigration case, rendering such detention arbitrary and unlawful within the scope of habeas corpus relief.

21. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released from ICE custody. In the alternative, Petitioner seeks Respondents to provide Petitioner with an individualized bond hearing before an immigration judge within seven (7) days, at which the government bears the burden of proving by clear and convincing evidence that Petitioner's continued detention is justified;

JURISDICTION

22. Petitioner is in the physical custody of Respondents. Petitioner is presently detained at the Adelanto ICE Processing Center in Adelanto, California. *See* Ex. C at 6 (ICE's Online Detainee Locator System Search Result).

23. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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

VENUE

25. 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.

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

REQUIREMENTS OF 28 U.S.C. § 2243

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

28. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action

from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

29. Petitioner is a citizen of Honduras who has been in immigration detention since October 6, 2025. After arresting Petitioner in San Bernardino, California during his regular ICE check-in appointment, ICE has refused to set bond and/or grant parole. *See* Ex. D at 8 (ICE ERO Notice Denying Parole/Bond Request).

30. Respondent, Ernesto Santacruz Jr., is the Acting Director of the Los Angeles Field Office of ICE ERO. As such, Ernesto Santacruz Jr. is the Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

31. Respondent, Todd Lyons, is the Acting Director of ICE, a federal law enforcement agency within the DHS. ICE's responsibilities include operating the immigration detention system. In his capacity as ICE Acting Director, Respondent, Todd Lyons, exercises control over and is a custodian of persons held at ICE facilities nationally. He is Petitioner's immediate custodian and is responsible for Petitioner's detention. At all times relevant to this petition, Respondent, Todd Lyons, was acting within the scope and course of his employment with ICE. He is sued in his official capacity.

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

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

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

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

LEGAL FRAMEWORK

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

37. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. 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).

38. 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 who fall within the scope of § 1225(b)(2).

39. 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).

40. This case concerns the detention provisions at §1226(a).

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

42. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under §1225 and that they were instead detained under §1226(a). *See* Inspection and Expedited Removal of Aliens;

Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

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

44. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

45. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under §1225(b)(2)(A). The policy applies regardless of when a person

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

is apprehended, and affects those who have resided in the United States for months, years, and even decades.

46. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under §1225(b)(2)(A) and are ineligible for IJ bond hearings.

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

48. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that §1226(a), not §1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

49. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See,*

e.g., *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); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. 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, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-

02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 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).

50. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that §1226(a), not §1225(b), applies to people like Petitioner.

51. Critically, as recently interpreted in *Madonado Bautista v. Santacruz Jr., et al.*, Case No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), the plain text of the INA dictates that a noncitizen arrested in the interior after years of residence and long-standing treatment as a §1226(a) respondent is not subject to mandatory detention under §1225(b)(2).

52. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These

removal hearings are held under §1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

53. The text of §1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

54. §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.

55. By contrast, §1225(b) applies to people recently 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).

56. Accordingly, the mandatory detention provision of §1225(b)(2)(A) does not apply to individuals like Petitioner, because his lengthy residence in the United States following release on his own recognizance in 2018 places him within the discretionary detention framework of 8 U.S.C. §1226(a), rather than the mandatory detention regime intended for recent arrivals apprehended at or near the border.

FACTS

57. Petitioner was born on [redacted], in Honduras. *See* Ex. A at 1-3 (Birth Certificate with Certified English Translation).

58. On or about July 15, 2018, when Petitioner was 17 years old, Petitioner entered the United States at or near Hidalgo, Texas, without inspection. Petitioner was charged that he was subject to removal from the United States pursuant to the INA §212(a)(6)(A)(i), codified at 8 U.S.C. § 1182(a)(6)(A)(i). *See* Ex. B at 4 (Form I-862 NTA).

59. On or about July 17, 2018, Petitioner was released on his own recognizance. *See* Ex. E at 11 (Order of Release on Recognizance).

60. ICE's Order of Release on Recognizance stated that Petitioner was being released on his own recognizance "[i]n accordance with section 236 of the Immigration and Nationality Act," codified at section 1226. *See Id.*

61. Additionally, the NTA issued by DHS to Petitioner did not classify him as an "arriving alien." Instead, the NTA charged him as "present in the United States who has not been admitted or paroled." *See* Ex. B at 4 (Form I-862 NTA).

62. Petitioner has resided in the United States for more than 7 years since entering in 2018.

63. On July 15, 2019, Petitioner's USCIS Form I-589 Application for Asylum and for Withholding of Removal was submitted to the court, but on November 22, 2019, an immigration judge denied the application.

64. On November 26, 2019, Petitioner timely filed a notice of appeal with the BIA, and the appeal case remains pending. At no time between November 2019 and October 2025 did immigration authorities seek to detain Petitioner or revoke his release on recognizance, despite the IJ's adverse decision and the pendency of his BIA appeal.

65. On October 6, 2025, Petitioner appeared for his regularly scheduled ICE check-in appointment in San Bernardino, California. Petitioner has

consistently appeared at all of his scheduled ICE check-in appointments, which occur every six (6) months.

66. During his seven (7) years residency in the United States, he has been living with his father, spending time with family, working, and developing ties with his community.

67. Since October 6, 2025, Petitioner has been in physical custody of Respondents at the Adelanto ICE Processing Center in Adelanto, California. *See* Ex. C at 6 (Petitioner's ICE Online Detainee Locator System Search Result).

68. Petitioner was not provided any hearing, notice, or opportunity to be heard before being taken into custody.

69. Petitioner has not engaged in any criminal conduct, violated any condition of his release, or failed to appear at any ICE appointment. There has been no change in Petitioner's circumstances that would justify his re-detention after seven (7) years of compliant community residence.

70. Petitioner is unlawfully detained. DHS and EOIR have improperly concluded Petitioner, despite being physically present within the interior of and residing in the United States, 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).

71. On or about October 20, 2025, Petitioner, through the undersigned

counsel's office, sent a parole/bond request to ERO with supporting documentation.

72. On or about November 5, 2025, Petitioner was notified by email that ERO denied Petitioner's parole/bond request. There was no individualized assessment of Petitioner's circumstances, ties to the community, compliance history, and/or lack of dangerousness. *See* Ex. D at 8 (ERO Notice Denying Parole/Bond Request).

73. DHS has denied Petitioner release from immigration custody, pursuant to a new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone inadmissible under 8 U.S.C. §1182(a)(6)(A)(i) – i.e., present without admission – to be an "applicant for admission" under 8 U.S.C. §1225(b)(2)(A) and therefore subject to mandatory detention during the removal hearing process.

74. Petitioner's detention violates the plain language of the INA. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to individuals who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

75. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to individuals like Petitioner.

76. Petitioner has a strong pending appeal over the denial of his asylum application before the BIA, making him eligible for relief from removal.

77. Petitioner has a documented history of appearing at all scheduled immigration court hearings and ICE appointments since 2018.

78. Petitioner has no criminal record and is not a flight risk.

79. There have been no material changes in circumstances that would justify Petitioner's present detention. The government's continued detention of Petitioner is unsupported by any new facts or developments in his immigration case, rendering such detention arbitrary and unlawful within the scope of habeas corpus relief.

80. Petitioner's father, Mr. Juan Enrique Mejia Trochez, suffered a severe workplace accident on December 23, 2024, resulting in chronic pain, swelling, and limited mobility in his thumb, leg, knee, spine, and spinal cord. He is unable to work, lift, or work, and suffers from depression and anxiety due to his loss of independence. *See* Ex. G at 18-203 (Medical Record of Petitioner's Father).

81. Petitioner is the sole source of financial support and personal care for his father, providing 100% of the funds for housing, utilities, food, and medical

care. As a direct result of Petitioner's detention, his father's essential well-being and ongoing medical treatment have been severely jeopardized, creating a significant hardship.

82. Petitioner has an uncle, Jose Hernan Bautista Trochez, a U.S. lawful permanent resident residing in Los Angeles, California. Mr. Bautista Trochez volunteered to be Petitioner's sponsor when Petitioner submitted his bond/parole request to ICE ERO. Mr. Bautista Trochez attested to Petitioner's good moral character, responsibility, and hard work. He describes Petitioner as compassionate, honest, and disciplined, someone committed to supporting his family and community. *See* \ F collectively at 15-17 (Jose Hernan Bautista Trochez' Declaration, Permanent Resident Card, and California Driver's License).

83. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released from ICE custody. In the alternative, Petitioner requests that Respondents provide a constitutionally required individualized bond hearing before a neutral arbiter under § 1226(a).

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

84. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

85. From the outset of Petitioner's case, both ICE and DHS proceeded under section 1226. Specifically, ICE's Order of Release on Recognizance stated that Petitioner was being released on his own recognizance "[i]n accordance with section 236 of the Immigration and Nationality Act," codified at section 1226.

86. Additionally, the NTA issued by DHS to Petitioner did not classify him as an "arriving alien." Instead, the NTA charged him as "present in the United States who has not been admitted or paroled." This classification places him squarely within section 1226. See e.g., *Ortiz Donis v. Chestnut*, No. 1:25-cv-01228 JLT SAB, slip op. at 10-15 (E.D. Cal. Oct. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *8 (emphasizing ICE's selection of "present" rather than "arriving" on the NTA as evidence that § 1226 applied); see also *Hyppolite v. Noem*, No. 25-4304, 2025 WL 2829511, *8 (E.D.N.Y. Oct. 6, 2025) (respondent's initial classification of petitioner "certainly is relevant to the Court's assessment of the credibility and good faith of 'Respondents' new position as to the basis for [Hyppolite's] detention, which was adopted post hoc and raised for the first time in this litigation.'") (citation omitted); *Perez v. Berg*, No. 25-cv-494, 2025 WL 2531566, at *2 (D. Neb. July 24, 2025) ("The Court notes that the government itself charged Petitioner as an

alien present in the United States who has not been admitted or paroled rather than an arriving alien.") (quotations omitted).

87. In addition, "[w]hereas [section] 1225 governs removal proceedings for 'arriving aliens,' [section] 1226(a) serves as a catchall." *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025). As the Supreme Court stated in *Jennings*, section 1226 "creates a default rule" that "applies to aliens already present in the United States." *Jennings*, 583 U.S. at 303. The inclusion of a "catchall" provision in section 1226, particularly following the more specific provision in section 1225, is "likely no coincidence, but rather a way for Congress to capture noncitizens who fall outside of the specified categories." *Pizarro Reyes*, 2025 WL 2609425, at *5. The circumstances surrounding Petitioner's detention align with section 1226(a), not section 1225(b)(2). Therefore, he is entitled to an individualized bond hearing before an IJ. As such, Petitioner's mandatory detention under section 1225(b) without conducting a dangerousness and risk of flight determination rests on an incorrect statutory interpretation and contravenes the INA.

88. It is unlawful to deny him any bond hearing based on an overbroad reading of §1225(b)(2)(A), which is the mandatory detention regime for certain noncitizens being inspected as "applicants for admission," not for long-present interior residents like Petitioner. The plain text of the INA, as recently interpreted

in *Maldonado Bautista v. Santacruz Jr., et al.*, Case No. 5:25-cv-01873-SSS-BFM (C.D. Cal.) dictates that a noncitizen arrested in the interior after years of residence and long-standing treatment as a §1226(a) respondent is not subject to mandatory detention under §1225(b)(2).

89. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II

Violation of Due Process

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

91. 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).

92. Petitioner has a fundamental interest in liberty and being free from official restraint.

93. Petitioner was released on his own recognizance in July 2018 and lived in the community for over seven (7) years without incident.

94. Immigration authorities took Petitioner back into custody on October 6, 2025, without providing him any advance notice, any pre-deprivation hearing, or any individualized assessment of changed circumstances justifying renewed detention.

95. While *Matter of Sugay*, 17 I. & N. Dec. 637 (BIA 1981), allows for bond revocation upon "considerable change in circumstances," unlike the respondent in *Sugay*, no material change in circumstances exists here to justify the detention of Petitioner.

96. The court in *Ortega v. Bonner*, 415 F.Supp.3d 963(N.D. Cal. 2019) prescribed that "the government's discretion to incarcerate non-citizens is *always* constrained by the requirements of due process." (emphasis added). *Hernandez v. Sessions*, 872 F.3d 976, 981 (9th Cir. 2017).

97. Petitioner has not been afforded any process whatsoever. There has been no change in Petitioner's circumstances: he has not committed any crimes, violated any condition of release, or failed to appear. His BIA appeal was pending both before and after his October 6, 2025 arrest.

98. Respondents' re-detention of Petitioner without any hearing or individualized determination violates his right to due process under the Fifth Amendment.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Central District of California while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner from custody immediately. In the alternative, order Respondents to provide Petitioner with an individualized bond hearing before an immigration judge within seven (7) days, at which the government bears the burden of proving by clear and convincing evidence that Petitioner's continued detention is justified;

e. Declare that Petitioner is not an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b);

f. If Respondents seek to re-detain Petitioner, order that Petitioner be afforded a pre-deprivation bond hearing before a neutral arbiter pursuant to 8 U.S.C. §1226(a);

g. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

h. Grant any other and further relief that this Court deems just and proper.

DATED: November 26, 2025

Respectfully submitted,

/s/Gita B. Kapur
Gita B. Kapur
Attorney for Petitioner

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on November 26, 2025, I served a copy of this Petition for Writ of Habeas Corpus by email to the following individual:

David M. Harris
Chief of the Civil Division
U.S. Attorney's Office
300 N. Los Angeles St., 7th Floor
Los Angeles, CA 90012
Email: David.M.Harris@usdoj.gov

/s/ Gita B. Kapur
Gita B. Kapur
Attorney for Petitioner