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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF CALIFORNIA

HECTOR RAMIREZ PEDRO,

Petitioner,

v.

TODD BLANCHE, U.S. ATTORNEY  
GENERAL,

MARKWAYNE MULLIN,  
SECRETARY, U.S. DEPARTMENT  
OF HOMELAND SECURITY,

TODD LYONS, ACTING DIRECTOR  
OF U.S. IMMIGRATION AND  
CUSTOMS ENFORCEMENT,

WARDEN OF IMPERIAL  
REGIONAL DETENTION  
FACILITY,

EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW,

U.S. DEPARTMENT OF  
HOMELAND SECURITY,

Respondents.

Case No. **'26CV3186 RBM SBC**

**VERIFIED PETITION FOR WRIT  
OF HABEAS CORPUS UNDER 28  
U.S.C. § 2241**

## INTRODUCTION

1. Petitioner Mr. Hector Ramirez Pedro is in the physical custody of Respondents at the Imperial Regional Detention Facility in Calexico, California. (See Exhibit A, ICE Online Detainee Locator). He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have concluded that he is subject to mandatory detention.
2. On September 5, 2025, the Board of Immigration Appeals issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no 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 determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.
3. 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 section 1226(a), which 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.

- 1 4. Section 1225 governs “applicants for admission” encountered at the border or  
2 its functional equivalent, while section 1226 governs those “already in the  
3 country.” *Jennings v. Rodriguez*, 583 U.S. 282, 288-89 (2018).
- 4
- 5 5. Courts across the country have consistently held that noncitizens already  
6 present in the United States are governed by 8 U.S.C. § 1226(a), not §  
7 1225(b)(2)(A), and cannot be treated as arriving aliens without contravening  
8 the plain language of the Immigration & Nationality Act (“INA”). *See, e.g.*,  
9 *Cunha v. Freden*, No. 25-3141, --- F.4th ---, 2026 WL 1146044 (2d Cir. Apr.  
10 28, 2026); *Hernandez-Alvarez v. Warden, Fed. Det. Ctr. Miami*, Nos. 25-14065  
11 & 25-14075, --- F.4th ---, 2026 WL 1243395 (11th Cir. May 6, 2026);  
12 *Castanon Nava v. U.S. Dep’t of Homeland Sec.*, 161 F.4th 1048, 1062 (7th Cir.  
13 2025) (appeal proceedings ongoing); *Maldonado Bautista v. Santacruz*, No.  
14 5:25-CV-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026) (appeal  
15 pending).
- 16
- 17 6. Nonetheless, the Executive Office for Immigration Review, the immigration  
18 court, and the Department of Homeland Security (DHS) have refused to abide  
19 by the declaratory relief and have unlawfully denied Petitioner the opportunity  
20 to be released on bond.
- 21
- 22 7. Only two appellate courts have ruled in the government’s favor. *See*,  
23 *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026); *Avila v. Bondi*, 170  
24 F.4th 1128 (8th Cir. 2026). Those decisions have no binding effect here.
- 25
- 26
- 27
- 28

1 8. Petitioner entered the United States on or about 2005.

2 9. On April 30, 2026, Petitioner was stopped by a police officer while driving in  
3 Boynton Beach, Florida, and was subsequently taken into ICE custody based  
4 on his immigration status.  
5

6 10. On May 4, 2026, Respondents issued a Notice to Appear for Petitioner,  
7 charging him under 8 U.S.C. § 1182(a)(6)(A)(i) (INA § 212(a)(6)(A)(i)) as an  
8 alien who was not admitted or paroled into the United States. (See Exhibit B,  
9 Notice to Appear).  
10

11 11. Petitioner was detained twenty-one years after his initial entry. Therefore, he  
12 is currently detained under 8 U.S.C. § 1226(a), the discretionary detention  
13 provision that authorizes release on bond or conditional parole.  
14  
15

16 12. Petitioner is a Guatemalan national with no criminal history that would indicate  
17 he is a danger to society. His continued confinement under these circumstances  
18 serves no lawful basis where Congress has expressly authorized bond  
19 consideration under § 1226(a).  
20

21 13. The Fifth Amendment protections apply “to all persons within the United  
22 States, including aliens, whether their presence here is lawful, unlawful,  
23 temporary, or permanent”. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).  
24

25 14. Over the years, the courts have stepped in to ensure that vulnerable classes of  
26 immigrants receive the protections to which they are entitled as a matter of law,  
27 due process, and fundamental notions of fairness. The case at bar presents an  
28

1 opportunity for this Honorable Court to step in once again in the interest of  
2 justice and allow this innocent man to be released in accordance with the law.

3  
4 15. Because Respondents are detaining Petitioner in violation of the Immigration  
5 and Nationality Act, this Court should expeditiously grant the petition.

6 16. The Court should order Respondent DHS to release Petitioner within one day.

7  
8 17. Alternatively, the Court should order his release unless Respondents provide a  
9 bond hearing under 8 U.S.C. § 1226(a) within seven days.

### 10 JURISDICTION

11  
12 18. This action arises under the Constitution of the United States and the INA, 8  
13 U.S.C. § 1101.

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

17  
18 20. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory  
19 Judgment Act, 28 U.S.C. § 2201, and the All Writs Act, 28 U.S.C. § 1651.

### 20 VENUE

21  
22 21. Petitioner is in the physical custody of Respondents. Petitioner is detained at  
23 the Imperial Regional Detention Facility in Calexico, California.

24  
25 22. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484,  
26 493-500 (1973), venue lies in the United States District Court for the Southern  
27 District of California, the judicial district in which Petitioner currently is  
28

1 detained.

2 23. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because  
3 Respondents are employees, officers, and agencies of the United States, and  
4 because a substantial part of the events or omissions giving rise to the claims  
5 occurred in the Southern District of California.  
6

7  
8 **REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243**

9 24. The Court must grant the petition for writ of habeas corpus “forthwith” unless  
10 the petitioner is not entitled to relief. 28 U.S.C. § 2243.

11  
12 25. Habeas corpus is “perhaps the most important writ known to the constitutional  
13 law . . . affording as it does a swift and imperative remedy in all cases of illegal  
14 restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The  
15 application for the writ usurps the attention and displaces the calendar of the  
16 judge or justice who entertains it and receives prompt action from him within  
17 the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th  
18 Cir. 2000).  
19  
20

21 26. Petitioner is “in custody” within the meaning of 28 U.S.C. § 2241 because he  
22 is detained by Respondents at the Imperial Regional Detention Facility in  
23 Calexico, California pursuant to immigration detention authority. Petitioner  
24 challenges that custody as unlawful under the Constitution, federal law, and  
25 applicable treaties.  
26  
27  
28

## PARTIES

1  
2 27. Petitioner Mr. Hector Ramirez Pedro is a citizen of Guatemala who entered the  
3 United States on or about 2005 and has been in immigration detention since  
4 April 30, 2026.  
5

6 28. Respondent Markwayne Mullin is the Secretary of the Department of  
7 Homeland Security. He is responsible for the implementation and enforcement  
8 of the INA, and oversees ICE, which is responsible for Petitioner's detention.  
9 Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his  
10 official capacity.  
11  
12

13 29. Respondent Todd Blanche is the Attorney General of the United States. He is  
14 responsible for the Department of Justice, of which the Executive Office for  
15 Immigration Review and the immigration court system it operates is a  
16 component agency. He is sued in his official capacity.  
17

18 30. Respondent Todd Lyons is the Acting Director of the U.S. Department of  
19 Homeland Security Immigration and Customs Enforcement. He is sued in his  
20 official capacity.  
21  
22

23 31. Respondent Warden of Imperial Regional Detention Facility is responsible for  
24 the facility where Petitioner is detained. The Warden is sued in their official  
25 capacity.  
26

27 32. Respondent Executive Office for Immigration Review is the administrative  
28 agency responsible for adjudicating immigration cases and oversees

1 Petitioner's removal proceedings and related custody determinations. It is sued  
2 in its official capacity.

3 33. Respondent U.S. Department of Homeland Security is the federal agency  
4 responsible for immigration enforcement and detention and has authority over  
5 and maintains custody of Petitioner in connection with these proceedings. It is  
6 sued in its official capacity.  
7  
8

### 9 STATEMENT OF FACTS

10 34. Mr. Hector Ramirez Pedro ("Petitioner") is a native and citizen of Guatemala  
11 who has been in ICE custody since April 30, 2026. After Petitioner was arrested  
12 in Boynton Beach, Florida, ICE did not set bond.  
13

14 35. Petitioner entered the United States on or about 2005.  
15

16 36. On May 4, 2026, Respondents issued a Notice to Appear for Petitioner,  
17 charging him under 8 U.S.C. § 1182(a)(6)(A)(i) (INA § 212(a)(6)(A)(i)) as an  
18 alien who was not admitted or paroled into the United States, and under 8  
19 U.S.C. § 1182(a)(7)(A)(i)(I) (INA § 212(a)(7)(A)(i)(I)) as an immigrant who,  
20 at the time of application for admission, was not in possession of a valid entry  
21 document. (See Exhibit B, Notice to Appear).  
22  
23

24 37. As of the filing of this petition, Petitioner has been wrongfully detained for  
25 nearly a month without an individualized bond hearing.  
26

### 27 EXHAUSTION

28 38. Exhaustion under 28 U.S.C. § 2241 is prudential, not jurisdictional, and other

1 courts have repeatedly excused it where administrative review is inadequate,  
2 futile, or would cause irreparable harm. *See, Martinez Lopez v. LaRose*, No. 25-  
3 CV-2717-JES-AHG, 2025 WL 3030457, at \*3 (S.D. Cal. Oct. 30, 2025)  
4 (waiving administrative exhaustion because *Matter of Yajure Hurtado* renders  
5 an appeal of Section 1225 classification futile); *Quintana Casillas v. Sessions*,  
6 No. 17-cv-01395 (D. Colo. 2018) (explaining that when “the question presented  
7 is purely legal and has been repeatedly mishandled administratively, exhaustion  
8 serves no useful purpose.”).

9  
10  
11  
12 39. In this case, the erroneous decision in *Matter of Yajure Hurtado*, coupled with  
13 ICE’s mandatory detention policy, foreclosed any meaningful opportunity for  
14 relief. Under these circumstances, requiring Petitioner to pursue administrative  
15 remedies would serve no purpose and would only prolong unlawful detention.  
16

## 17 STATEMENT OF LAW

### 18 *Mandatory Detention Scheme*

19  
20 40. Immigration detention has two statutory goals: (1) “to ensure the noncitizen’s  
21 appearance at future immigration proceedings” and (2) “to prevent danger to  
22 the community.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner’s  
23 detention serves neither purpose.  
24

25 41. Congress established two separate detention regimes. Section 1225 governs  
26 “applicants for admission” encountered at the border or its functional  
27 equivalent, while section 1226 governs those “already in the country.” *Jennings*  
28

1 v. *Rodriguez*, 583 U.S. 282, 288-89 (2018). These provisions are mutually  
2 exclusive: “A noncitizen cannot be subject to both mandatory detention under  
3 § 1225 and discretionary detention under § 1226.” *Martinez v. Hyde*, 792 F.  
4 Supp. 3d 211 (D. Mass. 2025).

6 42. Section 1225(b)(2)(A) provides that “in the case of an alien who is an applicant  
7 for admission, if the examining immigration officer determines that an alien  
8 seeking admission is not clearly and beyond a doubt entitled to be admitted, the  
9 alien shall be detained for a proceeding under section 1229a.” 8 U.S.C. §  
10 1225(b)(2)(A).  
11

13 43. Crucially, courts and the BIA have recognized that the phrase “seeking  
14 admission” carries an active, temporal component: it refers to individuals  
15 “coming or attempting to come into the United States,” 8 C.F.R. § 1.2, i.e., those  
16 apprehended at or near the border and in the process of initial entry. *Martinez*,  
17 792 F. Supp. 3d at 6-7.  
18

20 44. By contrast, § 1226 governs the detention of noncitizens already present in the  
21 United States and apprehended on a warrant issued by the Attorney General. 8  
22 U.S.C. § 1226(a). Unlike § 1225’s mandatory scheme, § 1226(a) creates a  
23 discretionary framework under which the Attorney General “may continue to  
24 detain” or “may release” a noncitizen on bond or conditional parole. *Id.*  
25

27 45. Individuals detained under § 1226 are entitled to an individualized custody  
28 determination and may appeal that determination to an immigration judge. 8

1 C.F.R. § 1236.1(d)(1); see *Matter of Siniauskas*, 27 I. & N. Dec. 207, 207 (BIA  
2 2018).

3  
4 46. Narrow mandatory detention categories exist under § 1226(c) for certain  
5 criminal or security grounds, but those are not implicated here.

6  
7 47. Multiple recent decisions confirm that § 1225 does not apply to noncitizens  
8 apprehended in the interior. See *Gomes v. Hyde*, 804 F. Supp. 3d 265 (D. Mass.  
9 2025) (holding that § 1225(b)(2)(A) did not apply to a petitioner who had been  
10 residing in the United States for over two years; emphasizing that "seeking  
11 admission" requires an active, ongoing effort to enter, not mere presence in the  
12 country, and concluding that detention was governed by § 1226(a) with access  
13 to bond); see also *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1247-49 (W.D.  
14 Wash. 2025) (finding that a non-citizen apprehended from within the United  
15 States and charged with inadmissibility was necessarily detained under section  
16 1226, rather than section 1225); *Gomes*, 804 F. Supp. 3d at 272-73; *Lepe v.*  
17 *Andrews*, 801 F. Supp. 3d 1104, 1112-15 (E.D. Cal. 2025).

18  
19  
20  
21 48. Multiple federal circuit courts across the country have held that § 1226(a), not  
22 § 1225(b)(2)(A), governs detention of interior residents who entered without  
23 inspection. See, e.g., *Hernandez-Alvarez*, --- F.4th ----, 2026 WL 1243395;  
24 *Cunha*, --- F.4th ----, 2026 WL 1146044; *Maldonado Bautista*, 2026 WL  
25 468284 (appeal pending); *Castanon Nava*, 161 F.4th at 1062 (appeal  
26 proceedings ongoing).  
27  
28

1 49. Only two appellate courts have ruled in the government’s favor. *See*  
2 *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026); *Avila v. Bondi*, 170  
3 F.4th 1128 (8th Cir. 2026). Those decisions have no binding effect here. Nor  
4 has the Ninth Circuit adopted their reasoning.  
5

6 50. As a majority of circuit courts have recognized, interpreting § 1225 to cover  
7 all noncitizens who were never formally “admitted” would collapse the  
8 statutory distinction, render § 1226 superfluous, and contradict longstanding  
9 DHS practice. *See Martinez*, 792 F. Supp. 3d at 1188 (“This tension between  
10 sections 1225 and 1226 motivates the conclusion that they apply to different  
11 classes of aliens”); *Gomes*, 804 F. Supp. 3d at 272–73 (rejecting the  
12 government’s reading because it would effectively eliminate the distinction  
13 between §§ 1225 and 1226 and make § 1226 largely superfluous for noncitizens  
14 apprehended inside the United States); *see also Marx v. Gen. Revenue Corp.*,  
15 568 U.S. 371, 386 (2013) (“the canon against surplusage is strongest when an  
16 interpretation would render superfluous another part of the same statutory  
17 scheme.”)  
18  
19

20 51. Courts have distilled two central principles:  
21  
22

23 a. Geographic/temporal limits: § 1225 applies only to noncitizens  
24 apprehended at or near the border and in the act of entry, not to those  
25 apprehended years later in the interior.  
26  
27

28 b. Statutory structure: Reading § 1225 as covering all noncitizens who

52. As set forth below, applying this framework compels the conclusion that Petitioner's detention cannot fall under § 1225. Having resided in the United States for over twenty years before detention within the interior, he falls squarely within the discretionary scheme of § 1226. Respondents' reliance on § 1225 is therefore legally untenable.

## CLAIMS FOR RELIEF

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

13

1 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA.

2 56. Petitioner is currently detained pursuant to INA § 236(a), 8 U.S.C. § 1226(a).

3 Petitioner entered the United States in 2005. At the time of his detention on  
4 April 30, 2026, he had resided in the United States for over two decades. He is  
5 not subject to mandatory detention under § 1226(c), expedited removal under §  
6 1225(b)(1), or post-order detention under § 1231.  
7

8  
9 57. As a Guatemalan national who entered the United States in 2005 and who was  
10 not apprehended at the time of entry, Petitioner squarely falls within the class  
11 of individuals detained under § 1226(a). Accordingly, detention is  
12 discretionary, not mandatory, and DHS must exercise that discretion in a  
13 manner consistent with statutory and constitutional limits.  
14

15  
16 58. Despite the discretionary detention framework set forth in 8 U.S.C. § 1226(a),  
17 Respondents have refused to meaningfully exercise that discretion.  
18 Specifically, Respondents have refused to consider Petitioner for release and  
19 have failed to provide a constitutionally adequate bond hearing. As a result,  
20 Petitioner remains subject to unlawful detention that is not reasonably related  
21 to any legitimate governmental purpose.  
22

23  
24 *Violation of Due Process*

25  
26 59. Petitioner repeats, re-alleges, and incorporates by reference each and every  
27 allegation in the preceding paragraphs as if fully set forth herein.

28 60. The government may not deprive a person of life, liberty, or property without

1 due process of law. U.S. Const. amend. V. “Freedom from imprisonment lies at  
2 the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S.  
3 678, 690 (2001).  
4

5 61. Petitioner has a fundamental interest in liberty and being free from official  
6 restraint.  
7

8 ***Violation of the Due Process Clause of the Fifth Amendment of the United***  
9 ***States Constitution***

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

13 63. The Due Process Clause of the Fifth Amendment protects all “person[s]” from  
14 deprivation of liberty “without due process of law.”  
15

16 64. The Due Process Clause entitles Petitioner to meaningful process assessing  
17 whether his current detention is justified. Petitioner’s arrest and detention,  
18 without an opportunity to contest his detention before a neutral decisionmaker  
19 after living in the United States for over two decades, provide insufficient due  
20 process and violate the Due Process Clause of the Fifth Amendment of the  
21 Constitution.  
22

23  
24 65. Immigration detention has two statutory goals: (1) “to ensure the noncitizen’s  
25 appearance at future immigration proceedings” and (2) “to prevent danger to  
26 the community.” *Zadvydas*, 533 U.S. at 690. Petitioner’s detention serves  
27 neither purpose.  
28

1 66. There is no evidence that Petitioner poses a danger to the community or a flight  
2 risk. Nothing in the record demonstrates that continued detention is necessary  
3 to protect the public or to ensure Petitioner's appearance at future proceedings.

4  
5 67. Because Petitioner's detention is discretionary, continued confinement without  
6 meaningful consideration of release is arbitrary and not reasonably related to  
7 any legitimate immigration purpose.  
8

9 68. The Fifth Amendment's Due Process Clause requires adequate procedural  
10 protections to ensure that the government's asserted justification for physical  
11 confinement outweighs the individual's constitutionally protected interest in  
12 avoiding physical restraint. *See Jennings v. Rodriguez*, 583 U.S. 281, 306  
13 (2018).  
14  
15

16 69. Where detention is discretionary under 8 U.S.C. § 1226(a), due process  
17 requires individualized consideration of whether continued detention is  
18 justified. Immigration detention cannot be sustained where it is unrelated to  
19 danger or flight risk and where less restrictive alternatives, such as bond or  
20 conditions of supervision, are readily available.  
21  
22

23 70. Release is the traditional remedy for unlawful custody in habeas proceedings.  
24 *See Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("[T]he traditional function  
25 of the writ is to secure release from illegal custody."); *see also Munaf v. Geren*,  
26 553 U.S. 674, 693 (2008) ("[R]elease is the typical remedy for unlawful  
27 executive detention."); *Ambroladze v. Maldonado*, No. 26-CV-00474 (HG),  
28

1 2026 WL 280182, at \*3 (E.D.N.Y. Feb. 3, 2026) (ordering immediate release  
2 where continued detention followed a failure of process).

3  
4 71. Petitioner has now been detained for nearly a month without a meaningful  
5 exercise of discretion or a constitutionally adequate bond hearing.

6 72. Under these circumstances, continued detention no longer serves a legitimate  
7 regulatory purpose and instead imposes unnecessary physical and  
8 psychological harm on an individual with available migratory relief.  
9

10 **PRAYER FOR RELIEF**

11  
12 73. WHEREFORE, Petitioner prays that this Court grant the following relief:

- 13 a. Assume jurisdiction over this matter;  
14  
15 b. Order that Petitioner shall not be transferred outside the Southern  
16 District of California;  
17  
18 c. Issue an Order to Show Cause ordering Respondents to show why this  
19 Petition should not be granted within three days.  
20  
21 d. Declare that the Petitioner's detention violates the Due Process Clause  
22 of the Fifth Amendment.  
23  
24 e. Issue a writ of habeas corpus requiring that within one day, Respondents  
25 release Petitioner.  
26  
27 f. Alternatively, issue a writ of habeas corpus requiring Respondents to  
28 release Petitioner unless they provide a bond hearing under 8 U.S.C. §  
1226(a) within seven days, with the burden on the government to prove

that continued detention is necessary.

g. Grant any other and further relief that this Court deems just and proper.

Date: May 21, 2026

Respectfully submitted,

/s/ Alexa S. White

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*(Pro hac vice application forthcoming)*

*Attorneys for Petitioner*

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

I represent Petitioner, Hector Ramirez Pedro, and submit this verification on his behalf. I 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 21<sup>st</sup> day of May, 2026.

/s/ Roxana Gerardo Fernandez

Roxana Gerardo Fernandez

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