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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

Jose S Avalos-Arias

Petitioner,

v.

Jeremy CASEY, in his official capacity as Warden of Imperial Regional Detention Facility; Gregory J. ARCHAMBEAULT, in his official capacity as San Diego Field Office Director, ICE Enforcement Removal Operations; Todd LYONS, in his official capacity as Acting Director of ICE; and Markwayne MULLIN, in his official capacity as Secretary of Homeland Security,Todd BLANCHE, Acting U.S. Attorney General; IMMIGRATION AND CUSTOMS ENFORCEMENT; DEPARTMENT OF HOMELAND SECURITY,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

'26CV4018 RFL DDL

I. INTRODUCTION

1. Petitioner Jose S Avalos Arias ("Petitioner") is a 39 year-old El Salvadorian national who last entered the United States on or about May 27, 2013. Since that time Petitioner has lived in the U.S., has been gainfully employed, filed taxes, purchased a home, married and had U.S. Citizen children.

2. The Petitioner entered the United States without inspection.

3. Petitioner is currently pending removal proceedings and was detained at Imperial Regional Detention Facility as of June 24, 2026

II. VENUE AND JURISDICTION

4. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the Constitution (Suspension Clause), as Petitioner is presently in custody under the authority of the United States and challenging his detention as in violation of the Constitution, laws, or treaties of the United States.

5. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See Jennings v. Rodriguez*, 583 U.S. 281, 290-92 (2018).

6. Venue is proper because Petitioner is detained in the Imperial Regional Detention Facility, within the San Diego Division, and Respondent Casey is his immediate custodian. *See* 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

7. Petitioner, a 39-year-old El Salvadorian national who resides in San Bernardino, California. He is currently detained by Respondents at the Imperial Detention Facility in Imperial, CA, pending removal proceedings.

8. Respondent Jeremy Casey is the Warden of Imperial Regional Detention Facility. Respondent Casey is responsible for the operation of the Detention Center where Petitioner is detained. As such, Respondent Casey has immediate physical custody of the Petitioner. He is being sued in his official capacity.

9. Respondent Gregory J. Archambeault is the San Diego Field Office Director ("FOD") for ICE Enforcement and Removal Operations. Respondent

Archambeault is responsible for the oversight of ICE operations at the Imperial Regional Detention Facility. Respondent Archambeault is being sued in his official capacity.

10. Respondent Todd Lyons is the Acting Director of ICE. Respondent Lyons is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including immigrant detention. As such, Respondent Lyons is a legal custodian of Petitioner is being sued in his official capacity.

11. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"). As Secretary of DHS, Secretary Mullin is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.

12. Respondent Todd Blanche is the Acting Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

IV. EXHAUSTION OF REMEDIES

13. No statutory exhaustion requirement applies. *See* 8 § U.S.C. 2241; *Laing v. Ashcroft*, 370 F.3d 994, 998 (9th Cir. 2004). Therefore, exhaustion is not jurisdictionally required.

16. Moreover, additional agency steps would be futile. Since Immigration Judges are adhering to the BIA's precedent decision *Matter of Yajure* Hurtado, 28 I&N Dec. 216 (BIA 2025). In its decision, the BIA adopted DHS' reading of 8 U.S.C.

§ 1225(b)(2), finding individuals similarly situated to Ms. Arias are ineligible for release on bond.

18. Nevertheless, *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) has certified the class of similarly situated individuals. Petitioner is a member of the Bond Denial Class, as he:

a. does not have lawful status in the United States and is currently detained at the Imperial Regional Detention Facility after being apprehended by U.S. Immigration and Customs Enforcement (ICE) on or about December 12, 2025;

b. Entered the United States without inspection in May 2011 and was not detained immediately after arrival, *cf. id.*; and

c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

19. Petitioner acknowledges that the Ninth Circuit has temporarily stayed the district court's December 18, 2025 declaratory judgment, which further establishes there is no additional recourse and further pursuit of administrative remedies would be futile. Therefore, Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

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V. STATEMENT OF FACTS

20. Petitioner is an El Salvadorian national [redacted] He last entered the United States without inspection in May 2016. After this, he has lived continuously in San Bernardino, California, with his Spouse and their U.S. Citizen children.

21. Petitioner was previously in removal proceedings that were administratively closed.

22. The petitioner has no criminal record.

23. On or about June 24, 2026, Petitioner was working when he and another coworker were boxed in by four unmarked vehicles and detained. He was subsequently detained and processed to the Imperial Regional Detention Facility.

24. Respondents detained Petitioner at Imperial Regional Detention Facility and initiated new removal proceedings. However, Petitioner's prior proceedings are also pending. Petitioner was released previously on a $5,000 bond and he never violated the terms of his release.

25. The Petitioner remains detained without any recourse. He now seeks habeas relief because of continued detention which violates Due Process and the Fifth Amendment.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

26. Habeas corpus relief extends to a person "in custody under or by color of the authority of the United States" if the person can show he is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241 (c)(1), (c)(3); see also *Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner's claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

27. "[H]abeas corpus is, at its core, an equitable remedy," *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that "[t]he court shall ... dispose of [] as law and justice require," 28 U.S.C. § 2243. "[T]he court's role was most extensive in cases of

pretrial and noncriminal detention." *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). "[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner's release." *Id.* at 787.

28. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for noncitizens in removal proceedings.

29. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). 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).

30. 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).

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

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

33. 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).

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

35. Thus, in the decades that followed, most people who entered without inspection-unless they were subject to some other detention authority-received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

36. Respondents' new policy turns this well-established understanding on its heads and violates the statutory scheme.

37. Indeed, this legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings was already rejected by a District Court in the Western District of Washington, finding that such individuals are entitled to bond redetermination hearings before immigration judges, and rejecting the application of § 1225(b)(2) to such cases. Rodriguez v. Bostock, No. 3:25-CV-05240- TMC, 2025 WL 1193850, at *12 (W.D. Wash. Apr. 24,

2025).

38. Despite this finding from a federal court, in July 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without documents.

39. On September 5, 2025, the BIA decided *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), incorrectly applying § 1225(b)(2) to individuals like Petitioner.

40. *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.), a case arising in the Central District of California, subsequently certified a class of similarly situated plaintiffs, issued a declaratory judgment and thereafter vacated *Matter of Yajure Hurtado.*

41. On March 6, 2026, the Ninth Circuit stayed portions of *Maldonado Bautista v. Santacruz.* However, "The validity of Yajure Hurtado's interpretation of [8 U.S.C.] § 1225(b)(2)(A) is not the subject of this stay motion."

42 This interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner. 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, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

43. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people

who face charges of being inadmissible to the United States, including those who are present without admission or parole.

44. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).

45. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole.

VII. CAUSES OF ACTION

COUNT I
Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Bond Hearing

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

47. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously 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.

48. The application of § 1225(b)(2) to bar Petitioners from receiving a bond redetermination hearing before an immigration judge violates the Immigration and

Nationality Act.

COUNT II
Violation of the Administrative Procedure Act
Unlawful Denial of Bond

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

50 The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

51. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

COUNT III

Violation of Procedural Due Process

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

53. 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,

121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

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

55. The government's detention of Petitioner without a bond redetermination hearing to determine whether they are a flight risk or danger to others violates his right to due process.

COUNT IV
Violation of Substantive Due Process

56. Petitioner incorporates paragraphs 1 through 49 as if fully set out herein.

57. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

58. The Due Process Clause of the Fifth Amendment provides that "[n]o person shall be ... deprived of life, liberty, or property, without due process of law." U.S. CONT. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.

59. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

60. Respondents' actions are arbitrary and punitive. But for intervention by this Court, Petitioner has no means of release where Respondents contend that

Petitioner is detained pursuant to 8 U.S.C. § 1225(b)(2), which mandates the detention of an "applicant for admission" throughout the entirety of removal proceedings.

61. Respondents' newly formulated definition of "applicant for admission," which would include any noncitizen who has not been formally admitted regardless of years of residence in the United States, directly contradicts both the plain text of the statute and controlling Ninth Circuit precedent.

62. As the Ninth Circuit explained in interpreting the phrase "applicant for admission" under § 1225(b)(1), *"an immigrant submits an 'application for admission' at a distinct point in time,"* and stretching that phrase to apply *"potentially for years or decades ... would push the statutory text beyond its breaking point." United States v. Gambino-Ruiz*, 91 F.4th 981, 988–89 (9th Cir. 2024) (citing *Torres v. Barr*, 976 F.3d 918, 922–26 (9th Cir. 2020) (en banc)).

63. Because Petitioner has resided continuously in the United States since 2016, his period as an "applicant for admission" has long since closed.

PRAYER FOR RELIEF

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

1) Assume jurisdiction over this matter;

2) Grant Petitioner a writ of habeas corpus directing the Respondents to **immediately release him from custody**, under reasonable conditions of supervision or in the alternative order an immediate bond hearing;

3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while

the Petitioner remains in Respondents' custody;

4) Order Respondents to file a response within 3 business days of the filing of this petition;

5) Award attorneys' fees to Petitioner; and

6) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this 13th day of July 2026.

/s/Lilia Rodriguez
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San Diego, CA 92108
Attorney for Petitioner

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

I represent Petitioner, Jose S Avalos Arias 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 13th day of July, 2026.

/s/ Lilia Rodriguez
Attorney Name