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10 **UNITED STATES DISTRICT COURT**
11 **FOR THE EASTERN DISTRICT OF CALIFORNIA**

12 Alfredo CRUZ CRUZ,
13
14 Petitioner,
15 v.

Case No.

16 WARDEN, Central Valley Annex;

**PETITION FOR WRIT OF
HABEAS CORPUS**

17 David VENTURELLA, Acting Director
18 of Immigration and Customs
19 Enforcement;

20 Markwayne MULLIN, Secretary of U.S.
21 Department of Homeland Security;

22 Daren MARGOLIN, Director of
23 Executive Office for Immigration
24 Review, U.S. Department of Justice;

25 Todd BLANCHE, Acting U.S. Attorney
26 General,

27 in their official capacities,
28

Respondents.

INTRODUCTION

1. Petitioner Alfredo Cruz Cruz is in the physical custody of Respondents at Central Valley Annex in McFarland, California. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded he is subject to mandatory detention.

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

3. The Department of Homeland Security (“DHS”) issued a new policy on July 8, 2025, instructing all Immigration and Customs Enforcement (“ICE”) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. Thereafter, on September 5, 2025, the Board of Immigration Appeals (“BIA”) 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 BIA determined that such individuals are

1 subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be
2 released on bond.

3 5. Petitioner's detention on this basis violates the plain language of the
4 Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to
5 individuals like Petitioner who previously entered and are now residing in the
6 United States. Instead, such individuals are subject to a different statute, § 1226(a),
7 that allows for release on conditional parole or bond. That statute expressly applies
8 to people who, like Petitioner, are charged as inadmissible for having entered the
9 United States without inspection.
10
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12 6. Respondents' new legal interpretation is plainly contrary to the
13 statutory framework and contrary to decades of agency practice applying § 1226(a)
14 to people like Petitioner.
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17 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he
18 be released immediately – or, alternatively, unless Respondents provide a bond
19 hearing where they bear the burden of proof within five days.
20

21 JURISDICTION

22 8. Petitioner is in the physical custody of Respondents. Petitioner is
23 detained at the Central Valley Annex in McFarland, California.
24

25 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(1), (3) (habeas
26 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of
27

1 the United States Constitution (the Suspension Clause). This Court may grant relief
2 pursuant to 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. §
3 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

4 5 **VENUE**

6 10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
7 484, 493-500 (1973), venue lies in the United States District Court for the Eastern
8 District of California, the judicial district in which Petitioner currently is detained.

9
10 11. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
11 because Respondents are employees, officers, and agencies of the United States,
12 and because a substantial part of the events or omissions giving rise to the claims
13 occurred in the Eastern District of California.

14 15 **REQUIREMENTS OF 28 U.S.C. § 2243**

16
17 12. The Court must grant the petition for writ of habeas corpus or order
18 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief.
19 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return
20 “within three days unless for good cause additional time, not exceeding twenty days,
21 is allowed.” *Id.*

22
23 13. Habeas corpus is “perhaps the most important writ known to the
24 constitutional law . . . affording as it does a swift and imperative remedy in all cases
25 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)

1 (emphasis added). “The application for the writ usurps the attention and displaces
2 the calendar of the judge or justice who entertains it and receives prompt action
3 from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116,
4 1120 (9th Cir. 2000) (citation omitted).
5

6 PARTIES

7 14. Petitioner Alfredo Cruz Cruz is an alleged citizen of Mexico who has
8 been in immigration detention since May 20, 2026. After taking custody of
9 Petitioner, U.S. Immigration and Customs Enforcement (ICE) did not set bond.
10 Petitioner did not apply for a bond with the Immigration Court due to the binding
11 decision of the BIA in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
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14 15. Respondent Warden of Central Valley Annex is directly responsible for
15 the detainees where Petitioner is detained. He has immediate physical custody of
16 Petitioner. He is sued in his official capacity.
17

18 16. Respondent David Venturella is the Acting Director over ICE, and as
19 such, is ultimately responsible for ICE detainees, including Petitioner. He is sued in
20 his official capacity.
21

22 17. Respondent Markwayne Mullin is the Secretary of the U.S. Department
23 of Homeland Security. As such, he is responsible for all ICE actions and detentions.
24 He is used in his official capacity.
25
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27

1 18. Respondent Daren Margolin is the Director of the Executive Office for
2 Immigration Review with the U.S. Department of Justice. As such, all immigration
3 judges are under his responsibility. He is sued in his official capacity.
4

5 19. Respondent Todd Blanche is the Acting U.S. Attorney General. As
6 such, he is responsible for the policies and actions of the U.S. Department of Justice.
7 He is sued in his official capacity.
8

9 **LEGAL FRAMEWORK**

10 *GOVERNING STATUTES*

11 20. The Immigration and Nationality Act prescribes three basic forms of
12 detention for the vast majority of noncitizens in removal proceedings.
13

14 21. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in
15 standard removal proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in
16 § 1226(a) detention are generally entitled to a bond hearing at the outset of their
17 detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been
18 arrested, charged with, or convicted of certain crimes are subject to mandatory
19 detention, see 8 U.S.C. § 1226(c).
20
21

22 22. Second, the INA provides for mandatory detention of noncitizens
23 subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent
24 arrivals seeking admission referred to under § 1225(b)(2).
25
26
27

1 23. Last, the INA also provides for detention of noncitizens who have been
2 ordered removed, including individuals in withholding-only proceedings, see 8
3 U.S.C. § 1231(a)–(b).
4

5 24. This case concerns the detention provisions at §§ 1226(a) and
6 1225(b)(2).
7

8 25. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as
9 part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)
10 of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582
11 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this
12 year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).
13

14 26. Following the enactment of the 1996 IIRIRA, EOIR drafted new
15 regulations explaining that, in general, people who entered the country without
16 inspection were not considered detained under § 1225 and that they were instead
17 detained under § 1226(a). See Inspection and Expedited Removal of Aliens;
18 Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
19 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
20
21

22 27. Thus, in the decades that followed, most people who entered without
23 inspection and were placed in standard removal proceedings received bond hearings,
24 unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c).
25 That practice was consistent with many more decades of prior practice, in which
26
27
28

1 noncitizens who were not deemed “arriving” were entitled to a custody hearing
2 before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R.
3 Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the
4 detention authority previously found at § 1252(a)).
5

6 28. On July 8, 2025, ICE, “in coordination with” the Department of Justice,
7 announced a new policy that rejected well-established understanding of the
8 statutory framework and reversed decades of practice.
9

10 29. The new policy, entitled “Interim Guidance Regarding Detention
11 Authority for Applicants for Admission,” claims that all persons who entered the
12 United States without inspection shall now be subject to mandatory detention
13 provision under § 1225(b)(2)(A). The policy applies regardless of when a person is
14 apprehended and affects those who have resided in the United States for months,
15 years, and even decades.
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18 30. On September 5, 2025, the Board of Immigration Appeals adopted this
19 same position in a published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec.
20 216 (BIA 2025). There, the Board held that all noncitizens who entered the United
21 States without admission or parole are subject to detention under § 1225(b)(2)(A)
22 and are ineligible for IJ bond hearings. *Id.*
23
24

25 31. Since Respondents adopted their new policies, dozens of federal courts
26 have rejected their new interpretation of the INA’s detention authorities. Courts
27

1 have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of
2 the statute as ICE. *See infra*.

3
4 32. Even before ICE or the BIA introduced these nationwide policies,
5 judges in the Tacoma (Washington) Immigration Court stopped providing bond
6 hearings for persons who entered the United States without inspection and who have
7 since resided here. There, the U.S. District Court in the Western District of
8 Washington found that such a reading of the INA is likely unlawful and that
9 § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon
10 arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239
11 (W.D. Wash. 2025).
12

13
14 33. Subsequently, the majority of circuits to take up the question have
15 found that noncitizens who enter the country without permission and are later
16 apprehended in the interior are detained pursuant to 8 U.S.C. § 1226(a) – and thus,
17 are eligible for a bond hearing. *See Santillan Quiroz v. Mullin*, No. 26-6019, 2026
18 WL 1876709 (10th Cir. June 30, 2026); *Cunha v. Freden*, No. 25-3141, 2026 WL
19 1146044 (2d Cir. Apr. 28, 2026); *Castanon-Nava v. U.S. Dep't of Homeland Sec.*,
20 No. 25-3050, 2026 WL 1223250 (7th Cir. May 5, 2026); *Alvarez v. Warden, Fed.*
21 *Det. Ctr. Mia.*, No. 25-14065, 2026 U.S. App. LEXIS 13180 (11th Cir. May 6,
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25
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2026); *Lopez-Campos v. Raycraft*, No. 25-1965, 2026 U.S. App. LEXIS 13519 (6th Cir. May 11, 2026).¹

34. Moreover, this Court has previously held that noncitizens who enter the country without inspection and are later detained in the interior of the U.S. are detained under Section 1226(a) and are thus eligible for bond. *See, e.g., J.A.C.P. v. Wofford*, No. 1:25-CV-01354-KES-SKO, 2025 WL 3013328 (E.D. Cal. Oct. 27, 2025) (Sherriff, J); *Josue I.C.A. v. Lyons*, No. 1:25-CV-01542-SKO, 2025 WL 3496432 (E.D. Cal. Dec. 5, 2025) (Oberto, Mag. J); *Morillo v. Albarran*, No. 1:25-CV-01533-DJC-AC, 2025 WL 3190899 (E.D. Cal. Nov. 15, 2025) (Calabretta, J); *Zuniga Cruz v. Noem*, No. 1:26-CV-01818-CV-EFB, 2026 WL 890471 (E.D. Cal. Apr. 1, 2026) (Coggins, J.) (collecting cases).

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

36. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. §

¹ Only two circuits have strayed from this majority position. *See Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026); *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026).

1 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by
2 default, such people are afforded a bond hearing under subsection (a). As the
3 *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions'
4 to a statute's applicability, it 'proves' that absent those exceptions, the statute
5 generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
6 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see also
7 *Gomes*, 2025 WL 1869299, at *7.
8
9

10 37. Section 1226 therefore leaves no doubt that it applies to people who
11 face charges of being inadmissible to the United States, including those who are
12 present without admission or parole.
13

14 38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry
15 or who recently entered the United States. The statute's entire framework is
16 premised on inspections at the border of people who are "seeking admission" to the
17 United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained
18 that this mandatory detention scheme applies "at the Nation's borders and ports of
19 entry, where the Government must determine whether a[] [noncitizen] seeking to
20 enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).
21
22

23 39. Accordingly, the mandatory detention provision of § 1225(b)(2)(A)
24 does not apply to people like Petitioner, who have already entered and were residing
25 in the United States at the time they were apprehended.
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CONSTITUTIONAL DUE PROCESS

40. “It is well established that the Fifth Amendment entitles aliens to due process of law in [removal] proceedings.” *Reno v. Flores*, 507 U.S. 292, 306 (1993). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S. Ct. 2491 (2001). Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* at 690 (internal quotation marks omitted).

41. To test civil immigration detention for due process violations, the balancing test of *Mathews v. Eldridge* is used. *Mathews v. Eldridge*, 424 U.S. 319 (1976). That test balances “(1) the private interest affected by the official action, (2) the risk of erroneous deprivation of such interest through the procedures used and the probable value of additional or different procedural safeguards, and (3) the government’s interest, including the fiscal and administrative burdens that the additional or substitute procedures would entail.” *Id.* at 335; *see also Jagroop S. v. Wofford*, No. 1:26-cv-00381-TLN-CKD, 2026 WL 276068, at *2 (E.D. Cal. Feb. 3, 2026) (Nunley, C.J.).

FACTS

42. Petitioner has resided in the United States since his last entry in 2000 without inspection.

43. On May 20, 2026, Petitioner was arrested at an ICE office in Dallas, Texas. He is now detained in McFarland, California, in Central Valley Annex.

44. Petitioner has resided in the United States for over twenty-five years. He is the father of five minor U.S. citizen children, the sibling of U.S. citizens, and the child of two lawful permanent residents. In summary, Petitioner is neither a flight risk nor a danger to society.

45. Following Petitioner's arrest and transfer to Central Valley Annex, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

46. Petitioner was not able to request an immigration bond given that all immigration judges are subject to the binding precedent that those who entered the country without admission or parole are ineligible for a bond hearing. *See Matter of Yajure Hurtado*, 29 I.&N. Dec. 216 (BIA 2025).

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

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

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

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

COUNT II

Violation of Due Process

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 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

1 the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678,
2 690 (2001).

3 53. Petitioner has a fundamental interest in liberty and being free from
4 official restraint.
5

6 54. Under the *Mathews v. Eldridge* balancing test, Petitioner’s private
7 interest in his physical liberty is a substantial one, which is at risk of erroneous
8 deprivation since Respondents continue to refuse to give him any kind of
9 individualized hearing at which they bear the burden of proving the necessity of
10 detention. The government’s interest in ensuring Petitioner attends appointments
11 and hearings related to removal proceedings or potential removal is not outweighed
12 by the severe deprivation of liberty suffered by the Petitioner.
13
14

15 55. The government’s detention of Petitioner without a bond
16 redetermination hearing to determine whether he is a flight risk or danger to others
17 violates his right to due process.
18
19

20 PRAYER FOR RELIEF

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

- 22 a. Assume jurisdiction over this matter;
23
24 b. Order that Petitioner shall not be transferred outside the Eastern District
25 of California while this habeas petition is pending;
26

- 1 c. Issue an Order to Show Cause ordering Respondents to show cause why
2 this Petition should not be granted within three days;
3
4 d. Issue a Writ of Habeas Corpus requiring that Respondents release
5 Petitioner immediately (or, in the alternative, provide Petitioner with a
6 bond hearing in which DHS carries the burden of proof by clear and
7 convincing evidence, pursuant to 8 U.S.C. § 1226(a), within five days);
8
9 e. Declare that Petitioner's detention is unlawful;
10
11 f. Award Petitioner attorney's fees and costs under the Equal Access to
12 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other
13 basis justified under law; and
14
15 g. Grant any other and further relief that this Court deems just and proper.

16 Respectfully submitted this 2nd day of July, 2026.

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

I represent Petitioner, Alfredo Cruz Cruz, 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 2nd day of July, 2026.

/s/ Elissa Stiles

Elissa Stiles