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

JULIO CASTANEDA GALVAN

Petitioner,

v.

KRISTI NOEM, Secretary of the U.S. Department
of Homeland Security;
PAMELA BONDI, Attorney General of the
United States;
TODD M. LYONS, Acting Director of the U.S.
Immigration and Customs Enforcement;
ORESTES CRUZ, Acting Director,
San Francisco ICE Field Office; and
Warden of the Golden State Annex Detention
Facility,

Respondents.

Case No. _____

PETITION FOR WRIT OF
HABEAS CORPUS AND ORDER
TO SHOW CAUSE WITHIN
THREE DAYS; COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF

PLAINTIFF'S PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

I. INTRODUCTION

1. Petitioner, JULIO CASTANEDA GALVAN (“Petitioner”), through undersigned counsel, respectfully petitions this Honorable Court for a writ of habeas corpus pursuant to 28 U.S. Code § 2241 to challenge his ongoing, unlawful detention by the Department of Homeland Security (“DHS”), the Department of Justice (“DOJ”), and the U.S. Immigration and Customs Enforcement (“ICE”).

2. Petitioner has been improperly detained since or about August 12, 2025, when ICE arrested him at his U.S. Citizenship and Immigration Services (“USCIS”) interview in connection with his daughter’s approved I-130 petition. He was not apprehended at or near a border or port of entry and was not seeking admission. Instead, he has lived continuously in the United States since 1984, with deep family and community ties and a pending application for adjustment of status before the Immigration Judge.

3. DHS and the Immigration Judge in Adelanto, California have improperly classified Petitioner as subject to mandatory detention under the Immigration and Nationality Act (“INA”) § 235(b)(2), 8 U.S.C. § 1225(b)(2), based

1 on the Board of Immigration Appeals' ("BIA" or "Board") recent decision in *Matter*
2 *of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

3
4 4. Furthermore, the Board's expansionist interpretation of mandatory
5 detention in *Matter of Yajure Hurtado* has been enjoined in practice. In late
6 November 2025, the Central District of California issued a nationwide injunction in
7 *Maldonado Bautista* barring DHS and DOJ from enforcing their July 8, 2025,
8 detention guidance and from improperly classifying noncitizens arrested inside the
9 United States as "applicants for admission" subject to mandatory detention under §
10 235(b)(2). The court held that such practices contradict the statute, conflict with
11 *Jennings v. Rodriguez*, 583 U.S. 281 (2018), and effectively erase § 236 from the
12 INA. It further certified a nationwide Bond Eligible Class requiring that class
13 members—such as Petitioner—be treated as detained under § 236(a) and afforded a
14 bond hearing. Petitioner fits this definition: he was arrested within the United States,
15 has lived here since 1984, maintains deep ties, and was taken into ICE custody at a
16 USCIS interview despite having a pending adjustment application and no connection
17 to any border-related apprehension.

18
19 5. Thus, Petitioner's detention is properly governed by INA § 236(a), 8
20 U.S.C. § 1226(a), which allows the Attorney General to detain or release a person
21 on bond or conditional parole pending removal proceedings. Petitioner is statutorily

1 eligible for adjustment of status under INA § 245(i) and seeks release from detention
2 during the pendency of those proceedings.

3
4 6. Petitioner is statutorily eligible for adjustment of status under INA §
5 245(i) and seeks immediate release from ICE custody while his Adjustment of Status
6 application is pending before the Immigration Judge. His continued confinement for
7 almost four months violates the INA, long-standing regulatory practice, and the Fifth
8 Amendment's guarantee of due process.
9

10 7. Accordingly, to vindicate Petitioner's statutory and constitutional rights
11 and to put an end to his continued arbitrary detention, this Court should grant the
12 instant petition for a writ of habeas corpus. Thus, Petitioner respectfully asks this
13 Court to find that his prolonged incarceration is unreasonable and to order his
14 immediate release.
15
16

17 **II. JURISDICTION**

18 8. This action arises under the Constitution of the United States and the
19 INA, 8 U.S.C. § 1101, *et seq.*
20

21 9. This Court has subject matter jurisdiction under 28 U.S.C. § 2241
22 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I § 9, cl. 2 of the
23 United States Constitution (Suspension Clause). This Court may grant relief
24
25

26 PLAINTIFF'S PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
27 CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1 pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et
2 seq., and the All Writs Act, 28 U.S.C. § 1651.
3
4

5 **III. VENUE**

6 10. Venue is proper in this district under 28 U.S.C. § 1391(e)(2) because
7 Petitioner is detained at the Golden State Annex located in McFarland, California,
8 which is within the jurisdiction of this District, within the Bakersfield Division, and
9 the Officer in Charge who makes custody decisions in Petitioner's case is located
10 within this judicial district.
11
12

13 **IV. CUSTODY AND REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

14 11. The Court must grant the petition for writ of habeas corpus or issue an
15 order to show cause ("OSC") to the Respondents "forthwith," unless Petitioner is
16 not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require
17 Respondents to file a return "within three days unless for good cause additional
18 time, not exceeding twenty days, is allowed." Id.
19
20

21 12. Courts have long recognized the significance of the habeas statute in
22 protecting individuals from unlawful detention. The Great Writ has been referred
23
24
25

1 to as “perhaps the most important writ known to the constitutional law of England,
2 affording as it does a swift and imperative remedy in all cases of illegal restraint or
3 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).
4

5 13. Petitioner is in custody for the purpose of 28 U.S.C. section 2241
6 since he was arrested by Respondents and remains in their legal and physical
7 custody at the Golden State Annex located in McFarland, California. He is under
8 Respondents’ and their agents’ direct control.
9

10 **V. PARTIES**

11 14. Petitioner, with A-number [REDACTED] is a native and citizen of
12 Mexico who entered the United States in or around 1984. He has been detained since
13 August 12, 2025, and is currently detained at the Golden State Annex located in
14 McFarland, Kern County, California. He is in custody, and under the direct control
15 of Respondents and their agents.
16
17

18 15. Respondent Kristi Noem is sued in her official capacity as the Secretary
19 of DHS. In this capacity, Respondent Noem is responsible for the implementation
20 and enforcement of the INA, and oversees ICE, the component agency responsible
21 for Petitioner’s detention. Respondent Noem is empowered to carry out any
22 administrative order against Petitioner and is a legal custodian of Petitioner.
23
24

5 16. Respondent Pamela Bondi is sued in her official capacity as the
25

26 PLAINTIFF’S PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF
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1 Attorney General of the United States and the senior official of the DOJ In that
2 capacity, she has the authority to adjudicate removal cases and oversees the
3 Executive Office for Immigration Review ("EOIR"), which administers the
4 immigration courts and the BIA.
5

6 17. Respondent Todd M. Lyons is sued in his official capacity as the Acting
7 Director of ICE. Respondent Lyons is a legal custodian of Petitioner and has
8 authority to release him.
9

10 18. Respondent Orestes Cruz is sued in his official capacity as the Acting
11 Director of the San Francisco ICE Field Office. Respondent Santacruz Jr. is a
12 legal custodian of Petitioner and has authority to release him.
13

14 19. Respondent Warden of the Golden State Annex Detention Facility, is
15 the Warden of the Golden State Annex Detention Facility, and has immediate
16 physical custody of Petitioner pursuant to a contract with ICE to detain noncitizens
17 and is a legal custodian of Petitioner.
18

19 **VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES**
20

21 20. Petitioner has exhausted all available administrative remedies, and
22 further pursuit of administrative relief would be futile. The Immigration Judge has
23 denied Petitioner's request for release, finding him subject to mandatory detention
24 under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2).
25

26 PLAINTIFF'S PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
27 CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1 21. It would be futile to await the BIA's decision on an appeal of the bond
2 proceedings because the BIA has already foreclosed relief through its own published
3 precedent, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision
4 holds that individuals who were never formally admitted are categorically subject to
5 detention under § 235(b)(2) and therefore ineligible for bond. Because the BIA is
6 bound by its own precedent, it lacks authority to grant Petitioner any relief
7 inconsistent with *Yajure Hurtado*.
8

9
10 22. Federal courts have recognized that, under such circumstances,
11 prudential exhaustion is unnecessary. In *Zaragoza Mosqueda et al. v. Noem*, 2025
12 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025), the court noted that *Yajure Hurtado*
13 renders prudential exhaustion futile because the BIA's decision leaves no room for
14 reconsideration of the mandatory detention classification.
15

16
17 23. Accordingly, Petitioner has met the exhaustion requirement under 28
18 U.S.C. § 2241, and this Court has jurisdiction to review the legality of his continued
19 detention.
20

21 **VII. STATEMENT OF FACTS**

22 24. Petitioner is a citizen and native of Mexico who entered the United States
23 in or around 1984. Petitioner has lived in the United States since 1984, establishing
24 deep family, community, and cultural ties. While Petitioner does not possess
25

26 PLAINTIFF'S PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
27 CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1 documentary proof of his initial entry, he believes he may have been paroled into
2 the United States in the 1980s. Even if the government were to classify his entry as
3 without inspection, the record makes clear that Petitioner is not an “arriving alien”
4 apprehended at or near the border under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2).
5 That provision applies to individuals encountered at ports of entry or immediately
6 upon arrival, not to long-term residents who have lived continuously in the United
7 States for decades.
8

10 25. Petitioner was detained by ICE on August 12, 2025, while attending a
11 scheduled USCIS interview for his I-130, family petition filed by his U.S. citizen
12 daughter. He was not arrested at a border or attempting entry. Rather, he was
13 detained during a lawful, voluntary appearance before immigration authorities. DHS
14 later served him with a Notice to Appear charging inadmissibility under INA §
15 212(a)(6)(A)(i) (entry without inspection), listing the date and place of entry as
16 “unknown.” Since that day, Petitioner remains detained at the Golden State Annex
17 located in McFarland, California, and his case is set for an Individual Hearing on
18 February 26, 2025, at the Adelanto Immigration Court, to discuss his Adjustment of
19 Status eligibility.
20
21

23 26. On or about October 27, 2025, Petitioner filed a Bond Request pursuant
24

1 to INA § 236(a), 8 U.S.C. § 1226(a), seeking a custody redetermination before the
2 Immigration Court. Petitioner argued that he was eligible for an individualized bond
3 hearing under the general detention authority of INA § 236(a), which applies to
4 noncitizens pending completion of removal proceedings.
5

6 27. However, on or about October 27, 2025, the Immigration Judge denied
7 the bond request, relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA
8 2025), and concluding that Petitioner was instead subject to mandatory detention
9 under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2). The IJ's reliance on *Yajure Hurtado*
10 effectively foreclosed Petitioner's opportunity for a bond hearing, despite his
11 prolonged detention and the statutory and constitutional arguments raised in support
12 of release.
13

14 28. In late November, Petitioner filed a renewed motion for custody
15 redetermination based on a new nationwide injunction and class certification that
16 would allow Petitioner to receive a bond hearing pursuant to INA § 236(a), 8 U.S.C.
17 § 1226(a).
18

19 29. On November 28, 2025, the Immigration Judge in the Adelanto
20 Immigration Court issued an order denying Petitioner's renewed motion for custody
21 redetermination. A true and correct copy of the Immigration Judge's order is
22 attached hereto as *Exhibit A*.
23
24
25

1 30. Although the Immigration Judge’s order expressly acknowledges the
2 nationwide injunction issued three days earlier—which was the main reason for
3
4 Petitioner filing the renewed motion for custody redetermination—in *Maldonado*
5 *Bautista et al. v. Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov.
6 25, 2025), the Immigration Judge nevertheless and for the second time declined
7 jurisdiction, citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and
8 concluding that Petitioner “has not established materially changed circumstances”
9 since his prior denial.
10

11 31. This ruling by the Immigration Judge is legally erroneous. On
12 November 25, 2025, in *Maldonado Bautista*, the United States District Court for the
13 Central District of California issued a nationwide injunction prohibiting DHS and
14 DOJ from enforcing the July 8, 2025 “Interim Guidance Regarding Detention
15 Authority for Applicants for Admission” and from classifying noncitizens arrested
16 inside the United States as “applicants for admission” subject to mandatory detention
17 under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2). The court held that DHS’s
18 interpretation “effectively removes § 1226 from existence,” contradicts statutory
19 text, conflicts with *Jennings v. Rodriguez*, 583 U.S. 281 (2018), and violates the
20 presumption that Congress does not enact meaningless statutory schemes. See
21 *Exhibit B*.
22
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26 PLAINTIFF’S PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
27 CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

32. Additionally, the court certified a nationwide Bond Eligible Class, requiring that all class members—including Petitioner—be treated as detained under INA § 236(a), 8 U.S.C. § 1226(a), and thus entitled to a bond hearing before an Immigration Judge pursuant to § 236(a). Petitioner squarely meets the class definition: he was arrested within the United States, has long-established residence, and is not subject to any statutory bar to a bond hearing. Petitioner has been improperly detained since or about August 12, 2025, when Immigration and Customs Enforcement (“ICE”) arrested him at his U.S. Citizenship and Immigration Services (“USCIS”) interview in connection with his daughter’s approved I-130 petition. He was not apprehended at or near a border or port of entry and was not seeking admission. Instead, he has lived continuously in the United States since 1984, with deep family and community ties and a pending application for adjustment of status before the Immigration Judge.

33. Despite acknowledging the injunction, the Immigration Judge refused to apply it, relying instead again on *Matter of Yajure Hurtado*, a decision that the district court has now enjoined DHS and DOJ from applying to classify individuals like Petitioner as § 235(b)(2) “applicants for admission.” Because the *Maldonado Bautista* injunction is binding nationwide—including on EOIR—the Immigration Judge’s refusal to exercise § 236(a) jurisdiction was contrary to law. The IJ was

1 required to treat Petitioner's custody as governed by § 236(a) and to adjudicate his
2 bond request under that statute.

3
4 34. This new order underscores the continuing and ongoing unlawful
5 detention of Mr. Castaneda Galvan in direct contravention of the federal injunction
6 in *Maldonado Bautista*.

7
8 35. As a result, Petitioner now seeks habeas corpus relief from this Court to
9 correct this legal error, prevent further unlawful detention, and obtain his release.
10 Petitioner respectfully files this petition to challenge the agency's misapplication of
11 the law, which has deprived him of the procedural safeguards Congress intended
12 under § 236(a) and the Fifth Amendment's Due Process Clause.

13
14 **VIII. LEGAL FRAMEWORK**

15
16 36. Pursuant to 28 U.S.C. § 2243, the Court either must grant the instant
17 petition for writ of habeas corpus or issue an order to show cause to Respondents,
18 unless Petitioner is not entitled to relief. If the Court issues an order to show cause,
19 Respondents must file a response "within three days unless for good cause
20 additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243
21 (emphasis added).

22
23 37. "It is well established that the Fifth Amendment entitles [noncitizens] to
24
25

1 due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523
2 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “Freedom from
3 imprisonment—from government custody, detention, or other forms of physical
4 restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”
5 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
6

7
8 38. This fundamental due process protection applies to all noncitizens,
9 including both removable and inadmissible noncitizens. See *id.* at 721 (Kennedy,
10 J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be
11 free from detention that is arbitrary or capricious.”). It also protects noncitizens
12 who have been ordered removed from the United States and who face continuing
13 detention. *Id.* at 690.
14

15
16 39. Under 8 U.S.C. § 1226(a), the Attorney General “may arrest and detain”
17 any noncitizen “pending a decision on whether the alien is to be removed from the
18 United States,” and may release that person on bond or conditional parole. This is
19 the default detention authority governing all individuals already present in the
20 United States who are placed in removal proceedings under INA § 240, as is the
21 case here.
22

23 40. By contrast, 8 U.S.C. § 1225(b)(2) applies to “applicants for admission”
24
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1 who are “seeking admission” and have not yet been admitted or paroled. The
2 Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018), emphasized that
3 § 235(b) applies “primarily to [noncitizens] seeking entry into the United States,”
4 not to those already present.
5

6 41. The Court’s ruling in *Zadvydas* is rooted in due process’s requirement that
7 there be “adequate procedural protections” to ensure that the government’s asserted
8 justification for a noncitizen’s physical confinement “outweighs the ‘individual’s
9 constitutionally protected interest in avoiding physical restraint.’” *Id.* at 690 (quoting
10 *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the
11 Supreme Court only recognizes two purposes for civil detention: preventing flight
12 and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690;
13 *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any
14 other justification.
15
16
17

18 **IX. EQUAL ACCESS TO JUSTICE ACT**

19 42. The Equal Access to Justice Act (“EAJA”), 28 U.S.C. § 2412, permits this
20 Court to award attorney fees and costs to Petitioner if he prevails because this
21 action is a civil action brought against agency officials and an agency of the United
22 States. The Agency action in this case are unreasonable as a matter of law and
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24
25

1 deprive Petitioner of his constitutional rights to be free of unlawful prolonged
2 detention.

3
4 **X. CLAIMS FOR RELIEF**

5 **A. COUNT ONE**

6 **Violation of Fifth Amendment Right to Due Process– Substantive and**
7 **Procedural Due Process, U.S. Const. Amend. V.**

8
9 43. Petitioner re-alleges and incorporates by reference the paragraphs above as
10 though fully set forth herein.

11 44. The Due Process Clause of the Fifth Amendment forbids the government
12 from depriving any “person” of liberty “without due process of law.” U.S. Const.
13 amend. V. Due process protects “all ‘persons’ within the United States, including
14 [non-citizens], whether their presence here is lawful, unlawful, temporary, or
15 permanent.” *Zadvydas*, 533 U.S. at 693.

16 45. Due process requires that government action be rational and nonarbitrary.
17 See *U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

18 46. Petitioner’s continued detention without a bond hearing violates his Fifth
19 Amendment rights. Prolonged civil detention without individualized findings of
20 danger or flight risk is constitutionally impermissible. See *Zadvydas v. Davis*, 533

1 U.S. 678 (2001). For these reasons, Petitioner's ongoing prolonged detention
2 violates the Due Process Clause of the Fifth Amendment.
3

4 **B. COUNT TWO**

5 **Petitioner's Custody Is Properly Governed by INA § 236(a), 8 U.S.C. §**
6 **1226(a), Not § 235(b)(2), 8 U.S.C. § 1225(b)(2)**
7

8 47. Petitioner re-alleges and incorporates by reference the paragraphs
9 above as though fully set forth herein.

10 48. Under 8 U.S.C. § 1226(a), the Attorney General "may arrest and detain"
11 any noncitizen "pending a decision on whether the alien is to be removed from the
12 United States," and may release that person on bond or conditional parole. This is
13 the default detention authority governing all individuals already present in the
14 United States who are placed in removal proceedings under INA § 240, as is the
15 case here.
16

17 49. By contrast, 8 U.S.C. § 1225(b)(2) applies to "applicants for admission"
18 who are "seeking admission" and have not yet been admitted or paroled. The
19 Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018), emphasized that
20 § 235(b) applies "primarily to [noncitizens] seeking entry into the United States,"
21 not to those already present. Here, Petitioner has resided continuously in the U.S. for
22 four decades and was detained inside the United States, not at a border or port of
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26 PLAINTIFF'S PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
27 CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1 entry. He therefore cannot be considered an “applicant for admission” within the
2 meaning of § 1225(b)(2). Thus, the Immigration Judge needs to follow the
3 nationwide injunction that Petitioner is *prima facie* eligible as a class member, and
4 conduct a bond hearing pursuant INA § 236(a), 8 U.S.C. § 1226(a). *See Maldonado*
5 *Bautista*, *supra*.

7
8 **C. COUNT THREE**

9 **Yajure Hurtado Is Inapplicable and Inconsistent with**
10 **Statutory Text and Precedent**

11
12 50. Petitioner re-alleges and incorporates by reference the paragraphs
13 above as though fully set forth herein.

14 51. *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), adopts DHS’s
15 recent policy asserting that anyone never formally admitted or paroled is per se
16 subject to § 235(b) mandatory detention. This interpretation is inconsistent with
17 decades of administrative and judicial practice recognizing that § 236(a) governs
18 post-entry arrests, even for those charged as inadmissible under § 212(a)(6)(A)(i).
19

20
21 52. The 1997 INS regulations explicitly reaffirmed that “inadmissible
22 [noncitizens], except for arriving [noncitizens], have available to them bond
23 redetermination hearings before an immigration judge.” 62 Fed. Reg. 10312, 10323
24 (Mar. 6, 1997). Congress later reaffirmed this structure through the Laken Riley Act
25

1 of 2025, which added new language to § 236(c) covering certain inadmissible
2 individuals—further demonstrating that § 236(a) already applied to this population
3 generally.
4

5 53. District courts have consistently rejected DHS's expanded reading of §
6 235(b). See, e.g., *Maldonado Bautista*, supra; *Rodriguez Vazquez v. Garland*, 779 F.
7 Supp. 3d 1255, 1260–61 (C.D. Cal. 2025) (holding § 1226(a) governs noncitizens
8 arrested in the interior regardless of admission status); *Gomes v. Bondi*, No. 25-cv-
9 1647, 2025 WL 1869299 (N.D. Cal. Apr. 21, 2025); *Diaz Martinez v. Noem*, No. 25-
10 cv-1832, 2025 WL 2084238 (C.D. Cal. May 14, 2025). As those courts recognized,
11 if § 1225(b) applied to all who have not been admitted, the exceptions in § 1226(c)
12 would be superfluous, violating basic principles of statutory interpretation. See
13 *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010).
14
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16

17 **D. COUNT FOUR**

18 **Petitioner Is Not Subject to Mandatory Detention Under § 236(c)**

19 54. Petitioner re-alleges and incorporates by reference the paragraphs
20 above as though fully set forth herein.
21

22 55. Even if DHS were correct that Petitioner is inadmissible under
23 INA § 212(a)(6)(A)(i) (“entry without inspection”), he would still fall under § 236(a)
24 unless subject to one of § 236(c)’s limited mandatory detention categories—none of
25

1 which apply here. Petitioner's prior convictions have been vacated, eliminating any
2 potential mandatory detention trigger. See *Matter of Pickering*, 23 I&N Dec. 621
3 (BIA 2003) (convictions vacated for legal defects do not constitute convictions for
4 immigration purposes).
5

6 56. Because Petitioner is not subject to § 236(c) and was not apprehended
7 while seeking admission, he must be afforded a custody redetermination hearing
8 under § 236(a).
9

10
11 **E. COUNT FIVE**

12 **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A) Not in**
13 **Accordance with Law and in Excess of Statutory Authority, Violation of 8**
14 **U.S.C. § 1225(b)**
15

16
17 57. Petitioner re-alleges and incorporates by reference the paragraphs
18 above as though fully set forth herein.

19 58. Under the APA, a court shall “hold unlawful and set aside agency
20 action...” that is “...(A) arbitrary, capricious, an abuse of discretion, or otherwise
21 not in accordance with law; (B) contrary to constitutional right, power, privilege,
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26 PLAINTIFF'S PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
27 CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

1 or immunity...” 5 U.S.C. § 706(2)(A)-(B). The Immigration Judge’s and the Board’s
2 reliance on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), constitutes
3 such unlawful action.
4

5 59. Petitioner has lived in the United States since 1984, establishing deep
6 family, community, and cultural ties. While Petitioner does not possess documentary
7 proof of his initial entry, he believes he may have been paroled into the United States
8 in the 1980s. Even if the government were to classify his entry as without inspection,
9 the record makes clear that Petitioner is not an “arriving alien” apprehended at or
10 near the border under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2). That provision applies
11 to individuals encountered at ports of entry or immediately upon arrival, not to long-
12 term residents who have lived continuously in the United States for decades.
13
14

15 **XI. VERIFICATION**

16
17 60. The facts contained in this petition have been verified by the
18 Petitioner and are personally known to undersigned counsel who represented
19 Petitioner in his removal proceedings. The contents of this petition are accurate.
20

21 **XII. PRAYER FOR RELIEF**

22 Wherefore, Petitioner respectfully requests this Court to grant the
23 following:
24

- 25 (1) Assume jurisdiction over this matter;

26 PLAINTIFF’S PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
27 CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner's is a member of the class described in *Maldonado Bautista et al. v. Santacruz Jr. et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025);
- (4) Declare that Petitioner's ongoing detention without an individualized determination violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1231(a);
- (5) Declare that Petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2);
- (6) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (7) Issue an Order prohibiting the Respondents from transferring Petitioner from this district without the Court's approval;
- (8) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (9) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Curtis Lee Morrison

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Counsel for Petitioner

Dated: December 6, 2025

PLAINTIFF'S PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW
CAUSE WITHIN THREE DAYS; COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF