UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

EULALIO DE MONTERROZA BONILLA **Petitioner-Plaintiff,** **v.** **PAMELA JO BONDI,** **United States Attorney General;** **KRISTI LYNN NOEM,** **Secretary of the United States Department of Homeland Security;** **TODD M. LYONS,** **Acting Director of United States Immigration and Customs Enforcement;** **SYLVESTER M. ORTEGA,** **Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement;** **BOBBY THOMPSON, Warden,** **South Texas Detention Complex** **UNITED STATES DEPARTMENT OF HOMELAND SECURITY;** **Respondents-Defendants.**	**Civ. No. 5:26-cv-517**

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241 AND FOR DECLARATORY RELIEF UNDER 28 U.S.C. § 2201 AND 5 U.S.C. § 702

INTRODUCTION

1. This petition arises under 28 U.S.C. § 2241 and challenges the lawfulness and constitutionality of Petitioner's present confinement. The United States Department of Homeland Security ("DHS") detains Petitioner, with no meaningful avenue for release, byit the label "applicant for admission" under 8 U.S.C. § 1225(b). Not because Congress commanded it, not because a neutral adjudicator found Petitioner dangerous or a flight risk, but because the Government has chosen to staple the words "applicant for admission" onto a man who has lived in the interior of the United States since 2007.

2. In December 2025, Immigration and Customs Enforcement ("ICE"), a subagency of DHS, took Petitioner into custody after a local arrest. Petitioner then sought release on humanitarian grounds directly to ICE, explaining his United States citizen wife's cancer had worsened. Petitioner provided medical documentation to substantiate. DHS denied his request for release. Petitioner's wife has since died.

3. Having exhausted all administrative avenues, and having suffered the loss of his wife, Petitioner comes now and requests this Court grant his release. He does not ask the Court to supervise removal proceedings nor seek review of any removal order. He asks something simpler and older: whether the Executive has lawful authority to keep a person detained under a statute designed for the threshold of entry, and whether it may do so while stripping him of the custody review Congress attached to the proper detention scheme.

4. The Court should enforce the statute Congress enacted—not the statute the agency wishes it had enacted. Section 1225 is not a roving detention power for people living in the interior and placed in ordinary 8 U.S.C. § 1229a proceedings. Petitioner's case underscores why: his U.S.-citizen spouse was gravely ill and undergoing cancer treatment, he sought parole on that basis, and

after his detention she passed away. Detention by mislabel, without the § 1226(a) custody framework, is ultra vires; and detention without meaningful process, when the statute does not authorize it, is unconstitutional.[1]

CUSTODY

5. Petitioner is in the legal and physical custody of Respondent SYLVESTER M. ORTEGA, Field Office Director for Detention and Removal, DHS, and Respondent BOBBY THOMPSON, Warden of South Texas Detention Complex in Pearsall, Texas. At the time of filing this petition, Petitioner is detained at the South Texas Detention Complex, 566 Veterans Drive, Pearsall, Texas 78061. The GEO Group contracts with the DHS to detain noncitizens such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

JURISDICTION

6. This Court has subject-matter jurisdiction over the instant petition and action under 28 U.S.C. §§ 2241(c)(1) and (c)(3), Art. I, § 9, cl. 2 of the United States Constitution ("Suspension Clause"), and 28 U.S.C. § 1331. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging both the lawfulness and the constitutionality of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

7. Jurisdiction is also proper under 5 U.S.C. § 702 as Petitioner suffered a legal wrong from an agency action. This Court has further remedial authority pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

8. In addition, 28 U.S.C. § 2243 directs the Court to "dispose of the matter as law and justice require," and district courts possess broad equitable authority in habeas to craft effective relief for

[1] Over 200 courts have found this application of the statute law. *See Pet Ex. 1*

unlawful detention. 28 U.S.C. § 2243; *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973); *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968).

9. No petition for habeas corpus has previously been filed in any court to review Petitioner's case.

VENUE

10. Venue properly lies within the Western District of Texas because all events or omissions giving rise to this action occurred in the district. 28 U.S.C. §§ 1391(b), 2241(d), and 1391(e). Pearsall, Texas, is in Frio County, Texas which falls within the San Antonio Division. 28 U.S.C. § 124(d)(6).

PARTIES

11. Petitioner is a native and citizen of El Salvador. He is currently detained at the South Texas Detention Complex located at 566 Veterans Drive, Pearsall, Texas 78061. His alien registration number is [redacted].

12. Respondent PAMELA JO BONDI is the Attorney General of the United States and the most senior official in the United States Department of Justice ("DOJ"). She has the authority to interpret the immigration laws and adjudicate removal cases. 8 U.S.C. § 1103(g). The Attorney General delegates this responsibility to the Executive Office for Immigration Review ("EOIR"), which administrates the immigration courts and the Board of Immigration Appeals ("BIA" or "Board"). Respondent is named in her official capacity. Respondent's address is 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

13. Respondent KRISTI LYNN NOEM is the Secretary of the U.S. Department of Homeland Security ("DHS"), an agency of the United States. Respondent is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(a). The Secretary is a legal custodian of the

Petitioner. Respondent is named in her official capacity. Respondent's address is Department of Homeland Security, Washington, D.C. 20528.

14. Respondent TODD M. LYONS is the acting Director of the ICE within DHS, an agency of the United States. Respondent is responsible for the administration and enforcement of immigration laws. Respondent is named in his official capacity. Respondent's address is 500 12th Street SW, Mail Stop 5900 Washington, D.C. 20536.

15. Respondent SYLVESTER M. ORTEGA is the Field Office Director for Detention and Removal, ICE, DHS. Respondent is a custodial official acting within the boundaries of the judicial district of the United States Court for the Western District of Texas, San Antonio Division. Pursuant to Respondent's orders, Petitioner remains detained. Respondent is named in his official capacity. Respondent's address is 1777 NE Loop 410 Floor 15, San Antonio, Texas, 78217.

16. Respondent BOBBY THOMPSON is the warden of the South Texas Detention Complex in Pearsall, Texas. He is Petitioner's immediate custodian and resides in the judicial district of the United States Court for the Western District of Texas, San Antonio Division. Respondent is named in his official capacity. Respondent's address is 566 Veterans Drive, Pearsall, Texas 78061.

17. DHS is a federal agency charged with administering statutes and regulations governing immigration pursuant to 6 U.S.C. §§ 111-115. Respondent's address is Department of Homeland Security, Washington, D.C. 20528.

STATEMENT OF FACTS

18. Petitioner is a native and citizen of El Salvador, who last entered the United States without inspection in 2007. He has resided in the interior of the United States since.

19. More recently, Petitioner was taken into custody by state authorities in Texas. Shortly thereafter, he was transferred to the custody of ICE, a subagency of DHS. DHS placed Petitioner

in removal proceedings under 8 U.S.C. § 1229a. He is currently detained at the South Texas Detention Complex in Pearsall, Texas.

20. Petitioner has been pursuing lawful immigration processes. In 2022, he married a United States citizen. He also has a United States citizen child. In December 2022, his United States-citizen spouse filed a Form I-130 immediate relative petition on his behalf. United States Citizenship and Immigration Services ("USCIS") approved the petition in November 2023. Thereafter, Petitioner filed a Form I-601A, Application for Provisional Unlawful Presence Waiver and he appeared at his scheduled biometrics appointment in June 2024. That application remains pending.

21. During the pendency of the Form I-601A, Petitioner's United States citizen spouse suffered from cancer and underwent serious treatment. After his arrest, Petitioner sought humanitarian parole from DHS so he could remain with his wife, submitting medical documentation and evidence of hardship. DHS denied the request and Petitioner's spouse later died.[2]

22. The present habeas petition challenges the Government's recent position that long-term interior residents placed in ordinary § 1229a proceedings may nevertheless be treated as detained under 8 U.S.C. § 1225(b)(2)(A)—a statute written for inspection at the threshold of entry—and

[2] The Petitioner's eligibility for relief is preserved by 8 U.S.C. § 1154(l), which mandates that the death of a qualifying relative shall not result in the denial of a pending petition or adjustment application. Because the Petitioner's Form I-130 automatically converts to a Form I-360 widow(er) petition pursuant to 8 C.F.R. § 204.2(i)(1)(iv), the statutory "extreme hardship" requirement for any associated waiver is effectively satisfied by operation of law. Specifically, USCIS policy and governing precedent establish that the death of the U.S. citizen spouse constitutes a presumptive finding of hardship, thereby removing the evidentiary burden of demonstrating further hardship to a living qualifying relative. Consequently, the Petitioner remains eligible for a waiver of inadmissibility, and his continued detention or removal would improperly bypass these statutory protections designed to prevent the "widow's penalty."

thereby denied the custody review and immigration-court bond jurisdiction that attach under the proper detention scheme.

LEGAL FRAMEWORK

The Immigration and Nationality Act ("INA") Creates Distinct Detention Regimes

23. The INA does not offer the Executive a single, all-purpose detention power. It creates separate detention regimes for separate stages of the immigration process, with different triggers, different release mechanisms, and different procedural protections.

24. First, individuals detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a bond hearing, unless they have been arrested, charged with, or convicted of certain crimes and are subject to mandatory detention. See 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); see also 8 C.F.R. §§ 1003.19(a) (immigration judges may review custody determinations made by DHS), 1236.1(d) (same).

25. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) as well as other recent arrivals deemed to be "seeking admission" under § 1225(b)(2).

26. Third, the INA authorizes detention of noncitizens who have received a final order of removal, including those in withholding-only proceedings. See 8 U.S.C. § 1231(a)–(b).

27. Sections 1225(b)(2) and 1226(a) are at issue in this case.

The Plain Reading of the Statute: Section 1225 Applies to Border Detentions and Section 1226 Applies to Interior Detention

28. The text itself confirms the above practice was the correct application of the detention statutes.

29. Section 1225 is a front-end statute. It is titled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing", governs front-end inspection and expedited removal of applicants for admission at the border and ports of entry.

30. Notably, section 1225(a)(1) provides that an alien present without admission "shall be deemed for purposes of this section an applicant for admission." That definition fixes status within § 1225; it does not by itself dictate that every such alien is detained under § 1225(b)(2) in every context.

31. Moreover, section 1225(b)(2)(A) applies where an "examining immigration officer" determines that an alien "seeking admission" is not clearly entitled to be admitted, and such alien "shall be detained for a proceeding under section 1229a." Those phrases describe the inspection setting at a port-of-entry or apprehension near the border, not years-later interior arrests in ongoing § 1229a cases.

32. In contrast, section 1226(a) ("Apprehension and Detention of Aliens") governs arrest and detention "pending a decision on whether the alien is to be removed," and authorizes the government either to continue detention or to "release the alien on ... bond" or conditional parole.

33. Past precedent forecloses any contrary interpretation. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018), summarized this structure: § 1225(b) governs detention of aliens "seeking admission to the country," while § 1226 "generally governs" detention of aliens "already in the country" pending removal. Likewise, the Fifth Circuit in *Texas v. Biden*, 20 F.4th 928, 946–47 (5th Cir. 2021), held that § 1226(a) "applies to aliens who have already entered the United States," in contradistinction to the "applicants for admission" covered by § 1225(b)(2).[3]

[3] The rule against surplusage confirms this structural reading by the Courts. The government's claim that § 1225(b)(2)(A) imposes mandatory detention on all interior non-admitted aliens would

34. That line cannot be erased by administrative choice. If § 1225(b) may be invoked as continuing authority whenever the Executive wishes—years after entry, after community residence, and after initiation of ordinary § 1229a proceedings—then § 1226(a)'s custody-review framework becomes optional. Congress did not create a bond-eligible regime only to have it dissolved by relabeling.

Congressional Intent and Historical Interpretation of the Statute: Section 1226(a) Applies to EWI Noncitizens Detained in the Interior of the United States

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

36. Critically, the Executive Office of Immigration Review ("EOIR") issued regulations in 1997 clarifying that noncitizens who entered the country without inspection ("EWI") were generally considered detained under the discretionary authority of § 1226(a), not the mandatory arrival authority of § 1225. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

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render § 1226(a)—which authorizes discretionary bond—largely superfluous for the largest class of inadmissible aliens, § 1182(a)(6)(A)(i). It would also make portions of § 1226(c), including the provisions targeting inadmissible criminal aliens, redundant. Courts must "give effect, if possible, to every clause and word of a statute," and Congress does not legislate in surpluses. *See Duncan v. Walker*, 533 U.S. 167, 174 (2001). The only construction that respects that command is the one that confines § 1225(b)(2) to its proper context: Detention and Processing at the Border.

37. Consistent with this practice dating back decades, this interpretation allowed EWI individuals placed in standard removal proceedings to be considered for release on bond before an IJ (unless statutorily ineligible due to criminal history). This treatment contrasts with individuals stopped **at the border**, who were historically only eligible for parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)). This had been the case until from 1997 until 2025.

The Government's Unlawful Policy Shift:
Mandatory Detention for All EWI Noncitizens

38. In July 2025, ICE abruptly reversed decades of practice mentioned *supra*. At that time, ICE began asserting that all individuals who entered without inspection ("EWI") must be considered "seeking admission" and thus, subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

39. This drastic policy reversal was formalized by the Attorney General and on September 5, 2025, when the Board of Immigration Appeals ("BIA" or "Board") issued the precedential decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), adopting this new, expansive interpretation.

40. This new legal interpretation fundamentally departed from the plain text of the INA, controlling federal precedent, and the government's own existing regulations, which historically placed EWI individuals like the Petitioner under the discretionary bond authority of §1226(a). Consequently, Defendants' new policies are not only contrary to law but are also arbitrary and capricious in violation of the Administrative Procedure Act ("APA"), having been adopted without the requisite notice-and-comment rulemaking procedures.

41. However, under the Supreme Court's recent decision in *Loper Bright v. Raimondo*, 603 U.S. 369 (2024), any Court should now independently interpret the statute and need not defer to the BIA's new expansive interpretation of § 1225(b)(2).

APA: Impermissibly Retroactive Application of New Detention Regime

42. Even assuming arguendo that DHS and the BIA have correctly divined the best reading of the INA (which they have not), their new detention regime cannot be applied to Petitioner. As implemented through the July 8, 2025, ICE Guidance and the precedential decision in *Matter of Yajure Hurtado*, the government has adopted what is in substance a new legislative rule: it changes the operative detention provision, strips an existing entitlement to seek bond, and replaces a decades-old framework with a new, harsher one. Like any other new regulation, that rule may operate only prospectively absent a clear congressional command to the contrary.

43. DHS: ICE July 2025 Memo Regarding Detention: Under *Landgraf v. USI Film Products*, a measure operates retroactively when it "attaches new legal consequences to events completed before its enactment." 511 U.S. 244, 270 (1994). And under *Bowen v. Georgetown Univ. Hosp.*, agencies lack authority to promulgate retroactive rules without express congressional authorization. 488 U.S. 204, 208 (1988). Taken together, those cases make two points fatal to the government's position: (1) an agency cannot, by rule, change the legal consequences of past conduct without a clear statement from Congress; and (2) relabeling such a rule as an "interpretation" does not expand the agency's power or erase the presumption against retroactivity.

44. The July 8, 2025, ICE Guidance displaced that settled framework and to reclassified the same, long-ago entry without inspection and the already-commenced § 1229a proceedings as governed by 8 U.S.C. § 1225(b)(2), a mandatory-detention provision that historically applied at the border. That is not a minor course correction; it is the functional equivalent of promulgating a

new regulation that switches the governing statute and replaces a discretionary, bond-eligible regime with mandatory confinement. Under *Bowen*, such a substantive change in the law is precisely the kind of rule that can operate only prospectively unless Congress has unmistakably authorized retroactivity.

45. AG: BIA Decision *Matter of Yajure Hurtado*: The Fifth Circuit applied those same principles in *Monteon-Camargo v. Barr*, 918 F.3d 423 (5th Cir. 2019), when the BIA attempted to broaden the definition of a theft-type crime involving moral turpitude and then apply that expansion to an older conviction. The court, relying on *Landgraf*'s "fair notice, reasonable reliance, and settled expectations" framework and its own administrative-retroactivity precedents, held that the agency could not retroactively attach new, harsher immigration consequences to completed criminal conduct by reinterpreting its statute and precedent. *Id.* at 432–34. What the BIA did there—revising the legal rule and then reaching backward to make it govern past conduct—is exactly what the Board is doing here. *Matter of Yajure Hurtado* attempts to reclassify Petitioner's long-ago entry and decade-old § 1226(a) custody as if they had always fallen under § 1225(b)(2), and to impose mandatory, no-bond detention where only discretionary, bond-eligible custody previously applied. Under *Monteon-Camargo*, that kind of retroactive change in the legal consequences of past events is impermissible.

For Writs of Habeas Corpus, Release From Custody is the Only Permissible Relief

46. Habeas corpus is a blunt instrument, not a management tool. From its origins, the writ has served one function: to test the lawfulness of custody and, if unlawful, to end it. The Supreme Court has been explicit that "[h]abeas has traditionally provided a means to seek release from unlawful detention," and that in the immigration cases historically brought through habeas, "the

relief ordered … was simply release." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109 (2020).

47. Although some courts find granting a bond hearing is a form of relief in the present writ, Petitioner disagrees. A "typical writ," issues as an order of "conditional or unconditional release," because habeas "order[s] the discharge from custody" when detention lacks legal warrant. *Jennings v. Rodriguez* at 333–34 (Thomas, J., concurring) (quoting *United States v. Jung Ah Lung*, 124 U.S. 621, 622 (1888), and *Chin Yow v. United States*, 208 U.S. 8, 13 (1908)). Where the Executive cannot point to statutory authority for confinement —or where confinement violates the Constitution, the Court's task is not to supervise detention in the form of an immigration bond hearing, but to terminate it.

48. Indeed, a court should not order relief that depends on an adjudicator who is bound to disclaim authority or on a process that predictably triggers enforcement litigation while unlawful detention continues. In *Armando Becerra Vargas v. Bondi*, the Western District of Texas recommended immediate release in part because Respondents argued that a court-ordered hearing would require an immigration judge "to do that which, in light of BIA precedent, the judge would not believe he had any authority to do." No. 25-cv-1023, 2025 WL 3300446, at *5 (W.D. Tex. Nov. 12, 2025), report and recommendation adopted, No. 25-cv-1023, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025). And even when an IJ grants bond, DHS has increasingly invoked the "automatic stay" regulation, 8 C.F.R. § 1003.19(i)(2), keeping petitioners detained notwithstanding a bond grant—prompting federal courts to enjoin or criticize that practice as unconstitutional.

Maldonado Bautista Nationwide Class Judgment

49. In *Maldonado Bautista v. Santacruz*, the U.S. District Court for the Central District of California addressed DHS's assertion that noncitizens alleged to have entered without inspection may be treated as subject to mandatory detention under 8 U.S.C. § 1225(b)(2), without access to the § 1226(a) bond framework, including immigration-court custody redetermination. *See Lazaro Maldonado Bautista v. Ernesto Santacruz Jr.*, No. 5:25-cv-01873-SSS-BFM, slip op. (C.D. Cal. Dec. 18, 2025) (order granting partial summary judgment and certifying class)

50. The court certified a nationwide class (the "Bond Eligible Class") defined as: "All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, slip op. at 4–5, 51 (C.D. Cal. Dec. 18, 2025).

51. The court then entered final judgment for the Bond Eligible Class. Final Judgment at 1–2, *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025). The judgment declares that Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2), and that they are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge. *Id.*

52. The final judgment also vacates "the Department of Homeland Security policy described in the July 8, 2025, 'Interim Guidance Regarding Detention Authority for Applicants for Admission'" under the Administrative Procedure Act ("APA") as not in accordance with law.

Final Judgment at 2, *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025).

53. Class members may enforce a federal judgment entered for their benefit even if they are not individually named. Federal Rule of Civil Procedure 71 provides: "When an order grants relief for a nonparty … the procedure for enforcing the order is the same as for a party." Fed. R. Civ. P. 71.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

54. Habeas under 28 U.S.C. § 2241 carries no statutory exhaustion requirement; any exhaustion doctrine here is prudential and yields when the usual exceptions apply—futility, lack of agency power to grant the relief sought, or risk of irreparable harm. *McCarthy v. Madigan*, 503 U.S. 140, 144–49 (1992).

55. It would be futile for Petitioner to seek a custody redetermination hearing before an IJ because of the BIA recent decision holding that anyone who has entered the U.S. without inspection is now considered an "applicant for admission" who is "seeking admission" and therefore, subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216; *see also Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (noting that BIA's decision in *Yajure Hurtado* renders exhaustion futile).

56. Indeed, Petitioner should not be required to request relief before EOIR decisions by the BIA are binding on IJs and, thus, any bond request would be thwarted by *Yajure Hurtado*. 8 C.F.R. § 103.10; *see also* 8 C.F.R. § 1003.1(g).

57. Additionally, the agency does not have jurisdiction to review Petitioner's claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v. American-Arab Anti-Discrimination Committee*, 525 U.S.

471 (1999) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims).

58. Finally, absent judicial relief, the agency may continue to detain Petitioner depriving him of his statutory and regulatory right to a bond hearing before an IJ. *See* 8 U.S.C. § 1226(a); 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a); *Matter of Guerra*, 24 I. & N. Dec. 37, 40–41 (B.I.A. 2006) (recognizing immigration court authority to redetermine custody under § 1226(a)).

CAUSES OF ACTION

COUNT ONE:
VIOLATION OF DUE PROCESS CLAUSE

Detention Untethered to Individualized Necessity—Maintained Solely by Administrative Relabeling—Is Arbitrary, Excessive, and Violates Due Process

59. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

60. The Fifth Amendment forbids arbitrary deprivation of physical liberty. *Zadvydas v. Davis*, 533 U.S. 678. Where DHS deprives a person of liberty through civil detention, it must provide meaningful process.

61. Violation of Substantive Due Process (as-applied): Substantive due process protects against arbitrary and unjustified deprivations of liberty. In the immigration context, every detention must rest on a valid statutory foundation and bear a reasonable relationship to the statute's purpose. *See Zadvydas v. Davis*, 533 U.S. at 690. Any deprivation of this fundamental liberty interest must be accompanied not only by adequate procedural protections, but also by a "sufficiently strong special justification" to outweigh the significant deprivation of liberty. *Id.*

62. The only recognized purposes for such detention are to ensure an individual's appearance at future proceedings and to protect the community from danger. *Id.* To remain regulatory,

detention must be "reasonably related" to these goals; where it is driven instead by administrative relabeling, it becomes excessive and functions as impermissible punishment.

63. Petitioner's mandatory detention turns entirely on the manner of his entry almost twenty years ago—a factor that bears no necessary relation to present dangerousness or flight risk—and ignores his long-term residence and community ties.[4]

64. Detaining Petitioner mandatorily and indefinitely, without regard to his individual circumstances and without any opportunity to seek release, is arbitrary in the constitutional sense and punitive in effect. It is not reasonably related to any legitimate regulatory purpose, particularly where Congress has elsewhere provided a calibrated regime of discretionary release and mandatory detention keyed to objective risk factors in § 1226.

65. Respondents' actions, thus, violate Petitioner's substantive due process rights and Petitioner should be released.

66. Violation of Procedural Due Process: The required process is assessed under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

67. Physical liberty sits at the core of the private interest at stake. *Zadvydas* at 690. The risk of erroneous deprivation is high because the dispositive question is legal and record-based—i.e., which custody statute governs—yet ICE makes that classification unilaterally under a shifting theory; and the immigration court, treating the Government's jurisdictional label as binding,

[4] That conclusion accords with decisions holding that detention without any individualized assessment of flight risk or danger, particularly after prior release into the community, offends substantive due process. *See Vieira v. Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 LX 410786, at *__ (W.D. Tex. 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 LX 467042, at *__ (W.D. Tex. 2025).

disclaims authority to review or correct it. Meanwhile, the Government's countervailing interest is diminished here.

68. Therefore, Respondents' actions violate Petitioner's procedural due process rights. He respectfully requests this Court order release.

COUNT TWO:
ULTRA VIRES DETENTION UNDER 8 U.S.C. § 1225(B)(2)(A)

Section 1225 Does Not Authorize Mandatory, No-Bond Detention of a Long-Term Interior Resident Arrested in Ordinary § 1229a Proceedings

69. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

70. Respondents purport to detain Petitioner under 8 U.S.C. § 1225(b)(2)(A) on the theory that, because he entered without inspection in 2007, he is forever an "applicant for admission."

71. That reading treats § 1225 as a roving detention warrant. It is not. Section 1225 is a front-end statute governing inspection and initial processing. It is not a perpetual interior detention regime for persons seized years—here, decades—after entry, while placed in ordinary removal proceedings.

72. Petitioner's posture is the opposite of "seeking admission." He is an interior resident arrested in Texas in December 2025, after which ICE was contacted and he was placed in removal proceedings.

73. Respondents have wrongfully adopted a policy and practice of arguing all noncitizens, such as Petitioner, are subject to mandatory detention under § 1225(b)(2). This Court should exercise its authority to interpret the statute independent of the agency's interpretations. *See Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (holding that courts must exercise their own independent judgment in interpreting statutes and may not defer to an agency's view simply because the statute is ambiguous, overruling *Chevron*).

74. The current detention of Petitioner under § 1225(b)(2)(A) is thus without statutory authority, and the writ of habeas corpus must be granted.

COUNT THREE:
UNLAWFUL DENIAL OF § 1226(A) CUSTODY PROCESS

Interior Custody in Ordinary § 1229a Proceedings Must Proceed Under § 1226(a) and Its Implementing Regulations

75. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

76. Section 1226(a) governs arrest-and-detention of noncitizens already in the United States and placed in removal proceedings under § 1229a. It authorizes release and custody determinations subject to immigration-judge review under the implementing regulations.

77. Respondents' choice to label Petitioner a § 1225(b)(2) detainee eliminates the statutory and regulatory custody framework Congress provided for § 1226(a) detainees—most notably the ability to seek meaningful custody review before a neutral decisionmaker. The only thing keeping Petitioner jailed is a jurisdictional label—one the Executive insists upon.

78. Petitioner is entitled to relief restoring the proper statutory custody framework and the process Congress attached to it and, for this reason, this Court should grant Petitioner's writ of habeas corpus.

COUNT FOUR:
APA VIOLATION (5 U.S.C. § 706)
THE AGENCY'S ACTIONS ARE ARBITRARY AND CAPRICIOUS

The Government's "All EWI Are § 1225" Detention Theory Conflicts with the INA's Text and Structure

79. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

80. For decades after IIRIRA, DHS and EOIR interpreted the INA and its regulations to treat interior noncitizens who entered without inspection and were placed in § 1229a proceedings—like

Petitioner—as § 1226(a) detainees with access to bond and custody redetermination, unless barred by criminal-history-based mandatory detention.

81. The new agency policy and *Matter of Yajure Hurtado* fail to meaningfully grapple with the statutory text they now stretch, the structural division between § 1225 and § 1226, the binding regulations adopted in the wake of IIRIRA, or the reliance interests generated by decades of consistent application. This is a final agency action subject to review under the APA.

82. Indeed, the agency's abrupt reclassification of long-term interior residents as "applicants for admission" under § 1225(b)(2) constitutes a "legislative rule" disguised as an interpretive one because it creates new, mandatory legal obligations and strips away existing procedural rights. Under 5 U.S.C. § 553, such a substantive change requires formal notice-and-comment rulemaking, which the agency bypassed.

83. The adoption and application of this new detention regime to Petitioner is arbitrary and capricious within the meaning of 5 U.S.C. § 706(2)(A). Because § 706(2)(A) forbids agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law," this regime, as applied to Petitioner, must be vacated.

COUNT FIVE:
APA VIOLATION (5 U.S.C. § 706)
THE AGENCY'S ACTIONS ARE IMPERMISSIBLY RETROACTIVE

The Government Cannot Apply a Newly Announced Mandatory-Detention Regime to Completed Historical Facts Without Clear Congressional Authorization

84. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

85. Even assuming arguendo the Government's new detention theory is a permissible interpretation (it is not), applying that new theory to Petitioner—based on the completed historical fact of a 2007 and almost two decades of interior residence—imposes a new and harsher legal

consequence where the governing detention framework for ordinary § 1229a proceedings historically was § 1226(a). Indeed, the government's new interpretation of § 1225(b)(2) and its application to Petitioner is impermissibly retroactive under the principles articulated in *Landgraf v. USI Film Prods.*, 511 U.S. 244; *Bowen v. Georgetown Univ. Hosp.*, 488 U.S. 204; *Monteon-Camargo v. Barr*, 918 F.3d 423.

86. Applying this mandatory detention theory to Petitioner is impermissibly retroactive because it attaches a "new disability"—no-bond confinement—to a decade-old entry that was completed long before this policy was conceived. Petitioner has spent nearly twenty years building a life, a marriage, and a family in the interior with the settled expectation that any future immigration proceedings would be governed by the discretionary bond framework of § 1226(a). Because Congress has not "unmistakably authorized" the Executive to retroactively strip noncitizens of their eligibility for custody review based on past conduct, the agency's application of *Matter of Yajure Hurtado* to Petitioner's 2007 entry is 'not in accordance with law

87. The July 8, 2025 ICE Guidance and *Matter of Yajure Hurtado* newly impose a harsher legal consequence—mandatory § 1225(b)(2) detention without bond eligibility—on a past, completed event (his decades-old entry without inspection) and strip away the legal protections that formed the backdrop of his prior choices (§ 1226(a) bond access). Moreover, The Fifth Circuit has rejected agency efforts to attach new, harsher consequences to completed events through reinterpretation alone, emphasizing reliance and settled expectations. *See Monteon-Camargo v. Barr*, 918 F.3d 423. This case is no different in principle: Respondents seek to transform Petitioner's decades-old entry into a present-day, no-bond jail key.

88. As applied to Petitioner, the new detention regime is therefore impermissibly retroactive, "not in accordance with law," and invalid under 5 U.S.C. § 706(2)(A).

COUNT SIX:
ENFORCEMENT OF MALDONADO BAUTISTA FINAL JUDGMENT (RULE 71)

Enforcement of Nationwide Class Judgment Declaring Bond Eligibility Under 8 U.S.C. § 1226(a) (Fed. R. Civ. P. 71)

89. Petitioner re-alleges and incorporates by reference all preceding paragraphs.

90. A federal court has entered a final judgment in a nationwide class action declaring that members of the *Maldonado Bautista* Bond Eligible Class are detained under 8 U.S.C. § 1226(a), are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and are entitled to bond consideration by immigration officers and, if not released, a custody redetermination hearing before an immigration judge. Final Judgment at 1–2, *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), ECF No. 94.

91. Petitioner is a class member (or, at minimum, fits the class definition): he is alleged to have entered without inspection (2007), was not apprehended upon arrival, is in ordinary § 1229a proceedings, and Respondents' basis for no-bond custody is the asserted applicability of § 1225(b)(2)(A) via *Matter of Yajure Hurtado*. *See Maldonado Bautista*, 2025 WL 3288403, at *9 (class definition)

92. Despite the class judgment, Respondents continue to treat Petitioner as detained under § 1225(b)(2)(A) and bond that the *Maldonado Bautista* judgment declares class members must receive under § 1226(a). Final Judgment, *supra*.

93. Federal Rule of Civil Procedure 71 authorizes enforcement by persons who benefit from an order but are not individually named: "When an order grants relief for a nonparty … the procedure for enforcing the order is the same as for a party." Fed. R. Civ. P. 71. Petitioner therefore seeks enforcement of the *Maldonado Bautista* final judgment in this Court and an order granting

effective relief—release from custody unless Respondents promptly provide the § 1226(a) custody framework the class judgment requires.

PRAYER FOR RELIEF

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

1) Assume jurisdiction over this matter;

2) Issue an Order to Show Cause ordering Respondents to show why the Petition should not be granted within three days;

3) Enjoin Respondents from transferring Petitioner outside this District while this action is pending;

4) Issue a Writ of Habeas Corpus ordering Petitioner's immediate release from custody;

5) In the alternative to immediate release, order a custody hearing within seven (7) days and order release unless Respondents prove by clear and convincing evidence that continued detention is necessary. If such relief is granted find that:

   a) Petitioner is a member of the *Maldonado Bautista* Bond Eligible Class and enforce that Court's final judgment under Federal Rule of Civil Procedure 71.

   b) Respondents are enjoined from invoking the automatic-stay regulation, 8 C.F.R. § 1003.19(i)(2), or any similar stay mechanism to prevent release following a bond grant;

   c) Respondents are barred from arguing the immigration court lacks jurisdiction to set bond (so the Court's relief is not rendered illusory);

6) Respondents must file an expedited status report promptly after any hearing and upon any custody change.

7) Grant him any further relief this Court deems just and proper.

Respectfully submitted this 29 January 2026.

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ATTORNEY FOR PETITIONER

By: s/Francisco Alvillar
Francisco Alvillar
State Bar No. 24057742

VERIFICATION OF COUNSEL

I, Francisco Alvillar, state as follows:

1. I am counsel for the Petitioner in this action.
2. I make this verification on Petitioner's behalf because Petitioner is currently in custody and is not in the same location as counsel.
3. I have read the foregoing Verified Petition for Writ of Habeas Corpus. I am familiar with the facts of this case, and the facts stated in the Petition are true and correct to the best of my knowledge, information, and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated: January 29, 2026

s/Francisco Alvillar
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CERTIFICATE OF SERVICE

I certify, in accordance with the rules of this Court, I filed the foregoing via the Court's CM/ECF system, which will send notice to all registered counsel of record.

Dated: January 29, 2026

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