

1 Ammon Clemens
Utah Bar #18885
2 KEEN LAW OFFICES, LLC 39 S 400 W
Orem, Utah 84058
3 Phone: (801) 374-5336
Fax: (801) 374-0047
4 **Attorney for Petitioner**

5
6
7 UNITED STATES DISTRICT COURT
8 DISTRICT OF NEVADA

9 Alejandro RAMIREZ QUEMA,

10 Petitioner,

11 v.

12 John MATTOS, Warden of the Nevada
Southern Detention Center
13 Michael BERNACKE, Field Office Director
of Enforcement and Removal Operations, Salt
14 Lake City, Immigration and Customs
Enforcement;
15 Kristi NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
16 HOMELAND SECURITY;
17 Pamela BONDI, U.S. Attorney General;
EXECUTIVE OFFICE FOR
18 IMMIGRATION REVIEW;

19 Respondents.

Case No. 2:26-cv-00409

**AMENDED PETITION
FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner Alejandro Ramirez Quema is in the physical custody of Respondents at
3 the Nevada Southern Detention Center. He now faces unlawful detention because the
4 Department of Homeland Security (DHS) and the Executive Office of Immigration Review
5 (EOIR) have unlawfully concluded Petitioner is subject to mandatory detention.

6 2. Petitioner is charged with, inter alia, having entered the United States without
7 inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

8 3. Based on this allegation in Petitioner's removal proceeding, DHS denied
9 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
10 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
11 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
12 inspection—to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore
13 subject to mandatory detention.

14 4. Indeed, the DHS policy states it was issued “in coordination with the Department
15 of Justice (DOJ).” The policy concludes that notwithstanding Petitioner's over 20 years of
16 residing in the United States, he is nevertheless an “applicant for admission” who is “seeking
17 admission” and subject to mandatory detention under § 1225(b)(2)(A).

18 5. The reasoning adopted by DHS and the Immigration Judge is further stated in the
19 Board's decision in *Matter of Yajure-Hurtado*, which makes clear that the government's position
20 is that individuals who have already completed an entry into the United States without inspection
21 are properly treated as “arriving aliens” or applicants for admission for purposes of mandatory
22 detention under § 1225(b), notwithstanding decades of practice which have found the contrary.

6. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

7. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released from custody immediately, or in the alternative, the DHS demonstrate at a bond hearing under § 1226(a) why he should remain in custody within fourteen days.

JURISDICTION

9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Nevada Southern Detention Center, in Pahrump, Nevada.

10. 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).

11. 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

12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the District of Nevada, the judicial district in which Petitioner currently is detained.

13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the District of Nevada.

8 REQUIREMENTS OF 28 U.S.C. § 2243

14. 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, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

15. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . 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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

19 PARTIES

16. Petitioner Alejandro Ramirez Quema is a citizen of Mexico who has been in immigration detention since February 1st, 2026. After Petitioner was arrested in Utah, ICE did not set bond, and he is being denied consideration for bond release under the policy of the Executive Office for Immigration Review, which considers him ineligible for bond consideration

1 as an “applicant for admission”, despite Mr. Ramirez’s 20 years of continuous residence in the
2 United States.

3 17. Respondent John Mattos is employed by CoreCivic as the Warden of the Nevada
4 Southern Detention Center, where Petitioner is detained. He has immediate physical custody of
5 Petitioner. He is sued in his official capacity.

6 18. Respondent Michael Bernacke is the Director of the Salt Lake City Office of
7 ICE’s Enforcement and Removal Operations division, the field office with jurisdiction over
8 Nevada. As such, he is Petitioner’s immediate custodian and is responsible for Petitioner’s
9 detention and removal. He is named in his official capacity.

10 19. Respondent Kristi Noem is the Secretary of the Department of Homeland
11 Security. She is responsible for the implementation and enforcement of the Immigration and
12 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms.
13 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

14 20. Respondent Department of Homeland Security (DHS) is the federal agency
15 responsible for implementing and enforcing the INA, including the detention and removal of
16 noncitizens.

17 21. Respondent Pamela Bondi is the Attorney General of the United States. She is
18 responsible for the Department of Justice, of which the Executive Office for Immigration Review
19 and the immigration court system it operates is a component agency. She is sued in her official
20 capacity.

21 22. Respondent Executive Office for Immigration Review (EOIR) is the federal
22 agency responsible for implementing and enforcing the INA in removal proceedings, including
23 for custody redeterminations in bond hearings.

LEGAL FRAMEWORK

23. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally 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).

25. 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).

26. 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).

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

28. 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 most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

29. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited

1 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
2 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

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

10 31. On July 8, 2025, DHS, “in coordination with” DOJ, announced a new policy that
11 rejected well-established understanding of the statutory framework and reversed decades of
12 practice, while providing little legal justification for the change.

13 32. The new policy, entitled “Interim Guidance Regarding Detention Authority for
14 Applicants for Admission,”¹ claims that all persons who entered the United States without
15 inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore
16 are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies
17 regardless of when a person is apprehended, and affects those who have resided in the United
18 States for months, years, and even decades.

19 33. On September 5, 2025, the BIA (Board of Immigration Appeals) issued a decision
20 in the *Matter of Yajure Hurtado* 9 I&N Dec. 216 (BIA 2025). That decision holds that all
21 noncitizens who entered the United States without admission or parole are considered applicants
22 for admission and are ineligible for immigration judge bond hearings. This precedential opinion

23 _____
24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 formally obligating all immigration judges to follow the policy and removing any administrative
2 relief for affected non-citizens.

3 34. ICE and EOIR have adopted this position even though federal courts have
4 rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration
5 court stopped providing bond hearings for persons who entered the United States without
6 inspection and who have since resided here, the U.S. District Court in the Western District of
7 Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not §
8 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States.
9 *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24,
10 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass.
11 July 7, 2025) (granting habeas petition based on same conclusion).

12 35. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez* court
13 explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b),
14 applies to people like Petitioner.

15 36. Section 1226(a) applies by default to all persons “pending a decision on whether
16 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
17 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

18 37. The text of § 1226 also explicitly applies to people charged as being inadmissible,
19 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
20 (E)'s reference to such people makes clear that, by default, such people are afforded a bond
21 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
22 creates “specific exceptions” to a statute’s applicability, it “proves” that absent those exceptions,
23
24

1 the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove*
2 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

3 38. Section 1226 therefore leaves no doubt that it applies to people who face charges
4 of being inadmissible to the United States, including those who are present without admission or
5 parole.

6 39. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
7 recently entered the United States. The statute's entire framework is premised on inspections at
8 the border of people who are "seeking admission" to the United States. 8 U.S.C.
9 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
10 applies "at the Nation's borders and ports of entry, where the Government must determine
11 whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583
12 U.S. 281, 287 (2018).

13 40. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to
14 people like Petitioner, who have already entered and were residing in the United States at the
15 time they were apprehended.

16 FACTS

17 41. Petitioner has resided in the United States continuously for 22 years and lives in
18 Orem, Utah.

19 42. On February 1st, 2026, Petitioner was arrested during a traffic stop in Murray,
20 Utah under suspicion of driving under the influence of alcohol. Shortly after, an ICE hold was
21 issued and Petitioner was transferred to the Nevada Southern Detention Center, where he is
22 currently being held.

1 43. DHS placed Petitioner in removal proceedings before the Las Vegas Immigration
2 Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being
3 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States
4 without inspection.

5 44. Petitioner is married to a United States citizen and has two United States citizen
6 children. He has lived and worked in the Utah County, Utah area for many years and has already
7 begun the process of rectifying his immigration status via a family-based I-130 petition, which
8 was approved on July 21st, 2021. Petitioner has no history or violent or destructive behavior and
9 has no significant criminal history outside the suspected DUI for which he was taken into
10 custody. Petitioner is neither a flight risk nor a danger to the community.

11 45. Following Petitioner's arrest and transfer to the Nevada Southern Detention
12 Center, ICE issued a custody determination to continue Petitioner's detention without an
13 opportunity to post bond or be released on other conditions. Current DHS and EOIR policy does
14 not allow Petitioner to be considered for bond release, as they classify him as an "applicant for
15 admission."

16 46. As a result, Petitioner remains in detention. Without relief from this court, he
17 faces the prospect of months, or even years, in immigration custody, separated from his family
18 and community.

19 47. Any appeal to the BIA is futile. DHS's new policy was issued "in coordination
20 with DOJ," which oversees the immigration courts. Further, as noted, the most recent
21 unpublished BIA decision on this issue held that persons like Petitioner are subject to mandatory
22 detention as applicants for admission. Finally, in the *Rodriguez Vazquez* litigation, where EOIR
23 and the Attorney General are defendants, DOJ has affirmed its position that individuals like
24

1 Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A). *See* Mot.
2 to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6,
3 2025), Dkt. 49 at 27–31.

4 CLAIMS FOR RELIEF

5 COUNT I

6 Violation of the INA

7 48. Petitioner incorporates by reference the allegations of fact set forth in the
8 preceding paragraphs.

9 49. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
10 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
11 relevant here, it does not apply to those who previously entered the country and have been
12 residing in the United States prior to being apprehended and placed in removal proceedings by
13 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
14 § 1225(b)(1), § 1226(c), or § 1231.

15 50. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
16 detention and violates the INA.

17 COUNT II

18 Violation of Due Process

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

21 52. The government may not deprive a person of life, liberty, or property without due
22 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government
23 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
24

1 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653
2 (2001).

3 53. Petitioner has a fundamental interest in liberty and being free from official
4 restraint.

5 54. The government’s detention of Petitioner without a bond redetermination hearing
6 to determine whether he is a flight risk or danger to others violates [his/her/their] right to due
7 process.

8 **PRAYER FOR RELIEF**

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

- 10 a. Assume jurisdiction over this matter;
- 11 b. Issue a writ of habeas corpus requiring that within one day, Respondents release
12 Petitioner;
- 13 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
14 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
15 fourteen days;
- 16 d. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
17 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
18 law; and
- 19 e. Grant any other and further relief that this Court deems just and proper.
- 20

21 DATED this 19 of March, 2026.

22 /s/ T. Laura Lui
23 **T. Laura Lui**
24 Attorney for Petitioner

/s/ Ammon Clemens
Ammon Clemens
Attorney for Petitioner