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Antonio SANTOS GODINEZ

**UNITED STATES DISTRICT COURT
DISTRICT OF NEVADA (LAS VEGAS)**

* * *

Antonio SANTOS GODINEZ

Petitioner,

vs.

Kristi NOEM, Acting Secretary of the
United States Department of Homeland
Security;

Pamela BONDI, Attorney General of the
United States;

Jason KNIGHT, Salt Lake City Acting Field
Office Director, Enforcement and Removal
Operations, U.S. Immigration and Customs
Enforcement;

Frank D'AMICO, Corrections Captain at
Henderson Detention Center.

Respondents.

Case No.:

Agency: 

**VERIFIED PETITION FOR A WRIT
OF HABEAS CORPUS PURSUANT TO
28 U.S.C. § 2241**

Verified Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241

1 Petitioner, Antonio SANTOS GODINEZ, petitions this Court for a writ of habeas corpus
2 to remedy his unlawful detention by Respondents, as follows:

3 I. INTRODUCTION

- 4
- 5 1. This is a Petition for Writ of Habeas Corpus filed on behalf of Antonio Santos Godinez
6 (“Petitioner”) seeking relief to remedy his unlawful detention. Respondents are detaining
7 Petitioner due to their new policy interpreting the provision of 8 U.S.C. §1225 (b)(2)
8 which subjects individuals to mandatory detention to persons that entered the U.S. without
9 inspection and have been residing in the U.S. for years, instead of applying 8 U.S.C.
10 1226(a) which would allow them to seek discretionary release on bond during the
11 pendency of their removal proceedings.¹ The government’s nationwide policy has been
12 affirmed by the Board of Immigration Appeals (“BIA”) precedential decision in *Matter*
13 *of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
14
- 15 2. On November 20, 2025, the U.S. District Court for the Central District of California issued
16 a partial summary judgment declaring the DHS policy affirmed by *Matter of Yajure*
17 *Hurtado* is unlawful. *Bautista v. Santacruz*, 25-CV-01873, 2025 WL 3289861, at *11
18 (C.D. Cal. Nov. 20, 2025). On November 25, 2025, the U.S. District Court for the Central
19 District of California extended the ruling nationwide when it certified a class consisting
20 of:
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25 ¹ See Interim Guidance Regarding Detention Authority for Applicants for Admission, available at
26 <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

[a]ll 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.

Bautista v. Santacruz, No. 25-CV-01873, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 20, 2025).

3. Despite this nationwide ruling in *Bautista*, the government continues to apply their unlawful policy as evidenced by EOIR Chief Immigration Judge Teresa L. Riley's January 13, 2026's leaked email directing all immigration judges to continue treating *Hurtado* as binding precedent. *See Ramirez v. Noem*, 2026 U.S. Dist. LEXIS 23793, *4-5, 2026 LX 36829.

4. In addition to the nationwide ruling, this Court has recently certified class membership consisting as:

All noncitizens in the U.S. without lawful status (1) who are or will be arrested or detained by ICE; (2) who are or will be in removal proceedings before an Immigration Court within the District of Nevada; (3) whom DHS alleges or will allege to have entered the United States without inspection or parole; (4) who are not or will not be subject to detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time they are scheduled for or request a bond hearing; and (5) whose most recent arrest by ICE occurred inside the United States and not while arriving in the United States.

See Ramirez v. Noem, 2026 U.S. Dist. LEXIS 23793, *48, 2026 LX 36829.

However, a final resolution has not been issued, necessitating the instant action.

- 1 5. Finally, this Court has recognized on various occasions that noncitizens in Petitioner's
2 circumstances are subject to detention under § 1226(a). *See, e.g., Ramirez v. Noem*, 25-
3 CV-02136, 2025 WL 3270137, at *2 (D. Nev. Nov. 24, 2025).
- 4 6. Prior to this policy and BIA decision, Petitioner would have been eligible for a bond
5 hearing under 8 U.S.C. §1226(a) to assess his danger to the community and risk of flight.
- 6 7. Furthermore, in the event that an Immigration Judge grants the Petitioner a bond, the U.S.
7 Department of Homeland Security ("DHS or "Department" or "Government") has been
8 systemically invoking the automatic stay under 8 C.F.R. §1003.19(i)(2), which keeps an
9 individual detained throughout his removal proceedings including the appeals process,
10 even if the individual is successful on the merits of his case.
- 11 8. It is immaterial whether the Petitioner appeals his bond denial to the BIA, because in
12 *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220–28 (BIA 2025), the BIA has established
13 precedent which results in the Immigration Judges' bond determinations and orders
14 continued detention without bond. Consequently, any such appeal would be futile, as the
15 BIA is now uniformly applying this decision to deny bond relief.
- 16 9. Petitioner is a 49-year-old native and citizen of Mexico who initially entered the United
17 States in or around 2004. He has spent numerous years in the United States and has deep
18 and longstanding ties to this country. Throughout his time in the United States, he has
19 lived an honest, responsible, and productive life.
- 20 10. Petitioner has never been arrested and has no criminal history. There is no allegation that
21 he poses a danger to the community or a risk of flight.
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- 1 11. On February 1, 2026, Petitioner was apprehended by the Department of Homeland
2 Security while en route to his employment and taken into immigration custody due a
3 suspect “targeted enforcement lead from open sources and law enforcement databases”
4 despite not having any criminal history. He remains detained at the Henderson Detention
5 Center and faces prolonged detention throughout his removal proceedings absent judicial
6 intervention.
7
- 8 12. Prior to his detention, Petitioner was steadily employed as a tile installer with TNT Tile,
9 where he worked beginning in or around 2023. He is a dedicated worker and the sole
10 financial provider for his household. Prior to this employment he worked with other tile
11 installation companies in the same trade.
12
- 13 13. Petitioner is married and the father of three U.S. citizen children, ages 21, 18, and 9. He
14 plays a critical role in his family’s emotional and financial stability. His continued
15 detention has caused severe hardship to his wife and children, who depend on his income
16 and presence for support.
17
- 18 14. Petitioner also suffers from medical issues, including a history of vision problems and
19 recent eye surgery. His family remains deeply concerned about his health and ability to
20 receive adequate medical care while detained.
21
- 22 15. His unlawful detention is not justified under the Constitution nor the Immigration and
23 Nationality Act (“INA”). *See Jennings v. Rodriguez*, 138 S. Ct. 830, 858-59 (2018)
24 (leaving the door open for Constitutional claims challenging the prolonged detention of
25 immigrant detainees pre-final order of removal); *see also Vazquez v. Feeley*, 2025 U.S.
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1 Dist. LEXIS 182412, 2025 LX 460110, 2025 WL 2676082 (D. Nev. Sep. 17, 2025); *see*
2 *also Roman v. Noem*, No. 25-CV-01684-RFB-EJY, 2025 WL 2710211 (D. Nev. Sep. 23,
3 2025).

4
5 16. Although no circuit court has yet addressed this precise question, more than three hundred
6 federal district courts, including this one, have held that applying 8 U.S.C. § 1225(b)(2)
7 to impose mandatory detention is unlawful. *See Ramirez v. Noem*, 2026 U.S. Dist. LEXIS
8 23793, *3, 2026 LX 36829.

9
10 17. A federal court in this District has likewise granted relief in at least 60 similar cases. *See*
11 *n.1 Ramirez v. Noem*, 2026 U.S. Dist. LEXIS 23793, *3, 2026 LX 36829.

12 18. These courts have recognized that DHS's new policy and the BIA's reasoning in *Matter*
13 *of Yajure Hurtado* misapply 8 U.S.C. § 1225(b)(2) to cases like Petitioner's, when the
14 proper authority lies under 8 U.S.C. § 1226(a). This growing body of authority
15 underscores the fundamental error in treating Petitioner as subject to mandatory detention.
16

17 19. The government's position which has been affirmed by the Board of Immigration
18 Appeals, that Petitioner is an "applicant for admission" subject to mandatory detention
19 under INA § 235(b)(2)(A) and ineligible for bond, has resulted in Petitioner remaining
20 detained at the Henderson Detention Center.

21
22 20. Petitioner's continued detention is in violation of the Due Process Clause of the Fifth
23 Amendment. His mandatory detention is not justified under the Constitution or the INA.
24 Petitioner seeks an order from this Court finding that his continued detention is unlawful
25 and directing the Respondents to provide Petitioner with a custody hearing within seven
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(7) days under 8 U.S.C § 1226(a), and to enjoin the government from denying bond on the ground that he is detained under § 1225(b)(2). If the government fails to provide the required bond hearing, Petitioner further requests his immediate release.

21. Furthermore, if the Immigration Judge finds that Petitioner is not a danger to the community or flight risk and is given a bond, that he be allowed to post the bond, prohibiting the U.S. Department of Homeland Security to seek an automatic stay under 8 C.F.R. §1003.19(i)(2), or in the alternative provide a status conference to monitor the case.

22. In the event, Petitioner is successful with his bond request, he further requests the Respondents be enjoined from re-detaining Petitioner throughout his removal proceedings and any appellate process, including judicial review, unless Petitioner is arrested for a new alleged crime and that he be afforded another bond hearing under 8 U.S.C. 1226(a); INA 236(a).

II. CUSTODY

23. Petitioner is in the physical custody of Respondents and ICE. At the time of the filing of this petition, Petitioner is detained at the Henderson Detention Center in Henderson, Nevada. The Henderson Detention Center contracts with DHS to detain aliens such as Petitioner. Petitioner is under the direct control of Respondents and their agents.

III. JURISDICTION

24. This action arises under the Constitution of the United States and the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (“APA”), 5 U.S.C. § 701, et seq.

1 25. This Court has jurisdiction under 28 U.S.C. § 2241; Art. I, § 9, cl. 2 of the United States
2 Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is presently in
3 custody under color of authority of the United States, and such custody is in violation of
4 the Constitution, laws, or treaties of the United States.
5

6 26. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All-
7 Writs Act, 28 U.S.C. § 1651. While Section 1226(e) of the INA precludes an alien from
8 challenging a discretionary judgment by the Attorney General or a decision that the
9 Attorney General has made regarding their detention or release, *see Jennings v. Rodriguez*,
10 138 S. Ct. 830, 841 (2018), Section 1226(e) “does not preclude challenges to the statutory
11 framework that permits the alien’s detention without bail.” *Jennings*, 138 S. Ct. at 841.
12 Moreover, this court has already determined in *Vazquez v. Feeley*, that none of the
13 jurisdiction stripping provisions of the INA such as 8 U.S.C. §§1252 (b)(9), 1252(g),
14 1252(a) and 1226(e) are applicable here.
15
16

17 IV. VENUE

18 27. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 500, 93 S.
19 Ct. 1123, 1132, 35 L. Ed. 2d 443 (1973), venue lies in the United States District Court for
20 Nevada, the judicial district where Petitioner currently is detained, pursuant to 28 U.S.C.
21 §1391(e).
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V. PARTIES

28. Petitioner, Antonio Santos Godínez, is a native and citizen of Mexico who initially entered the United States in or around 2004. Petitioner has been in the custody of Respondents since February 1, 2026.

29. Respondent Kristi Noem is the Acting Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA) and oversees ICE. Mrs. Kristi Noem has ultimate custodial authority over Petitioner.

30. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the implementation and enforcement of the INA, and oversees the Executive Office for Immigration Review (EOIR), which is comprised of the Office of the Immigration Judge and the Board of Immigration Appeals (BIA or Board). She is being sued in her official capacity.

31. Respondent Jason Knight, is the Acting Field Office Director for Salt Lake City Field Office of Detention and Removal Operations, U.S. Immigration and Customs Enforcement, Department of Homeland Security. As such, Respondent Jason Knight is Petitioner's legal custodian, charged with the responsibility of determining whether Petitioner will be detained in ICE custody or released pending the conclusion of his ensuing immigration removal proceedings throughout judicial review. He is being sued in his official capacity.

32. Respondent Frank D'Amico is the corrections captain at the Henderson Detention Center and is, therefore, Petitioner's immediate custodian. He is being sued in his official capacity.

VI. FACTUAL ALLEGATIONS

33. Petitioner is a 49-year-old citizen and national of Mexico who initially entered the United States in or around 2004. Prior to being detained, Petitioner resided with his wife and their three U.S. citizen children, ages 21, 18, and 9, who depend on him for emotional and financial support.

34. Petitioner's 21-year-old son is actively serving in the United States Army.

35. Furthermore, Mr. Santos Godinez is prima facie eligible for Military Parole in Place (PIP) under INA 212(D)(5)(A), as the parent of an active-duty member of the U.S. Military, a benefit explicitly intended to promote family unity and recognize the sacrifices made by military families.

36. Petitioner shares a close and supportive relationship with his family and plays an essential role in their daily lives. He is a dedicated parent and spouse, providing stability, care, and guidance to his children. Since his detention, his family has suffered significant hardship, including financial strain and emotional distress.

37. Petitioner has a history of medical issues, including past vision problems and recent eye surgery. Detention has intensified his health problems, leaving him vulnerable, stressed, and emotionally overwhelmed.

1 38. Prior to his detention, Petitioner was steadily employed as a tile installer at TNT Tile
2 beginning in 2023. He has maintained consistent employment, demonstrating reliability,
3 strong work ethic, and the ability to support his family.
4

5 39. Petitioner has never been arrested and has no criminal history. He poses no danger to the
6 community and is not a flight risk.

7 40. On February 1, 2026, Petitioner was apprehended on warrant by the Department of
8 Homeland Security while en route to his job and placed in custody at the Henderson
9 Detention Center. Shortly thereafter, he was served with a Notice to Appear initiating
10 removal proceedings pursuant to INA § 240, 8 U.S.C. § 1229a.
11

12 41. Under DHS's new policy interpreting 8 U.S.C. § 1225(b)(2), Petitioner is treated as
13 subject to mandatory detention as an "applicant for admission," even though he has
14 resided in the United States for many years. This policy, affirmed by the BIA in *Matter*
15 *of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), results in Petitioner being categorically
16 ineligible for a bond hearing. Consequently, he has been deprived of any meaningful
17 opportunity to seek release from custody under 8 U.S.C. § 1226(a).
18

19 42. Petitioner's detention has caused severe hardship to his wife and children. His spouse,
20 who previously devoted herself full-time to caring for their home and their children, and
21 has been forced to seek employment and rely on limited savings and loans from friends
22 and family to meet basic household expenses.
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1 43. Petitioner has maintained strong moral character, longstanding residence in the United
2 States, stable employment, and significant family and community ties, all demonstrating
3 that he is not a flight risk.

4
5 44. Petitioner's continued detention is unnecessary and unjustified, serving no legitimate
6 government interest, and only exacerbates the hardship suffered by his family while
7 placing his health and well-being at risk.

8 45. In light of Petitioner's unlawful detention, it is both necessary and appropriate for this
9 Court to exercise its authority to grant a bond hearing under 8 U.S.C. § 1226(a). Petitioner
10 seeks release or a bond redetermination to alleviate the irreparable harm caused by his
11 ongoing confinement.
12

13 VII. CLAIMS FOR RELIEF

14 A. Statutory Violation

15 46. Petitioner re-alleges and incorporates by reference paragraphs 1 through 45, above.

16
17 47. The Department's new position, reaffirmed by the BIA's precedential decision in *Matter*
18 *of Yajure Hurtado* contravenes the plain text of the statute. Section §1226(a), not
19 §1225(b), applies to individuals like the Petitioner.

20 48. Section 1226(a) governs by default all individuals in removal proceedings under § 1229a,
21 which determine inadmissibility or deportability. The statute explicitly covers those
22 charged as inadmissible, including entrants without inspection, and ensures they are
23 entitled to bond hearings under subsection (a). On the other hand, § 1225(b) applies only
24 to individuals arriving at ports of entry or immediately after entry, as it is built around
25
26

1 inspection of applicants for admission. Thus, the mandatory detention provision of §
2 1225(b)(2) does not extend to the Petitioner.

3
4 49. Therefore, Respondents' continued detention of Petitioner is therefore unlawful and
5 contravenes 8 U.S.C. § 1226(a), and the U.S. Constitution. Accordingly, Respondent's
6 continued detention of Petitioner is contrary to statute.

7 **B. Violation of Fifth Amendment Due Process**

8 50. Petitioner re-alleges and incorporates by reference paragraphs 1 through 49, above.

9
10 51. Under the Due Process Clause of the Fifth Amendment, an alien is entitled to a timely and
11 meaningful opportunity to demonstrate that he should not be detained or removed. *See,*
12 *e.g., Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) (quoting *Reno v. Flores*, 507 U.S. 292,
13 306 (1993)).

14 52. Respondents have deprived Petitioner of his right to procedural due process by detaining
15 him since February 1, 2026, prohibiting him from having a bond redetermination hearing
16 under 8 C.F.R. §1003.19. *See Ramirez*, 2025 WL 3270137, at *11.

17
18 **C. Substantive Due Process Violation**

19 53. Petitioner re-alleges and incorporates by reference paragraphs 1 through 52, above.

20 54. Petitioner's continued detention violates Petitioner's right to substantive due process
21 through a deprivation of the core liberty interest in freedom from bodily restraint.

22
23 55. The Due Process Clause of the Fifth Amendment requires that the deprivation of
24 Petitioner's liberty interest be narrowly tailored to serve a compelling government
25 interest. Any interest Respondents may claim in detaining Petitioner to facilitate his
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1 removal does not justify his unlawful and prolonged detention without an opportunity for
2 an individualized assessment. Petitioner is entitled to a bond hearing before an
3 immigration judge to determine whether he poses a flight risk or danger to the community.
4

5 56. Petitioner's continued detention separates him from his wife and three U.S. citizen
6 children, who depend on him for emotional, financial, and practical support. His family
7 suffers in his absence, facing financial hardship and emotional distress due to the loss of
8 his care, income, and presence in their daily lives. The conditions of confinement impose
9 additional harms, including incarceration in jail-like facilities, inadequate medical care,
10 and other substandard living conditions. Petitioner's mental health, including a history of
11 depression, anxiety, and vision problems, is further jeopardized by the isolation and
12 uncertainty of detention.
13

14 57. Therefore, his mandatory detention without a bond hearing infringes upon the
15 fundamental liberty interest in freedom from physical restraint. Accordingly, Respondents
16 cannot show a "sufficiently strong special justification" for continuing to deprive
17 Petitioner of his fundamental human rights.
18

19 **VIII. PRAYER FOR RELIEF**

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

- 21
- 22 1. Assume jurisdiction over this matter;
 - 23 2. Enjoin Respondents from transferring Petitioner outside of this judicial district pending
24 litigation of this matter and the entirety of his removal proceedings;
25
- 26

3. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
4. Pursuant to 28 U.S.C. § 2243 issue an order directing Respondents to show cause why the writ of habeas corpus should not be granted;
5. Grant Petitioner a writ of habeas corpus directing the Respondents to immediately provide a bond hearing under 8 U.S.C. §1229(a), and if the Immigration Judge grants a bond, to further enjoin the government from filing an automatic stay under 8 C.F.R. § 1003.19(i)(2);
6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. § 504 and 28 U.S.C. § 2412, and on any other basis justified under law; and
7. Grant any other and further relief as the Court deems just and proper.

Dated: February 12, 2026

/S/ SYLVIA L. ESPARZA

Sylvia L. Esparza, Esq.

Attorney for Petitioner

1 **VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT**
2 **TO 28 U.S.C. § 2242**

3 I am submitting this verification on behalf of the Petitioner because I am the Petitioner's
4 attorney. I have discussed with the Petitioner the events described in this Petition. On the basis of
5 those discussions, I hereby verify that the statements made in the attached Petition for Writ of
6 Habeas Corpus are true and correct to the best of my knowledge.
7

8 Dated: February 12, 2026

9 **/S/ SYLVIA L. ESPARZA**

10 Sylvia L. Esparza, Esq.

11 Attorney for Petitioner
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Verified Petition for a Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241

1 **CERTIFICATE OF SERVICE**

2 I hereby certify that a copy of the foregoing pleading/document was mailed certified mail,
3 return receipt requested, and personal delivery, to the following, above mentioned Respondents
4 on February 12, 2026 at the following addresses:
5

- 6 1. United States Attorney for the District of Nevada.
7 501 Las Vegas Boulevard South, Suite 1100
8 Las Vegas, NV 89101-6519
9
10 2. Kristi NOEM, Secretary of the United States Department of Homeland Security.
11 Washington, D.C. 20528-0001
12
13 3. Pamela BONDI, Attorney General of the United States.
14 950 Pennsylvania Avenue, NW
15 Washington, DC 20530-0001
16
17 4. Jason KNIGHT, Acting Field Office Director Office of Detention and Removal
18 Operations, ICE.
19 2975 Decker Lake Drive, Suite 100
20 West Valley City, UT, 84119-6094
21
22 5. Frank D'AMICO, Corrections Captain at Henderson Detention Center
23 18 E. Basic Rd., Henderson, NV 89015
24
25
26
27
28

Dated: February 12, 2026

/S/ SYLVIA L. ESPARZA

Sylvia L. Esparza, Esq.
Attorney for Petitioner

