

1 Natalia Vieira Santanna,
2 CA BAR No. 337502
3 MI BAR No. P76443
4 SANTANNA LAW OFFICES
5 PO Box 7528, Oakland, CA, 94601
6 (510) 922-0154 (Telephone)
7 natalia@santannalaw.com (Email)
8 Attorney for Petitioner-Plaintiff
9

10 UNITED STATES DISTRICT COURT
11 EASTERN DISTRICT OF CALIFORNIA
12

13 A.E.R.T.,
14 Petitioner-Plaintiff,
15

16 v.
17

18 Minga WOFFORD, Field Office Director,
19 Mesa Verde, Office of Detention and
20 Removal, U.S. Immigrations and Customs
21 Enforcement, U.S. Department of
22 Homeland Security;

23 Sergio ALBARRAN, Acting Field Office
24 Director of the San Francisco Immigration
25 and Customs Enforcement Office
26

27 Todd M. LYONS, Acting Director,
28 Immigration and Customs Enforcement,
U.S. Department of Homeland Security;

Kristi NOEM, in her Official Capacity,
Secretary, U.S. Department of Homeland
Security; and

Pam BONDI, in her Official Capacity,
Attorney General of the United States;

Respondents-
Defendants.

No.

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

Challenge to Unlawful Incarceration Under
Color of Immigration Detention Statutes;
Request for Declaratory and Injunctive Relief

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INTRODUCTION

1. Petitioner, A.E.R.T., by and through his undersigned counsel, hereby files this petition for writ of habeas corpus and complaint for declaratory and injunctive relief.

2. A.E.R.T. seeks his immediate release from detention in Mesa Verde ICE Processing Center where ICE detained him without a warrant and continues to imprison him without a hearing and without demonstrating that he is a flight risk or danger to the community, as required by the statute and the Due Process clause of the Fifth Amendment. U.S. Const. amend V.

3. A.E.R.T. has resided in the United States since 2021 and lives in Rochester, New York.¹ He fled Honduras when he was 14 years old because he was neglected, abandoned, and feared persecution from the gang members that murdered his brother  He established a life in Rochester, New York, where he became a father and lives with his girlfriend (the mother of his child) and his guardian.² On November 23, 2022, A.E.R.T. was granted a Special Juvenile Immigrant Visa ("SIJS")³. As a new father, he was presently finishing classes needed for his high school diploma and was working 3 jobs to support his family: at a clothing store at a mall, at  and  delivery.⁴ He has an Employment Authorization Card ("EAD").⁵ A.E.R.T. has no criminal convictions. On August 15, 2025, immigration authorities arrested A.E.R.T. after approaching him on the street as he parked his car when approaching the beach with his son seated in the backseat. They did not have a warrant for A.E.R.T.'s arrest. He was placed into removal proceedings to appear before an IJ and was charged with having entered the United States without inspection and being present without valid immigration documents.⁸ U.S.C. § 1182(a)(6)(A)(i), § 1182(a)(7)(A)(i).

4. A.E.R.T. requested a bond redetermination hearing before an immigration judge (IJ"). A.E.R.T. is not a flight risk, and his deep ties to the community, including his son and mother of his son who are both United States Citizens.⁶ He is not a danger to the community, as he has no

¹ See Exhibit 6, Notice to Appear

² See Exhibit 1, SIJS Guardianship Court Order

³ See Exhibit 2, SIJS Grant Notice

⁴ See Exhibit 3, Son's Birth Certificate

⁵ See Exhibit 4, EAD Card

⁶ See Exhibit 5, , Declaration

1 criminal convictions and was gainfully employed. However, the IJ decided that they lacked
2 jurisdiction to conduct a bond redetermination hearing on September 29, 2025.

3 5. A.E.R.T. is currently in § 240 of the Immigration and Nationality Act (“§ 240
4 proceedings”). § 240 proceedings provide important statutory protections, including hearings
5 before an Immigration Judge. *See* 8 U.S.C. § 1229a(a)(1), (a)(4).

6 6. It is the position of the Executive Office for Immigration Review (EOIR), which houses
7 both the BIA and immigration judges, that 8 U.S.C. § 1225(b)(2)(A) applies to all individuals
8 who arrived in the United States without documents, regardless of how long they have lived in the
9 United States and regardless of how far they were apprehended from the border.

10 7. However, § 1225(b)(2)(A) does not apply to individuals, like Petitioner, who are present
11 in the United States. Instead, such individuals are subject to detention under a different statute, §
12 1226(a), and eligible for release on bond. *See id*; *see also* 8 U.S.C. § 1226(a). Nevertheless,
13 earlier in July 2025, ICE released a memorandum instructing its attorneys to coordinate with the
14 Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for
15 applicants who arrived in the United States without documents.

16 8. On September 5, 2025, the BIA issued *Matter of Yajure Hurtado*, adopting DHS’s
17 arguments, overruling prior agency practice, and holding that § 1225(b)(2)(A) applies to all
18 noncitizens present in the United States without admission, including long-term residents who
19 entered without inspection, subjecting them to mandatory detention during removal proceedings.
20 *See Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025).

21 9. This reading is a violation of the statute and due process. Historically, DHS interpreted §
22 1226(a) as applying to individuals like the petitioner - those present without admission but
23 apprehended inland after unlawful entry - allowing bond hearings.

24 10. As such, A.E.R.T. seeks an order of declaratory and injunctive relief and set aside relief
25 under the Administrative Procedure Act, requiring that he be provided bond redetermination
26 hearings before the immigration judge.

27 **CUSTODY**

28 11. A.E.R.T. is currently in the custody of ICE at the Mesa Verde ICE Processing Center in

Bakersfield, California. A.E.R.T. is therefore in “‘custody’ of [the DHS] within the meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION AND VENUE

12. The Court has subject matter jurisdiction pursuant to 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201–02 (Declaratory Judgment Act), 28 U.S.C. § 2241 (habeas corpus), U.S. Const. Article I, § 9, cl. 2 (the Suspension Clause), U.S. Const. amend. IV, U.S. Const. amend. V, and 5 U.S.C. §§ 701-706 (Administrative Procedure Act).

13. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is physically detained within this district.

REQUIREMENTS OF 28 U.S.C. § 2243

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

15. 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) (emphasis added).

16. Habeas corpus must remain a swift remedy. Importantly, “the statute itself directs courts to give petitions for habeas corpus ‘special, preferential consideration to ensure expeditious hearing and determination.’” *Yong v. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (internal citations omitted). The Ninth Circuit warned against any action creating the perception “that courts are more concerned with efficient trial management than with the vindication of constitutional rights.” *Id.*

17. For habeas claims, exhaustion of administrative remedies is prudential, not jurisdictional. *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2022). A court may waive the prudential

1 exhaustion requirement if “administrative remedies are inadequate or not efficacious, pursuit of
2 administrative remedies would be a futile gesture, irreparable injury will result, or the
3 administrative proceedings would be void.” *Id.* (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000
4 (9th Cir. 2004) (citation and quotation marks omitted)). A.E.R.T. asserts that exhaustion should
5 be waived because administrative remedies are (1) futile and (2) his continued detention results in
6 irreparable harm.

7 18. A.E.R.T. has attempted to seek a bond hearing from an Immigration Judge. His request
8 was summarily denied based on the current interpretation of the BIA’s recent decisions in *Matter*
9 *of Q. Li*, 29 I&N Dec. 66 (B.I.A. 2025) and *Matter of Yajure Hurtado*.

10 19. Further, no statutory exhaustion requirements apply to A.E.R.T.’s claim of unlawful
11 custody in violation of his due process rights, and there are no administrative remedies that he
12 needs to exhaust. *Reno v Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142
13 L.Ed.2d 940 (1999) (finding exhaustion to be a “futile exercise because the agency does not have
14 jurisdiction to review” constitutional claims); *In re Indefinite Det. Cases*, 82 F. Supp. 2d 1098,
15 1099 (C.D. Cal. 2000) (same).

16 PARTIES

17 20. A.E.R.T. is a citizen and national of Honduras who entered the U.S. in 2021 and has
18 remained in the country since.⁷ He has lived in New York, since he entered the United States as
19 an unaccompanied minor.

20 21. Respondent Minga WOFFORD is the Field Office Director of ICE, Mesa Verde,
21 Bakersfield, CA, and is named in her official capacity. ICE is the component of the DHS that is
22 responsible for detaining and removing noncitizens according to immigration law and oversees
23 custody determinations. In her official capacity, she is the legal custodian of A.E.R.T.

24 22. Respondent Sergio ALBARRAN is the Acting Field Office Director of the San Francisco
25 ICE Field Office. In this capacity, he is responsible for the administration of immigration laws
26 and the execution of immigration enforcement and detention policy within ICE’s San Francisco
27 Area of Responsibility, including the detention of Petitioner. Respondent Albarran maintains an

28 ⁷ See Exhibit 6, Notice to Appear

1 office and regularly conducts business in this district. Respondent Albarran is sued in his official
2 capacity.

3 23. Respondent Todd M. LYONS is the Acting Director of ICE and is named in his official
4 capacity. Among other things, ICE is responsible for the administration and enforcement of the
5 immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he
6 is the legal custodian of A.E.R.T.

7 24. Respondent Kristi NOEM is the Secretary of DHS and is named in her official capacity.
8 DHS is the federal agency that encompasses ICE, which is responsible for administering and
9 enforcing the INA and all other laws related to the immigration of noncitizens. In her capacity as
10 Secretary, Respondent Noem has responsibility for the administration and enforcement of the
11 immigration and naturalization laws pursuant to section 402 of the Homeland Security Act of
12 2002, 107 Pub. L. No. 296, 116 Stat. 2135 (Nov. 25, 2002); *see also* 8 U.S.C. § 1103(a).
13 Respondent Noem is the ultimate legal custodian of A.E.R.T.

14 25. Respondent Pam BONDI is the Attorney General of the United States and the most senior
15 official in the U.S. Department of Justice (DOJ) and is named in her official capacity. She has the
16 authority to interpret immigration laws and adjudicate removal cases. The Attorney General
17 delegates this responsibility to the Executive Office for Immigration Review (EOIR), which
18 administers the immigration courts and the BIA.

19 **STATEMENT OF FACTS**

20 26. A.E.R.T. seeks his immediate release from detention in Mesa Verde ICE Processing
21 Center where ICE detained him without a warrant and continues to imprison him without a
22 hearing and without demonstrating that he is a flight risk or danger to the community, as required
23 by the Due Process clause of the Fifth Amendment.

24 27. A.E.R.T. has resided in the United States since 2021 and lives in Rochester, New York.⁸
25 He fled Honduras when he was 14 years old because he was neglected, abandoned, and feared
26 persecution from the gang members that murdered his brother  He established a
27 life in Rochester, New York, where he became a father and lives with his girlfriend, the mother of

28 ⁸ See Exhibit 6, Notice to Appear

1 his child, and his guardian.⁹ On November 23, 2022, A.E.R.T. was granted a Special Juvenile
2 Immigrant Visa.¹⁰ As a new father, he was presently finishing classes needed for his high school
3 diploma and was working 3 jobs to support his family: at a clothing store at a mall, at
4  and . He has driver's permit license and a work authorization¹¹.
5 A.E.R.T. has no criminal convictions.

6 28. A.E.R.T. was detained on August 15th, 2025. On August 15th, 2025, A.E.R.T. started his
7 day by taking care of his son while his girlfriend worked.¹² At around 10am, A.E.R.T. went to
8 visit her at McDonalds with their son, so they could be near her while she worked. A.E.R.T.
9 noticed a car that he had not seen in his street before when he left his apartment but thought
10 nothing of it, just thought it was out of place. After spending 45 minutes in McDonalds, A.E.R.T.
11 drove to the beach with his son around 11am. As soon as he parked, three cars, including the car
12 he had seen outside of his apartment earlier that day, cornered him. Two agents in plain clothes
13 and with an I.C.E. vest approached him and pulled him out of his car while his son sat in the car
14 seat. As the I.C.E. agents placed him in handcuffs, A.E.R.T. tried to explain to the agents that he
15 had special juvenile immigrant visa. The officers replied that it was "canceled" and that he was
16 "illegal".

17 29. A.E.R.T. was detained and he did not resist, but he pled several times for the officers to
18 take his son out of the car because it was August, it was hot, and it was extremely dangerous for a
19 toddler to be left inside of a car at such high temperature. A.E.R.T. pled several times until the
20 officers took the baby out and gave the baby to A.E.R.T. to hold while he was in handcuffs. The
21 agents contacted A.E.R.T.'s girlfriend to pick up their son. Without a car, she began walking
22 towards the beach until the agents decided to pick her up.

23 30. At the scene, the agents began questioning A.E.R.T.'s girlfriend on her immigration status
24 and she responded that she was a United States citizen and was then free to leave with the baby.

25 31. A.E.R.T. at no time resisted his detention and complied with all directives. He was taken
26

27 ⁹ See Exhibit 3, Son's birth certificate

¹⁰ See Exhibit 2, SIJS Grant Notice

¹¹ See Exhibit 4, EAD card.

¹² See Exhibit 5,  Declaration

1 to a detention center by Lake Ontario where he was questioned for 2 hours and had his photos
2 taken. They asked if A.E.R.T. knew why he was arrested and he told them that he had a special
3 immigrant juvenile visa. The officers told him that it was revoked because of the incident that
4 occurred at the mall earlier that summer. His visa was in fact never revoked, only his deferred
5 action was. A.E.R.T. was taken to a smaller cell and waited two more hours before he was
6 transported to another detention center, the Batavia detention facility.

7 32. A.E.R.T. was placed in a border patrol car and was transported to the Batavia detention
8 facility in Buffalo, New York, which was an hour-long drive. Once A.E.R.T. arrived, he was
9 processed. Officers took his clothes, let him shower, gave him a uniform, and then gave him an
10 apple, water, and chips to eat. A.E.R.T. was then placed in a concrete cell with no bed nor bench
11 to sleep in, with 10 other individuals that were all waiting to be housed. After two days of waiting
12 in a concrete cell, A.E.R.T. was rehoused to a cell with a bed, and spent 25 days in Batavia. ART
13 lost a lot of weight in Batavia. The food was not nutritious and there was no commissary.

14 33. After spending 25 days in Batavia detention facility, A.E.R.T. and several dozens of
15 detainees were taken to the airport. A.E.R.T. and the other detainees were bused to the last gate
16 without going through the airport security, outside of public view, and boarded a commercial
17 plane that had its logo covered. The plane ride was from New York to Louisiana.

18 34. When A.E.R.T. and the other detainees arrived in Louisiana, they were bused to a
19 detention center that was in a remote area concealed by trees. A.E.R.T. was again processed and
20 housed in a new detention facility that had an open space enclosed by metal doors where several
21 hundred people were detained. The space was dark and cold and intimidated A.E.R.T. At 4am
22 A.E.R.T. and other detainees were woken up to eat breakfast. Lunch was served at 12pm and then
23 dinner at 6pm. A.E.R.T. spent 2-3 days in that facility, a facility described as a prison, where the
24 water given to drink was yellow in color, before being transported by bus to the airport again.
25 From Louisiana A.E.R.T. and dozens of detainees boarded a plane that flew to Texas, A.E.R.T.
26 cannot remember the city, but explains that it was a layover before continuing to El Paso, Texas.
27 In El Paso, Texas, 30 detainees were placed in a small cell that was made for 10 people to spend
28 the night. There were no beds and everyone slept on a concrete floor.

1 35. From El Paso, Texas, the detainees reboarded a plane and were flown to Washington,
2 where additional detainees were picked up and boarded the plane. Lastly, the plane flew from
3 Washington to California, where the detainees were to be housed in Mesa Verde detention center
4 in Bakersfield, California. The transportation was difficult, tiring, and left many with unsatisfied
5 hunger. The only food given to A.E.R.T. during these several trips were cheese sandwiches and
6 water for breakfast, lunch, and dinner.

7 36. A.E.R.T. has been detained at the Mesa Verde detention facility for approximately 3
8 months. When he arrived at California, he and several hundred detainees were brought to a
9 building to be processed for about an hour before they were placed on buses to be housed. When
10 they arrived at the facility they waited 30 minutes outside in the cold before they entered a dining
11 room where everyone waited to be processed again, searched, provided new uniforms, and given
12 a cell. This process took the entire night from 5pm when A.E.R.T. arrived in California and until
13 6am the next day when he was housed in a cell and given food to eat. A.E.R.T. is currently in a
14 cell that has several bunk beds and there are approximately 400 detainees.

15 37. A.E.R.T.'s next master calendar hearing will be on January 12, 2026.

16 38. A.E.R.T.'s arrest and detention have caused him, his family, and his community
17 tremendous and ongoing harm. Since being detained, A.E.R.T. has suffered from sleep
18 deprivation, lack of proper hygiene, and food deprivation. A.E.R.T. is currently detained at Mesa
19 Verde in a large, open dormitory with approximately 100 other individuals. Many individuals are
20 ill with flu-like symptoms. The detention has caused him severe emotional distress, and he feels
21 sad and depressed. He deeply misses his family. He is still unable to sleep properly. A.E.R.T. is
22 worried about missing work and not being able to support and be with his son and mother of his
23 child. Every additional day A.E.R.T. spends in unlawful detention subjects him and others to
24 further irreparable harm.

25 39. A.E.R.T. is not a flight risk, as evidenced by his compliance and his deep ties to the
26 community, including his son, his girlfriend and mother of his son, and his guardian.¹³ He is not a
27 danger to the community, as he has no criminal convictions and was gainfully employed in 3

28 ¹³ See Exhibit 3, Son's Birth Certificate

1 jobs. Further, he was granted a Special Juvenile Immigrant Visa on November 23, 2022.¹⁴

2 **LEGAL ARGUMENT**

3 40. A.E.R.T.'s removal proceedings before the Immigration Judge are governed by § 240.
4 Section 240 proceedings provide important statutory protections, including hearings before an
5 Immigration Judge. *See* 8 U.S.C. § 1229a(a)(1), (a)(4).

6 41. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for
7 noncitizens in removal proceedings.

8 42. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited
9 removal proceedings before an immigration judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in §
10 1226(a) detention are entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §
11 1003.19(a), 8 C.F.R. § 1236.1(d). Noncitizens who have been arrested, charged with, or convicted
12 of certain crimes are subject to mandatory detention. *See* 8 U.S.C. § 1226(c).

13 43. Second, the INA provides for mandatory detention of noncitizens subject to expedited
14 removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to
15 under § 1225(b)(2).

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

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

19 46. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal
20 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208,
21 Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was
22 most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3
23 (2025).

24 47. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in
25 general, people who entered the country without inspection were not considered detained under §
26 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal
27 of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum

28 ¹⁴ *See* Exhibit 2, SIJS Grant Notice

1 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

2 48. Thus, in the decades that followed, most people who entered without inspection—unless
3 they were subject to some other detention authority—received bond hearings. That practice was
4 consistent with many more decades of prior practice, in which noncitizens who were not deemed
5 “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. §
6 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a)
7 simply “restates” the detention authority previously found at § 1252(a)).

8 49. Respondents’ new policy turns this well-established understanding on its heads and
9 violates the statutory scheme.

10 50. Indeed, this legal theory that noncitizens who entered the United States without admission
11 or parole are ineligible for bond hearings was previously rejected by a District Court in the
12 Western District of Washington, among others, finding that such individuals are entitled to bond
13 redetermination hearings before immigration judges, and rejecting the application of § 1225(b)(2)
14 to such cases. *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850, at *12 (W.D.
15 Wash. Apr. 24, 2025).

16 51. Despite this finding from a federal court, in July 2025, ICE released a memorandum
17 instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR,
18 to reject bond redetermination hearings for applicants who arrived in the United States without
19 documents.

20 52. On September 5, 2025, the BIA issued *Matter of Yajure Hurtado*, adopting DHS’s
21 arguments, overruling prior agency practice, and holding that § 1225(b)(2)(A) applies to all
22 noncitizens present in the United States without admission, including long-term residents who
23 entered without inspection, subjecting them to mandatory detention during removal proceedings.
24 *See Yajure Hurtado*, 29 I&N Dec. at 220.

25 53. This reading is a violation of the statute and due process. Historically, DHS interpreted §
26 1226(a) as applying to individuals like the petitioner - those present without admission but
27 apprehended inland after unlawful entry - allowing bond hearings.

28 54. This current interpretation by the DHS defies the INA. The plain text of the statutory

provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner. 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, which “decid[e] the inadmissibility or deportability of a [noncitizen].” 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). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

55. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A).

56. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole and/or who have been residing inside of the United States.

57. The government’s recent policy shift, prompted by the July 2025 DHS guidance and *Yajure Hurtado*, is bereft of compelling justification and appears to be a policy-driven choice rather than one that is textually compelled. This agency interpretation is entitled to no judicial deference. See *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 395–96 (2024). See also *Rodriguez Vazquez v. Bostock, et al.*, 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025) (declaring that Bond Denial Class members were detained under 8 U.S.C. § 1226(a) and were not subject to mandatory detention under 8 U.S.C. § 1225(b)(2), and declaring that the Tacoma Immigration Court’s practice of denying bond to Bond Denial Class members on the basis of § 1225(b)(2) violated the Immigration and Nationality Act).

58. Moreover, this abrupt change implicates due process, as the Petitioner maintained a protected liberty interest in a bond hearing under the prior legal regime. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (prolonged detention raises significant due process concerns); *United States v. Verdugo-Urquidez*, 494 U.S. 259, 269 (1990). To revoke the opportunity for a bond

1 hearing without individualized process, where one was previously afforded, is an arbitrary
2 deprivation of liberty that shocks the conscience. *See Johnson v. Eisentrager*, 339 U.S. 763, 784
3 (1950).

4 59. The Eastern District of California has grappled with similar claims and facts in *Lepe v.*
5 *Andrews*. Then, this court ordered that respondents released petitioner immediately due to a lack
6 of flight risk or danger indicia. This court also ordered that, “if the government seeks to re-detain
7 petitioner, it must provide no less than seven (7) days’ notice to petitioner and must hold a pre-
8 deprivation bond hearing before a neutral arbiter pursuant to section 1226(a) and its implementing
9 regulations, at which petitioner’s eligibility for bond must be considered.” *Lepe v. Andrews*, No.
10 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910, at *10 (E.D. Cal. Sept. 23, 2025).

11 60. Other district courts across the country have also rejected similar reinterpretations post-
12 *Yajure Hurtado*. *See Alvarez-Chavez v Kaiser*, 25-cv-06984-LB, at *9 (N.D. Cal. Oct. 9, 2025);
13 *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, 2025 WL 2809996, at *10 (D. Mass. Oct.
14 3, 2025) (granting TRO; ordering that the government released plaintiff unless he was provided a
15 bond hearing within seven business days of the date of the order); *See also, e.g., Barrera v.*
16 *Tindall*, No. 3:25-cv-541-RGJ, 2025 WL 2690565, at *1, *4–7 (W.D. Ky. Sept. 19, 2025)
17 (ordering the release of a petitioner who was present in the U.S. for over twenty years, with three
18 U.S. citizen children, because section 1226, not section 1225, applied; “If Congress had intended
19 for Section 1225 to govern all noncitizens present in the country, who had not been admitted, then
20 it would not have recently adopted an amendment to Section 1226 that prescribes a subset of
21 noncitizens be exempt from the discretionary bond framework.” (cleaned up and collecting
22 cases)); *Singh v. Lewis*, No. 4:25-cv-96-RGJ, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025)
23 (same; petitioner had been in the United States for more than twelve years and was “not ‘seeking
24 admission’ into the United States”); *Hasan v. Crawford*, __ F. Supp. 3d __, 2025 WL 2682255, at
25 *6–10, *13 (E.D. Va. Sept. 19, 2025) (ordering immediate release under § 1226, and rejecting
26 argument that § 1225(b)(2) applied to someone like the petitioner who had been in the United
27 States for several months, had not committed any crimes, and attended all required meetings with
28 ICE officials); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 U.S. Dist. LEXIS

1 171364, at *15–16 (C.D. Cal. July 28, 2025) (same; “respondents fail to articulate any valid
2 justification, legal or otherwise, for the application of § 1225 to Petitioners as applicants for
3 admission.” (cleaned up)).

4 61. A.E.R.T. respectfully seeks a writ of habeas corpus ordering the government to release
5 him due to a lack of indicia of flight, risk, or danger, or provide the bond hearing under 8 U.S.C.
6 § 1226(a) to which he is entitled. In addition, to preserve this Court’s jurisdiction, Petitioner also
7 requests that this Court order the government not to transfer him outside of the District.

8 **FIRST CAUSE OF ACTION**

9 **Violation of 8 U.S.C. § 1226(a)**

10 ***Unlawful Denial of Bond Hearing***

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

13 63. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens
14 residing in the United States who are subject to the grounds of inadmissibility because they
15 previously entered the country without being admitted or paroled. Such noncitizens are detained
16 under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), §
17 1226(c), or § 1231.

18 64. The application of § 1225(b)(2) to bar Petitioners from receiving a bond redetermination
19 hearing before an immigration judge violates the Immigration and Nationality Act.

20 **SECOND CAUSE OF ACTION**

21 **Violation of the Administrative Procedure Act**

22 ***Unlawful Denial of Bond***

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

25 66. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens
26 residing in the United States who are subject to the grounds of inadmissibility because they
27 originally entered the United States without inspection or parole. Such noncitizens are detained
28 under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), §

1226(c), or § 1231.

67. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

THIRD CAUSE OF ACTION

Violation of 8 U.S.C. § 1226(a)

Violation of Procedural Due Process

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

69. 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* at 690.

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

71. The government's detention of Petitioners without a bond redetermination hearing to determine whether they are a flight risk or danger to others violates their right to due process.

PRAYER FOR RELIEF

WHEREFORE, A.E.R.T. prays that this Court grants the following relief:

- (1) Assume jurisdiction over this matter;
 - (2) Declare that the refusal to allow Petitioners a bond redetermination hearing before an immigration judge violates the INA, APA, and Due Process;
 - (3) Issue a writ of habeas corpus requiring that Defendants release him or provide the bond hearing under 8 U.S.C. § 1226(a) to which he is entitled immediately;
 - (4) Set aside Respondents' unlawful detention policy under the APA, 5 U.S.C. § 706(2);
 - (5) Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law;
- and

(6) Order further relief as this Court deems just and appropriate. Award reasonable costs and attorney fees; and

(7) Grant such further relief as the Court deems just and proper.

Dated: December 11, 2025

Respectfully submitted,

/s/ Natalia Santanna
Natalia Santanna
Attorney for A.E.R.T.

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

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner 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 11, 2025, in Oakland, CA.

/s/ Natalia Santanna
Natalia Santanna
Attorney for A.E.R.T.