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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

SANTOS ALBERTO GUEVARA-NATARAN, *Petitioner,* *v.* **BOBBY THOMPSON,** Warden, South Texas ICE Processing Center; **MIGUEL VERGARA,** Acting/Director of the San Antonio Field Office U.S Immigration and Customs Enforcement; **TODD M. LYONS,** Acting Director of Immigration Customs Enforcement **KRISTI NOEM,** Secretary of the U.S. Department of Homeland Security; and **PAMELA BONDI,** Attorney General of the United States, in their official capacities, *Respondents.*	Case No. 5:26-cv-552 A File Number: [redacted] **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, SANTOS ALBERTO GUEVARA-NATARAN, is a 43-year old citizen of Honduras who has resided in the U.S. for approximately 25 years. Petitioner entered the United States without inspection circa July 2000. Petitioner is currently detained at the South Texas ICE Processing Center at 566 Veterans Drive, Pearsall, TX 78061. **Exh. A-ICE Detainee Locator Results.** He now faces unlawful detention.
2. The Department of Homeland Security (DHS) insists that its authority to detain him stems from 8 U.S.C. 1225(b) and that he is therefore ineligible a bond hearing. This assertion is legally incorrect. Nevertheless, the EOIR has validated this position in contravention of the plaint text of the statue and decades of statutory interpretation and practice.
3. On September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge lacks authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board concluded that such individuals are detained under 8 U.S.C. § 1225(b)(2)(A) and thus cannot be released on bond
4. However, Federal district courts across the nation have reached a clear consensus: Section 1225(b) does not apply to Petitioner's circumstances, and Respondents' reliance on this inapplicable statute renders his detention unlawful. Because Petitioner cannot be detained under Section 1225(b)(1) or Section 1225(b)(2), the only lawful basis for continued detention would be Section 1226-which provides for individualized bond determinations.

5. Furthermore, the government made the determination in 2022 that Petitioner was not subject to mandatory detention and not subject to detention under any provisions under the Immigration & Nationality Act.

6. Petitioner was granted a release on recognizance on August 23, 2022. Since then, Petitioner has been going to all Immigration Court hearings. In fact, he was detained at his court hearing on January 21, 2026 and has since been held in detention.

7. In this case, the risk of erroneous deprivation is high. When Respondents released Petitioner in 2022, they did so because they determined he was not a flight risk or a danger to the community. *See e.g.*, *Fernandez Lopez*, 2025 WL 2959319 at *4 (quoting 8 U.S.C. § 1182(d)(5)(A)).

8. Because the private interest in freedom from immigration detention is substantial, due process requires the government to bear the burden of proving by clear and convincing evidence that Petitioner is a flight risk or danger to the community before re-detaining him. *See e.g.*, *Fernandez Lopez*, 2025 WL 2959319 at *8; *J.S.H.M. v. Wofford*, 2025 WL 2938808, *16 (E.D. Ca. Oct. 16, 2025) (unpub); *Abduraimov*, 2025 WL 2912307 at *9; *Mata Velasquez v. Kurzdorfer*, --- F.Supp.3d ----, 2025 WL 1953796, *17 (W.D.N.Y. July 16, 2025) (detention of parolee without a reasoned explanation or changed circumstances and without a meaningful opportunity to be heard violates due process).

9. Finally, the government's interest in re-detaining Petitioner without first providing notice and a custody hearing is minimal. *See e.g.*, *Fernandez Lopez*, 2025 WL 2959319 at *6; *J.S.H.M.*, 2025 WL 2938808 at *18; *Noori*, 2025 WL 2800149 at *11 ("Respondents did not provide Petitioner individualized notice and reasoning prior to his arrest and detention on [ ] , 2025 and have presented no legitimate reason for why those decisions

were made. Any governmental interest of efficient administration of immigration laws . . . does not outweigh these first two factors.").

10. Accordingly, Petitioner seeks a writ of habeas corpus ordering his immediate release, as the government has already determined that he is neither a danger to the community nor a flight risk.

JURISDICTION

11. Petitioner is in the physical custody of Respondents. Petitioner is detained at the South Texas Detention Center in Pearsall, Texas.

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

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

VENUE

14. Venue is proper with this Court because Petitioner is detained at the South Texas ICE Processing Center at 566 Veterans Drive, Pearsall, TX 78061, which is within the jurisdiction of this District

REQUIREMENTS OF 28 U.S.C. § 2243

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

16. 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).

EXHAUSTION

17. Administrative exhaustion is unnecessary as it would be futile. *See, e.g., Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542–43 (E.D. Va. 1999). 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 (BIA 2025); *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).

18. 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 Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a "futile exercise because the agency does not have jurisdiction to review" constitutional claims).

PARTIES

19. Petitioner Santos Alberto Guevara-Nataran is a citizen of Honduras who has been in immigration detention since January 21, 2026. He is currently detained at the South Texas Detention Center.

20. Respondent Bobby Thompson is the Warden of the South Texas ICE Processing Center and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

21. Respondent Miguel Vergara is sued in his official capacity as the Acting Field Office Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement. Respondent Vergara is a legal custodian of Petitioner and has authority to release him.

22. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.

23. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention / custody. Respondent Noem is a legal custodian of Petitioner.

24. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

25. Petitioner is a 43-year-old citizen of Honduras. He entered the United States without inspection circa July 2000, when he was 18 years old. Petitioner has resided continuously in the United States for approximately twenty-five years.

26. On July 29, 2022, Petitioner was driving a vehicle when he was detained by local police for a traffic stop. He was turned over to DHS on August 2, 2022. On that same day, a Notice to Appear ("NTA") was issued, charging that Petitioner was present in the United Sates without being admitted or paroled, under INA 212(a)(6)(A)(i). **Exh. B - Notice to Appear.**

27. Three weeks later, on August 23, 2022, DHS released Petitioner on his own recognizance pending his removal proceedings. **Exh. C - Order of Release on Recognizance.**

28. Petitioner timely filed his Form I-589 application for asylum with the Immigration Court on November 16, 2022 shortly after removal proceedings had been initiated by DHS. The Immigration Court had scheduled his next Master calendar hearing for August 5, 2026. **Exh. D – Notice of Hearing for August.**

29. He also has a pending Military Parole in Place ("MPIP") because his 21-year-old daughter is an active-duty member of the Marines. Once the MPIP was approved, he would have been able to obtain his permanent resident status because he has a 21-year-old US Citizen daughter to petition him.

30. However, on January 21, 2026, right after the master calendar hearing concluded at the San Antonio Immigration Court, the Petitioner was detained and subsequently transferred to the South Texas Detention Center. **Exh. E – Notice of Hearing for January**. Petitioner

was detained despite the fact that he attended all of his immigration hearings, has a pending asylum case, and he has no criminal convictions.

31. Petitioner is being detained unlawfully. Absent relief from this Court, he faces the prospect of months or even years in immigration custody—despite the government's finding that he is neither a danger nor a flight risk when he was released under the government's discretion on August 23, 2022 – and while his immigration hearings and pending applications remain unresolved.

LEGAL FRAMEWORK

32. The Immigration and Nationality Act ("INA") proscribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

33. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. *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).

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

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

36. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-

–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was amended last year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

37. Following IIRIRA, EOIR issued regulations explaining that, as a general rule, people who entered the United States without inspection were not treated as detained under § 1225, but instead fell under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997).

38. For decades thereafter, noncitizens who entered without inspection and were placed in ordinary § 1229a removal proceedings received bond hearings unless barred by the criminal mandatory-detention provision at 8 U.S.C. § 1226(c). That practice was consistent with earlier law, under which non-"arriving" noncitizens were entitled to custody hearings before an immigration judge or other officer. *See* 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (explaining that § 1226(a) "restates" the prior detention authority in § 1252(a)).

39. In *Jennings v. Rodriguez*, the Department of Homeland Security (DHS) explicitly acknowledged that individuals who have already entered the United States and are not apprehended within 100 miles of the border or within 14 days of entry are subject to discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b). During oral argument on November 30, 2016, then–Solicitor General Ian Gershengorn stated: "If they are not detained within 100 miles of the border or within 14 days… then they are under 1226(a) and not 1226(c)" and further clarified, in response to a question concerning "an alien who has come into the United States illegally without being admitted

[and] who takes up residence 50 miles from the border," the Government responded, "The answer is they are held under 1226(a) and that they get a bond hearing..." Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. ___ (2018) (No. 15-1204). DHS reiterated that such individuals "would be held under 1226(a)" and cited the administrative record to support that position. *Id.* These statements reflect DHS's prior litigation stance that § 1226(a) governs detention for noncitizens who have entered and are residing in the United States, a position directly contrary to the agency's current interpretation applying § 1225(b)(2)(A) to such individuals.

40. On July 8, 2025, ICE—"in coordination with" DOJ—issued the "Interim Guidance Regarding Detention Authority for Applicants for Admission" (the "Todd M. Lyons memo"), abruptly abandoning this long-settled regime. The memo asserts that all individuals who entered without inspection are now subject to § 1225(b)(2)(A)'s mandatory-detention provision, regardless of when or where they are apprehended, even if they have lived in the United States for years. [1]

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

42. Since Respondents adopted their new policies, a wave of federal courts have rejected the new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same new reading of the statute as ICE.[2]

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

[2] *See, e.g., Dominguez-Vega v. Thompson*, 25-CA-01439-XR (W.D. Tex Nov. 19, 2025); *Belsai v. Bondi, et al.*, No. 25-cv-3862 (KMM/EMB), 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Lepe v. Andrews*, No. 1:25-CV-01163-KES-

43. In this District, courts have repeatedly rejected Respondents' new reading of the detention statutes and held that § 1226(a)—not § 1225(b)(2)—governs custody for long-resident noncitizens arrested in the interior, including those charged with entry without inspection. *See Gonzalez Guerrero v. Noem*, No. 1:25-cv-01334-RP (W.D. Tex. Oct. 27, 2025) (preliminary injunction holding that § 1226, not § 1225(b)(2), governs custody for interior arrests because a broad reading of § 1225(b)(2) would render § 1226 superfluous); *Pereira-Verdi v. Lyons*, No. 5:25-cv-01187-XR (W.D. Tex. Oct. 10, 2025) (TRO requiring § 1226 process and enjoining re-detention without notice and a pre-deprivation hearing); *Hernandez-Ramiro v. Bondi*, No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025) (TRO requiring a prompt § 1226 bond hearing with the Government bearing the burden, or release if no hearing is set); *Santiago-Santiago v. Noem*, No. 3:25-cv-361-KC, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025) (granting habeas relief for a DACA recipient misclassified under § 1225(b)); *Alvarez Martinez v. Noem*, No. 5:25-cv-01007-JKP, 2025 WL 2598379 (W.D. Tex. Sept. 8, 2025) (granting habeas and holding that the automatic stay of an IJ's bond

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SKO (HC), 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. C25-4048-LTS-MAR, --- F.Supp.3d ---, 2025 WL 2712417 (N.D. Iowa Sept. 23, 2025); *Salazar v. Dedos*, No. 1:25- cv-00835-DHU-JMR, 2025 WL 2676729 (D. N.M. Sept. 17, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sept. 9, 2025); *Chanaguano Caiza v. Scott*, 25-cv-00500, 2025 WL 2806416, at *3 (D. Me. Oct. 2, 2025); *Luna Quispe v. Crawford, et al.*, No. 1:25-CV-1471-AJT-LRV, 2025 WL 2783799, at *6 (E.D. Va. Sept. 29, 2025); *Vazquez v. Bostock*, No. 25-cv-05240, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025); *J.U. v. Maldonado*, 25-CV-04836, 2025 WL 2772765, at *5 (E.D.N.Y. Sept. 29, 2025); *Rivera Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *7 (D.N.J. Sept. 26, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 WL 2712427, at *5 (N.D. Iowa, Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-96, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025); *Pablo Sequen v. Kaiser*, No. 25-cv-06487, 2025 WL 2650637, at *7-8 (N.D. Cal. Sept. 16, 2025); *Alvarez-Chavez v. Kaiser*, 25-cv-06984-LB 2025 WL 2909526 (N.D. Cal., Oct. 9, 2025);*Cerritos-Echevarria v Bondi*, No. CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Az. Oct. 3, 2025);*Padron-Covarrubias v. Vergara*, 5:25-cv-00112, (S.D. Tex. October 8, 2025); *Santiago-Santiago v. Bondi*, EP-25-CV-361-KC, 2025 WL 2792588, (W.D. Tex. Oct. 2, 2025); *Cardin-Alvarez v. Rivas*, CV 25-02943 PHX GMS (CDB), 2025 WL 2898389 (D. Az. Oct. 7, 2025); *Buenrostro-Mendez v. Bondi, et al.*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025). *But see Chavez v. Noem*, 3:25-cv-02325-CAB-SBC, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025 ("by the plain language of § 1225(a)(1) the petitioners are "applicants for admission" and thus subject to the mandatory detention provisions of "applicants for admission" under § 1225(b)(2)[.]"); *Vargas-Lopez v. Trump, et al.*, 8:25CV526 2025 WL 2780351 (D. Neb. Sept. 29, 2025) (the petitioner is an alien within the "catchall" scope of § 1225(b)(2) subject to detention without possibility of release on bond through a proceeding on removal under § 1229a, per 8 U.S.C. § 1225(b)(2)).

order violates due process); *Lopez-Arevelo v. Ripa*, No. 3:25-cv-00337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025) (rejecting §§ 1252(g) and 1252(b)(9) as jurisdictional bars and ordering a bond hearing with a clear-and-convincing burden on the Government); *Martinez v. Noem*, No. 3:25-cv-00430-KC, 2025 WL 2965859 (W.D. Tex. Oct. 21, 2025) (holding that even assuming § 1225(b) applies, *Mathews* requires an individualized bond hearing); *Souza Vieira v. De-Anda Ybarra*, No. 3:25-cv-00432-DB, 2025 WL 2937880 (W.D. Tex. Oct. 16, 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Erazo Rojas v. Noem*, No. 3:25-cv-00443-KC (W.D. Tex. Oct. 30, 2025).

44. Courts elsewhere in the Fifth Circuit—particularly in the Southern District of Texas—have reached the same conclusion and provided detailed reasoning that strongly supports Petitioner's position here. *See Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-cv-00112 (S.D. Tex. Oct. 8, 2025); *Ortiz-Ortiz v. Bondi*, No. 5:25-cv-00132 (S.D. Tex. 2025); *Hernandez Lucero v. Noem*, No. 4:25-cv-03981 (S.D. Tex. 2025); *Granados Gonzalez v. Bondi*, No. 4:25-cv-04756 (S.D. Tex. 2025); *Barrera Martinez v. Noem*, No. 5:25-cv-00164 (S.D. Tex. 2025); *Lopez de Leon v. Harlingen Field Office of Immigration & Customs Enforcement and Removal Operations Div.*, No. 5:25-cv-00165 (S.D. Tex. 2025). Those decisions uniformly recognize that applying § 1225(b)(2) to long-resident interior arrests would render § 1226 superfluous and violate due process, and they order either immediate release or a prompt bond hearing at which the Government bears the burden.

ARGUMENT

45. *Hernandez v. Lyons* closely parallels Petitioner's situation. *Hernandez v. Lyons* No. 25-cv-01803-XR (W.D. Tex. Dec. 30, 2025). *See also Hernandez-Fernandez v. Lyons*, No. 5:25-cv-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025). There, a Cuban national entered the U.S.A without inspection, was released on an Order of Release on Recognizance, and attended all her immigration hearings and appointments for over three years. However, she was later re-detained at a routine check-in. The district court held that (1) it has Jurisdiction to consider Petitioner's claims; (2) her detention was unlawful, and habeas relief is proper; and (3) the proper remedy was to release the Petitioner from custody, within 5 days. *See Hernandez v. Lyons,* No. 25-cv-01803-XR (W.D. Tex. Dec. 30, 2025), at *1–11*. Petitioner should receive the same protection here.

46. Taken together—particularly the decisions from this District and from *Hernandez*—this growing body of case law confirms the same point: § 1226(a) is the default detention authority for noncitizens in § 1229a removal proceedings who are already present in the United States, including those charged as inadmissible for entering without inspection, whereas § 1225(b) governs inspections at the border and recent arrivals "seeking admission."

47. Section 1226 therefore squarely applies to people like Petitioner: noncitizens already in the interior, charged as inadmissible for entering without inspection, and in § 1229a proceedings.

48. By contrast, § 1225(b) is structurally and textually tied to inspections "at the Nation's borders and ports of entry," where the Government must determine whether a person "seeking to enter" is admissible. *Jennings*, 583 U.S. at 287; 8 U.S.C. § 1225(b)(2)(A). It is

not the default detention authority for individuals who, like Petitioner, have already entered, been released into the interior under § 1226, and lived in the community for an extended period.

49. The Government's own records in this case confirm that Petitioner falls under § 1226(a), not § 1225(b). DHS issued Petitioner an I-220A, or Order of Release on Recognizance, explicitly invoking § 236 of the INA (8 U.S.C. § 1226) and setting conditions of release. DHS then alleged in the Notice to Appear that Petitioner "entered the United States without inspection and without parole or lawful admission." That combination—a § 1226-based release and an entry-without-inspection charge—squarely places Petitioner within § 1226's framework, just as in the Western and Southern District cases cited above.

50. Section 1226 therefore leaves no doubt that it applies to noncitizens charged as inadmissible to the United States, including those who are present without admission or parole.

CAUSES OF ACTION

COUNT ONE
Violation of the Bond Regulations

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

52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States simply because they already entered the country (without being admitted or paroled). Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

53. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT TWO
Violation of Fifth Amendment Right to Due Process

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

55. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

56. By statute and regulation, as interpreted by the Board of Immigration Appeals (BIA), ICE has the authority to re-arrest a noncitizen and revoke their bond, only where there has been a change in circumstances since the individual's release. 8 U.S.C. § 1226(b); 8 C.F.R. § 236.1(c)(9); *Matter of Sugay*, 17 I&N Dec. 647, 640 (BIA 1981). The government has further clarified in litigation that any change in circumstances must be "material." *Saravia v. Barr*, 280 F. Supp. 3d1168, 1197 (N.D. Cal. 2017), aff'd sub nom. Saravia for *A.H. v. Sessions*, 905 F.3d 1137 (9th Cir.2018) (emphasis added). That authority, however, is proscribed by the Due Process Clause because it is well-established that individuals released from incarceration have a liberty interest in their freedom.

57. At a minimum, in order to lawfully re-arrest Petitioner, the government must first establish, by clear and convincing evidence, and before a neutral decision-maker, that he is a danger to the community or a flight risk, such that his re-incarceration is necessary. Here the government already determined he is neither a danger nor a flight risk on August 23, 2022,

when they released him on his own recognizance. ICE's re-arrest of Petitioner on January 21, 2026, violated these regulations, laws, and due process.

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

59. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process under the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Order that Petitioner shall not be transferred outside the Western District of Texas while this habeas petition is pending;

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

(4) Declare that Petitioner's detention is unlawful;

(5) Issue a Writ of Habeas Corpus requiring that Respondents immediately release Petitioner again on his own recognizance, parole, or reasonable conditions of supervision. Or, in the alternative, provide a custody redetermination hearing before an impartial arbiter, within two days where the government bears the burden of showing that Petitioner is a flight risk or a danger to the community;

(6) Grant further relief that this Court deems just and appropriate.

Respectfully submitted,

/s/ Raquel Lina Ramos
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Attorney for Petitioner

DATED this 30th day of January, 2026.

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

I represent Petitioner, Santos Alberto Guevara-Nataran, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED this 30th day of January, 2026.

/s/ Raquel Lina Ramos
Raquel Lina Ramos, Esq.
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on January 30, 2026, I caused a true and correct copy of the foregoing Petition for Writ of Habeas Corpus and all accompanying exhibits to be served by certified mail, return receipt requested, on the following:

U.S. Attorney's Office for the Western District of Texas
Attn: Stephanie Rico, Civil Process Clerk
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216

Warden, South Texas Detention Complex
Bobby Thompson
566 Veteran's Drive
Pearsall, TX 78061

Service on the United States Attorney constitutes service on all named federal Respondents in this matter, and service has also been made directly on the Warden as Petitioner's immediate custodian.

/s/ Raquel Lina Ramos
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