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4 *Attorney for Petitioner-Plaintiff,*
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6 UNITED STATES DISTRICT COURT
7 EASTERN DISTRICT OF CALIFORNIA
8

9
10 H.F.,¹

No.

11 Petitioner-Plaintiff,

12 v.

13 SERGIO ALBARRAN, Acting Director, San
Francisco Field Office, U.S. Immigration and
14 Customs Enforcement;

15 TODD LYONS, Acting Director, U.S.
Immigration and Customs Enforcement;

16 KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security,

17 PAM BONDI, Attorney General of the United
18 States,

19 MINGA WOFFORD, Warden of Mesa Verde
20 Detention Center,

21 Respondents-Defendants.
22

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

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27 ¹ Petitioner respectfully informs the Court that he is simultaneously filing a motion to proceed
28 under pseudonym.

INTRODUCTION

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2 1. Petitioner-Plaintiff ("Petitioner"), H.F, by and through his undersigned counsel, hereby
3 challenges his unlawful detention by Immigration and Customs Enforcement ("ICE") on the basis
4 that (1) he was re-detained without a pre-deprivation bond hearing, and (2) the Department of
5 Homeland Security ("DHS") and the Executive Office of Immigration Review ("EOIR") have
6 concluded that he is subject to mandatory detention based on a new legal interpretation of statutory
7 framework related to the detention and release of noncitizens.

8
9 2. Shortly after his arrival to the United States, Petitioner was briefly detained by DHS and
10 released with the following documents: a Form I-200 (Warrant for Arrest of Alien) pursuant to 8
11 U.S.C. § 1226, Form I-220A (Order of Release on Recognizance), Form I-286 (Notice of
12 Custody Determination) pursuant to 8 U.S.C. § 1226, and Form I-862 (Notice to Appear) for
13 removal proceedings under 8 U.S.C. § 1229a.²

14
15 3. On October 6, 2025, Petitioner was convicted by plea of two counts of Cal. Penal Code §
16 136.1(b)(1) (nonviolently dissuading a witness). At his sentencing hearing on October 27, 2025,
17 Petitioner was sentenced to 120 days of county jail and 3 years formal probation for the first count
18 and 30 days and probation, terminated upon release, for the second count. Because of the pre-trial
19 detention time he had already served, Petitioner was released from custody that same day. Upon
20 his release that day, ICE detained him and transferred him into immigration custody.

21
22 4. In his Notice to Appear, Petitioner is charged with, *inter alia*, having entered the United
23 States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

24 5. Based on this allegation in Petitioner's removal proceedings, ICE has denied Petitioner
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26 ² This information is obtained from the ICE Form I-213 (Record of Deportable/Inadmissible
27 Alien), which was prepared at the time of Petitioner's apprehension and release in December
28 2021. However, based on the limited documents available to counsel at this time, it does not
appear that the 2021 Notice to Appear was ever filed with the Court. Instead, it seems that ICE
prepared, and filed, a new NTA in 2025.

1 release from immigration custody, consistent with a new DHS policy issued on July 8, 2025,
2 instructing all ICE employees to consider anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i)
3 – i.e., those who entered the United States without admission or inspection – to be subject to
4 detention under 8 U.S.C. § 1225(b)(2)(A) and therefore, ineligible, to be released on bond.

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

11 12 7. Petitioner’s detention on this basis violates the plain language of the Immigration and
13 Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who were
14 previously detained and released from DHS custody under § 1226(a). Instead, such individuals
15 are subject to a different statute that allows for release on conditional parole or bond. *See* 8 U.S.C.
16 § 1226(a). That statute expressly applies to people who, like Petitioner, are charged as
17 inadmissible for having entered the United States without inspection.

18 19 8. Respondent’s new legal interpretation is plainly contrary to the statutory framework and
20 contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

21 22 9. In addition, because he was previously released by DHS on his own recognizance,
23 Petitioner has a protected liberty interest in his continued release from immigration detention.

24 10. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately
25 Released under his prior order of release on recognizance or, in the alternative, that he be
26 provided with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days.
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CUSTODY

11. Petitioner is currently detained at the Mesa Verde ICE Processing Facility in Bakersfield, California. Prior to and since being arrested by ICE, Petitioner has not been provided with a bond hearing to assess whether his detention is warranted.

JURISDICTION

12. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act, and article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause), as Petitioner is presently in custody under the authority of the United States and challenges his detention as in violation of the Constitution, laws, or treaties of the United States.

VENUE

13. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because the Respondents are employees or officers of the United States, acting in their official capacity; because a substantial part of the events or omissions giving rise to the claim occurred in the Eastern District of California; and because Petitioner is in custody at the Mesa Verde ICE Processing Facility, which is under the jurisdiction of this Court.

REQUIREMENTS OF 28 U.S.C. § 2243

14. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

5. The Court must grant the petition for writ of habeas corpus or issue an order to show cause

1 (“OSC”) to Respondents-Defendants “forthwith,” unless the Petitioner is not entitled to relief. 28
2 U.S.C. § 2243. If an order to show is issued, the Court must require Respondents-Defendants to
3 file a return “within *three* days unless for good cause additional time, not exceeding twenty days,
4 is allowed.” *Id.* (emphasis added).

5 EXHAUSTION

6
7 6. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional.
8 *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017). A court may waive the prudential
9 exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of
10 administrative remedies would be a futile gesture, irreparable injury will result, or the
11 administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000
12 (9th Cir. 2004) (citation and quotation marks omitted)).

13
14 7. Petitioner requests that the prudential exhaustion requirement be waived because
15 “exhaustion would be futile, would subject him to irreparable injury, and would be unreasonable
16 given the delays presently inherent in administrative review.” *Estrada-Samayoa v. Orestes Cruz*,
17 et al., No. 1:25-CV-01565-EFB (HC), 2025 WL 3268280, at *8 (E.D. Cal. Nov. 24, 2025). In
18 light of the BIA's decision in *Matter of Yajure Hurtado*, *supra*, presentation of his claims to the IJ
19 and the BIA would be futile. *See J.A.C.P. v. Wofford*, No. 1:25-CV-01354-KES-SKO (HC), 2025
20 WL 3013328, at *7, n.9 (E.D. Cal. Oct. 27, 2025) (“pursuit of administrative remedies would
21 almost certainly be futile given the BIA's recent holding that all noncitizens present in the United
22 States without admission are ‘seeking admission’ for purposes of 8 U.S.C. § 1225(b)(2)(A) and
23 must be detained.”). Moreover, delays at the BIA render it unlikely that his claims would be
24 adjudicated in a timely fashion and will continue to suffer irreparable injury on the basis of his
25 unlawful detention. *Estrada-Samayoa*, *supra*, citing *Perez v. Wolf*, 445 F. Supp. 3d 275, 286
26 (N.D. Cal. 2020). *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1254 (W.D. Wash. 2025)
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(waiving prudential exhaustion requirement in similar circumstances); *Marroquin Ambriz v. Barr*, 420 F. Supp. 3d 953, 962 (N.D. Cal. 2019); *Guzman v. Andrews*, No. 1:25-CV-01015-KES-SKO (HC), 2025 WL 2617256, at *3 (E.D. Cal. Sept. 9, 2025); *see generally Rodriguez Diaz v. Barr*, No. 4:20-CV-01806-YGR, 2020 WL 1984301, at *5 (N.D. Cal. Apr. 27, 2020) (collecting cases).

PARTIES

8. Petitioner has been re-detained in immigration custody since October 27, 2025. ICE violated Petitioner's right to due process by revoking his release without notification, reasoning, or an opportunity to be heard by a neutral decisionmaker. Petitioner is unable to obtain review of his custody by an immigration judge ("IJ"), pursuant to the Board's decision in *Matter of Yajure Hurtado*, *supra*.

9. Respondent Sergio Albarran is the Acting Director of ICE's San Francisco Field Office, Enforcement and Removal Operations, which is the ICE Field Office with jurisdiction and responsibility over the Mesa Verde ICE Processing Facility. Defendant Albarran is responsible for ICE's policies, practices, and procedures, including those relating to the detention and detention conditions of immigrants. Respondent Albarran is a legal custodian of Petitioner and is sued in his official capacity.

10. Respondent Todd M. Lyons is the Acting Director of ICE and is named in his official capacity. As the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States, including the removal of noncitizens. In his official capacity, he is the legal custodian of Petitioner.

11. Respondent Kristi Noem is the Secretary of the DHS and is named in her official capacity. DHS is the federal agency encompassing ICE, which is responsible for the administration and enforcement of the Immigration and Nationality Act and all other laws relating to the immigration of noncitizens. In her capacity as Secretary, Respondent Noem has

responsibility for the administration and enforcement of the immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a). In that capacity and through her agents, Respondent Noem has broad authority over, and responsibility for, the operation and enforcement of the immigration laws and is legally responsible for pursuing any effort to detain and remove Petitioner. Respondent Noem is sued in her official capacity.

12. Respondent Pam Bondi is the Attorney General of the United States and the most senior official at the Department of Justice and is named in her official capacity. In that capacity and through her agents, she is responsible for overseeing the implementation and enforcement of the federal immigration laws. The Attorney General delegates this responsibility to the Executive Office for Immigration Review, which administers the immigration courts and the BIA.

13. Respondent Minga Wofford is the warden at the Mesa Verde ICE Processing Facility in Bakersfield City, California, where Petitioner is currently detained. She is thus Petitioner's immediate custodian. She is sued in her official capacity.

LEGAL BACKGROUND

14. The INA prescribes three basic forms of detention for noncitizens in removal proceedings.

15. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are 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).

16. 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).

1 17. Last, the INA also provides for detention of noncitizens who have been previously ordered
2 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

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

4 19. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal
5 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208,
6 Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(a) was
7 most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3
8 (2025).

9
10 20. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in
11 general, people who entered the country without inspection were not considered detained under §
12 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal
13 of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
14 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

15
16 21. In the decades that followed, most people who entered without inspection – unless
17 they were subject to some other detention authority – received bond hearings. That practice was
18 consistent with many more decades of prior practice, in which noncitizens who were not deemed
19 “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. §
20 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
21 “restates” the detention authority previously found at § 1252(a)).

22
23 22. On July 8, 2025, ICE, “in coordination with” with the Department of Justice, announced a
24 new policy that rejected well-established understanding of the statutory framework and reversed
25 decades of practice.

26 23. The new policy, entitled “Interim Guidance Regarding Detention Authority for
27 Applicants for Admission,” claims that all persons who entered the United States without
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1 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A).³ The
2 policy applies regardless of when a person is apprehended, and affects those who have resided in
3 the United States for months, years, and even decades.

4 24. On September 5, 2025, the BIA adopted this same position in a published decision,
5 *Matter of Yajure Hurtado*, 29 I&N Dec. 216. There, the Board held that all noncitizens who
6 entered the United States without admission or parole are subject to detention under §
7 1225(b)(2)(A) and are ineligible for IJ bond hearings.

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

14 26. Subsequently, court after court has adopted the same reading of the INA's detention
15 authorities and rejected ICE and EOIR's new interpretation. *See Josue I.C.A. v. Lyons, et al.*, No.
16 1:25-CV-01542-SKO (HC), 2025 WL 3496432, at *3 (E.D. Cal. Dec. 5, 2025) ("When first
17 presented with the Government's new interpretation of section 1225(b)(2)(A), some courts
18 described this read of the statute as 'novel.' But only months later, after being almost
19 universally rejected in cases decided by district courts from different districts in the country,
20 this Court finds that these previously 'novel' arguments are no longer sustainable.") (internal
21 citation omitted) (citing cases).

22 27. Courts have uniformly rejected this new interpretation because it defies the INA.
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28 ³ Available at <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>

1 As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory
2 provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

3 28. Section 1226(a) applies by default to all persons “pending a decision on whether the
4 [noncitizen] is to be removed from the United States.” These removal hearings are held under
5 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

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

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

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

23 32. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to
24 people like Petitioner, who have already entered and were apprehended and subsequently released
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1 under § 1226(a). “[N]umerous courts have observed [that] the initial decision to release petitioner
 2 under § 1226(a) precludes the government from later ‘switch[ing] tracks’ to subject him to
 3 mandatory detention under § 1225(b)(2) because petitioner’s release created a ‘reliance interest. . .
 4 so long as [petitioner] abided by the terms of [his] release.’” *O.A.C.S., v. Wofford, et al.*, No. 1:25-
 5 CV-01652-DAD-CSK (HC), 2025 WL 3485221, at *3 (E.D. Cal. Dec. 4, 2025), *quoting Salcedo*
 6 *Aceros v. Kaiser*, No. 25-CV-06924-EMC (EMC), 2025 WL 2637503, at *8 (N.D. Cal. Sept. 12,
 7 2025). *See also Calderon v. Kaiser*, No. 25-CV-06695-AMO, 2025 WL 2430609, at *3 (N.D. Cal.
 8 Aug. 22, 2025) (recognizing a noncitizen’s protected interest in continued liberty).

10 33. Finally, because Petitioner was released on his own recognizance pursuant to 8 U.S.C. §
 11 1226, he has a protected liberty interest in his continued release. “[A] noncitizen released from
 12 custody pending removal proceedings has a protected liberty interest in remaining out of
 13 custody[] even where an immigration official ‘elected to release’ a petitioner on their own
 14 recognizance.” *Perez v. Albarran*, No. 1:25-CV-01540-DAD-CSK (HC), 2025 WL 3187578, at
 15 *3 (E.D. Cal. Nov. 14, 2025), *quoting Salcedo Aceros*, 2025 WL 2637503, at *6-7. Under §
 16 1226(a), Petitioner would be entitled to a bond hearing, and any custody redetermination would
 17 have to be based on whether petitioner is “a threat to national security, a danger to the community
 18 at large, likely to abscond, or otherwise a poor bail risk.” *In re Guerra*, 24 I&N Dec. 37, 40 (BIA
 19 2006). Several courts have already found the risk of erroneous deprivation is high in cases like
 20 Peitioner’s. *See, e.g., Salcedo Aceros*, 2025 WL 2637503, at *12 (finding that the petitioner’s risk
 21 of erroneous deprivation was high because a bond hearing would likely reveal that the petitioner
 22 still presented no public safety or flight risk); *see also Calderon*, 2025 WL 2430609, at *3
 23 (“Where an individual has not received a bond or redetermination hearing, the risk of an
 24 erroneous deprivation of liberty is high.”); *Pinchi v. Noem*, No. 25-cv-05632-RMI-RFL, 2025 WL
 25 1853763, at *2 (N.D. Cal. July 4, 2025) (finding a risk of erroneous deprivation without a bond
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1 hearing pre-detention where the petitioner was re-detained after having been released on her own
2 recognizance at the border by immigration officials).

3 **STATEMENT OF FACTS**

4 34. Petitioner is an Iranian citizen who entered the U.S. without inspection with his
5 spouse and child on December 25, 2021, at or near Tecate, California.⁴ Shortly thereafter, they
6 were apprehended by ICE and taken into immigration custody, where they were briefly detained.
7 The following day, Petitioner was released on his own recognizance and provided with the
8 following documents: Form I-200 (Warrant for Arrest of Alien) pursuant to 8 U.S.C. § 1226,
9 Form I-220A (Order of Release on Recognizance), Form I-286 (Notice of Custody
10 Determination) pursuant to 8 U.S.C. § 1226, and Form I-862 (Notice to Appear) for removal
11 proceedings under 8 U.S.C. § 1229a.
12

13 35. Shortly after entering the United States, Petitioner and his spouse began experiencing
14 marital discord. Petitioner's spouse falsely accused him of multiple allegations involving her and
15 their child, which lead to his arrest in August 2022. Petitioner has maintained his innocence
16 throughout his criminal proceedings. Three years later, Petitioner pleaded no contest to two
17 counts of Cal. Penal Code § 136.1(b)(1) (nonviolently dissuading a witness) in the California
18 Superior Court. The District Attorney dismissed all other charges. On October 27, 2025,
19 Petitioner was sentenced to 120 days of county jail and 3 years formal probation for the first count
20 and 30 days and probation, terminated upon release, for the second count. Because of the pre-trial
21 detention time he had already served, Petitioner was released from custody that same day.
22

23 36. Waiting for him at the courthouse, ICE immediately detained Petitioner and
24 transferred him to the Mesa Verde ICE Processing Facility. Since then, ICE has made a
25 determination to continue Petitioner's detention without an opportunity to post bond or be
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27

28 ⁴ Since the couple is no longer together and their immigration cases are not consolidated, the
immigration history of Petitioner's spouse and child are irrelevant for purposes of this petition.

1 released on other conditions. ICE has not evaluated whether he is a flight risk or danger such that
2 he could be released on his prior order of recognizance.

3 37. In his Notice to Appear, Petitioner is charged with, *inter alia*, having entered the United
4 States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).^{5, 6}

5 38. Pursuant to *Matter of Yajure Hurtado*, *supra*, the immigration judge is unable to consider
6 Petitioner's bond request.

7 39. As a result, Petitioner remains in detention. Without relief from this court, he faces the
8 prospect of months, or even years, in immigration custody, separated from his community and
9 support system.
10

11 **CLAIMS FOR RELIEF**
12 **COUNT I**
13 **Violation of the INA**

14 40. Petitioner incorporates by reference the allegations of fact set forth in the preceding
15 paragraphs.

16 41. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
17 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
18 relevant here, it does not apply to those who previously entered the country and detained under §
19

20
21 ⁵ This information is obtained from the ICE Form I-213 (Record of Deportable/Inadmissible
22 Alien), which was prepared at the time of Petitioner's apprehension and release in December
23 2021. However, based on the limited documents available to counsel at this time, it does not
24 appear that the 2021 Notice to Appear was ever filed with the Court. Instead, it seems that ICE
25 prepared, and filed, a new NTA in 2025.

26 ⁶ Because his NTA had not yet been filed with the Court, Petitioner filed his application for
27 asylum, based on being a religious minority in Iran, with U.S. Citizenship and Immigration
28 Services ("USCIS") on December 22, 2022. Per USCIS policy, it will "send [the application] to
the EOIR immigration court where your proceedings are pending, and notify you by mail."
<https://www.uscis.gov/humanitarian/refugees-and-asylum/asylum/what-happens-after-you-file-form-i-589-with-uscis>. Petitioner will, therefore, be proceedings on his application for asylum,
withholding of removal, and protection under the Convention Against Torture in removal
proceedings.

1 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231. 52. The application of §
2 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

3
4 **COUNT II**
Violation of the Bond Regulations

5 52. Petitioner incorporates by reference the allegations of fact set forth in preceding
6 paragraphs.

7 53. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-
8 Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.
9 Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the
10 agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present
11 without having been admitted or paroled (formerly referred to as [noncitizens] who entered
12 without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323
13 (emphasis added). The agencies thus made clear that individuals who had entered without
14 inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §
15 1226 and its implementing regulations.
16

17
18 54. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of
19 applying § 1225(b)(2) to individual like Petitioner. The application of § 1225(b)(2) to Petitioner
20 unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

21 **COUNT III**
22 **Violation of Due Process**

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

25 56. The government may not deprive a person of life, liberty, or property without due process
26 of law. U.S. Const. amend. V. “Freedom from imprisonment – from government custody,
27 detention, or other forms of physical restraint – lies at the heart of the liberty that the Clause
28

1 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

2 57. Petitioner has a fundamental interest in his liberty and being free from official restraint.

3 58. The government’s re-detention of Petitioner without a bond redetermination hearing to
4 determine whether he is a flight risk or danger to others violates his right to due process.

5 **PRAYER FOR RELIEF**

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

7 a. Assume jurisdiction over this matter;

8 b. Declare that Petitioner’s detention is unlawful;

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

11 d. Issue a Writ of Habeas Corpus requiring that Respondents immediately release
12 Petitioner under his prior order of release on recognizance or, in the alternative, provide Petitioner
13 with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

14 e. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
15 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

17 Dated: December 10, 2025

18 Respectfully submitted,

19 /s/ Lina Baroudi

20
21
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28 *Attorney for Petitioner-Plaintiff*
H.F.

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

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

Executed on December 10, 2025, in San José, California.

/s/ Lina Baroudi

Lina Baroudi
Attorney for Petitioner-Plaintiff,
H.F.