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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF CALIFORNIA

MANUEL DANIEL BERNAL LOPEZ [redacted] Petitioner, v. **CHRISTOPHER LAROSE** WARDEN OF OTAY MESA DETENTION CTR.; **GREGORY ARCHAMBEAULT,** DIRECTOR OF SAN DIEGO OFFICE U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; **MARKWAYNE MULLIN,** SECRETARY OF THE U.S. DEPARTMENT OF HOMELAND SECURITY; AND **TODD BLANCHE,** ATTORNEY GENERAL OF THE UNITED STATES IN THEIR OFFICIAL CAPACITIES, Respondents.	PETITION FOR WRIT OF HABEAS CORPUS **'26CV4105 JLS SBC**

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, through counsel, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and urgently moves for an Order to Show Cause why a such petition should not be granted. In support, Petitioner alleges as follows:

INTRODUCTION

1. Petitioner brings this petition for a writ of habeas corpus declaring that Respondents detention is unlawful without any individualized finding of danger or flight risk.

2. Petitioner is a citizen and national of Guatemala who entered the United States without inspection or about January 2023. *See* Exhibit A, Notice to Appear.

3. On or about June 2026, U.S. Immigration and Customs Enforcement (ICE) detained the Petitioner after a traffic stop.

4. Thereafter, the Petitioner was placed into removal proceedings.

5. Petitioner has been living in St. Lucie County, Florida for the last 3 years, has deep ties to the community and been employed.

6. Petitioner also has an I-589 Application for Asylum pending and a valid work permit, driver's license, and social security number. *See* Exhibit B, Immigration Documents.

7. Petitioner is in the physical custody of Respondents at the Otay Mesa Detention Center in San Diego, California. *See* Exhibit C, ICE Detainee Locator System Printout.

8. Petitioner is currently being detained without the possibility of bond under 8 U.S.C. § 1225(b)(2)(A), based on DHS's argument that he is "an Applicant seeking Admission under the provisions of Sec. 235(b)(2)(A) of the Immigration and Nationality Act ('INA')."

9. Petitioner challenges the legality of his prolonged detention and the categorical denial of any meaningful bond hearing. Petitioner is charged as removable under INA § 237(a)(1)(B); 8 U.S.C. § 1227(a)(1)(B).

10. Although the Department of Homeland Security (DHS) has characterized him as an applicant for admission, his continued detention without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment and exceeds the authority granted by the Immigration and Nationality Act.

11. Any attempt to classify Petitioner as an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b), and to justify his continued confinement without bond on that basis, is legally erroneous. Petitioner's custody is governed by 8 U.S.C. § 1226(a), which expressly contemplates discretionary detention and individualized determinations regarding release on bond.

12. Respondents' legal theory has been repudiated by a tidal wave of hundreds of district court decisions nationwide, including this Court, the Middle District of Florida.

13. On September 5, 2025, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals issued a decision which purports to require the Immigration Court to unlawfully deny a bond hearing to all persons such as Petitioner.

14. The responsible administrative agency has therefore predetermined that Petitioner will be denied a bond hearing.

15. The Immigration Court lacks jurisdiction to adjudicate the constitutional claims raised by Petitioner, and any attempt to raise such claims would be futile. *See Flores-Powell*, 677 F. Supp. 2d at 463 (holding "exhaustion is excused by the BIA's lack of authority to adjudicate constitutional questions and its prior interpretation" of the relevant statute).

16. After apprehending Petitioner on or about July 2026, DHS continued removal proceedings pursuant to 8 U.S.C. § 1229a. DHS charged Petitioner as inadmissible under INA § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

17. Nevertheless, Respondents continue to detain Petitioner and deny any opportunity for bond under § 1226.

18. Because Respondents are detaining Petitioner under § 1225 mandatory detention provisions, the Court should order the Respondents to provide a bond hearing under 8 U.S.C. § 1226(a).

JURISDICTION

19. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Otay Mesa Detention Center in San Diego, California.

20. 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).

21. 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

22. 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 ninth district, the judicial district in which Petitioner currently is detained.

23. Venue is proper in this District under 28 U.S.C. § 1391(e) and 28 U.S.C. § 2241 because Petitioner is presently detained within this District at the Otay Mesa Detention Center in San Diego, California, which is within the jurisdiction of this Court.

24. Venue is also proper 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 eleventh district.

REQUIREMENTS OF 28 U.S.C. § 2243

25. 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).

26. "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).

PARTIES

27. Petitioner MANUEL DANIEL BERNAL LOPEZ is a citizen of Guatemala who has been in immigration detention since June 2026 without bond.

28. Respondent GREGORY ARCHAMBEAULT is the Acting Field Office Director of the San Diego Field Office of ICE's Enforcement and Removal Operations division. As such, GREGORY ARCHAMBEAULT is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

29. Respondent MARKWAYNE MULLIN is the 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, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

30. Respondent TODD BLANCHE is the Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

31. Respondent CHRISTPOHER LAROSE is the Warden of the Otay Mesa Detention Center and has immediate physical custody of Petitioner. The Warden is sued in his official capacity.

LEGAL FRAMEWORK

A. Section 1226(a) Governs Petitioner's Detention

32. Petitioner is currently being detained without the possibility of bond under 8 U.S.C. § 1225(b)(2)(A), based on DHS's argument that he is "an Applicant seeking Admission under the provisions of Sec. 235(b)(2)(A) of the Immigration and Nationality Act ('INA')."

33. Congress established two separate detention regimes. Section 1225 governs "applicants for admission" encountered at the border or its functional equivalent, while § 1226 governs individuals "already in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018). These provisions are mutually exclusive: "[A] noncitizen cannot be subject to both mandatory detention under § 1225 and discretionary detention under § 1226." *Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025).

34. Section 1225(b)(2)(A) provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a."

35. The Court has granted petitions filed by similarly-situated petitioners. *See, e.g.*, *Silvestre-Mendoza v. Noem*, Case No.: 3:25-cv-03206-RBM-DDL, 2025 WL 3512410, at *1–2 (S.D. Cal. Dec. 8, 2025). In that decision, the Court found that "'a proper understanding of the relevant statutes, in light of their plain text, overall structure, and . . . case law interpreting them, compels the conclusion that § 1225's provisions for mandatory detention of noncitizens seeking

admission [do] not apply to someone like [the petitioner],' who has been residing in the United States" for several years. Id. at *1 (quoting *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 484 (S.D.N.Y. 2025)).

CLAIM FOR RELIEF

COUNT ONE
UNLAWFUL DETENTION UNDER 8 U.S.C. § 1225; CUSTODY PROPERLY GOVERNED BY 8 U.S.C. § 1226
(Misapplication of Mandatory Detention Statute)

36. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

37. Petitioner is currently being detained without the possibility of bond under 8 U.S.C. § 1225(b)(2)(A), based on DHS's argument that he is "an Applicant seeking Admission".

38. Such argument is legally erroneous. Section 1225 applies to noncitizens actively "seeking admission" at the border or its immediate functional equivalent. By contrast, § 1226 governs the arrest and detention of those "already in the country" pursuant to a warrant issued by the Attorney General. The two provisions are mutually exclusive. *See Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018); *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (A.G. 2019).

39. For example, the Eleventh Circuit recently addressed the issue of whether "unadmitted aliens found in the interior of the United States are eligible for bond as they go through immigration proceedings." *Hernandez Alvarez v. Warden*, 175 F.4th 1258 (11th Cir. 2026).

40. The Court determined that "no-bond detention generally applies to arriving aliens seeking lawful entry to the country, and not to aliens who are simply present here." *Id.*

41. Respondents claim that Petitioner is mandatorily detained under 8 U.S.C. § 1225(b)(2)(A). But this statute does not apply to Mr. Lopez, who entered the country without inspection three years ago and has deep ties within his community.

42. Courts throughout the United States have overwhelmingly rejected Respondents' expansive interpretation of 8 U.S.C. § 1225(b)(2)(A). *See, e.g., Barco Mercado v. Francis*, No. 25-cv-6582, 2025 WL 3295903, at *13– 14 (S.D.N.Y. Nov. 26, 2025) (tallying more than 350 cases reaching the same conclusion, and only 12 going the other way); *Guerrero Orellana v. Moniz*, No. 25-cv-12664, 2025 WL 3687757 (D. Mass. Dec. 19, 2025) (granting summary judgment and extending declaratory relief to Massachusetts-based class of noncitizens wrongly subject to mandatory detention under the government's recent interpretation of § 1225(b)(2)(A)); *Maldonado Bautista v. Santacruz*, No. 25- cv-0187, 2025 WL 3678485 (C.D. Cal. Dec. 19, 2025) (similar, extending declaratory relief to nationwide class); *Maldonado v. Olson*, No. 25-cv-3142 (SRN/SGE), 2025 WL 2374411, at *12 (D. Minn. Aug. 15, 2025); *Velasquez Salazar v. Dedos*, No. 25-cv-00835, 2025 WL 266729, at *4 (D.N.M. Sept. 17, 2025).

43. This renders Lopez's current detention unlawful from its inception, in violation of the Immigration and Nationality Act ("INA") and his due process rights.

44. Petitioner plainly falls within § 1226. He has resided in the United States for over three years, with deep community ties, employment, and no serious criminal record. He was arrested in Brevard County, Florida -- hundreds of miles from any border or port of entry—and immediately transferred to the Glades County Detention Center where DHS generated paperwork to continue removal proceedings.

45. Taken together, these contradictions underscore the arbitrariness of Petitioner's detention and the government's mischaracterization of his case.

46. Recent precedent confirms that long-term residents like Petitioner are detained under § 1226, not § 1225. In *Lopez Benitez v. Francis*, No. 25-cv-10960, 2025 WL 4094843 (D. Mass. July 8, 2025), the court held that a noncitizen who had lived in the U.S. just over two years

was governed by § 1226, rejecting the government's argument that unlawful presence alone made him "seeking admission."

47. Similarly, in *Martinez v. Hyde*, No. 25-cv- 11613, 2025 WL 2084238 (D. Mass. July 24, 2025), the court concluded that § 1225(b) "had no application" to a person already residing in the U.S., even though she was charged as inadmissible under INA § 212(a)(6)(A)(i). And in *Rodriguez v. Bostock*, No. 25-cv-524, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025), the court emphasized that interior arrests for inadmissibility grounds are necessarily governed by § 1226.

48. To hold otherwise would effectively erase the statutory line between §§ 1225 and 1226, converting virtually all noncitizens present without admission into mandatory detainees and rendering § 1226(a) a dead letter. Courts have consistently rejected this outcome. *See Martinez*, 2025 WL 2084238, at *7 (rejecting interpretation that would "nullify" Congress's amendment to § 1226(c)); *Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025) (noting that §§ 1225 and 1226 "apply to different classes" of noncitizens).

49. In sum, Petitioner was not "seeking admission" within the meaning of § 1225(b) but was "already in the country" within the meaning of *Jennings*, 583 U.S. at 288–89. His custody is governed by § 1226(a), under which detention is discretionary and subject to individualized bond hearings. DHS's argument is contrary to law, unsupported by the record, and must be set aside.

COUNT TWO
Violation of Fifth Amendment Right to Due Process

50. On information and belief, Petitioner is currently being arrested and detained by federal agents without cause and in violation of his constitutional rights to due process of law.

51. The Fifth Amendment's Due Process Clause applies to "all 'persons' within the United States," regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It prohibits the federal government from depriving any person of liberty without due process of law.

52. Even in the immigration context, due process requires that when detention is discretionary, the individual is entitled to an individualized custody determination before a neutral decisionmaker, supported by reliable evidence, and applying the correct legal standards. *See Matter of Siniauskas*, 27 I. & N. Dec. 207, 207 (B.I.A. 2018) (citing *Matter of Fatahi*, 26 I. & N. Dec. 791, 793–94 (B.I.A. 2016); *Matter of Adeniji*, 22 I. & N. Dec. 1102, 1112–13 (B.I.A. 1999), modified on other grounds, *Matter of Garcia Arreola*, 25 I. & N. Dec. 267 (B.I.A. 2010)).

53. DHS's own records highlight the arbitrariness of Petitioner's detention. On the one hand, Respondent charged Petitioner as being "present in the United States who has not been admitted or paroled to the United States," language that presumes interior residence and confirms his custody should fall under § 1226.

54. DHS effectively denied the process to which he is entitled — including consideration for release on bond — and exemplified the arbitrary government action the Fifth Amendment prohibits.

55. In sum, DHS's refusal release the Petitioner and deprive him of liberty and denying his release violates due process of law. This Court should order Petitioner's bond hearing under § 1226(a).

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

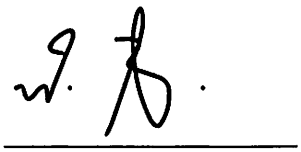
I, Isai Bonilla, represent Petitioner, Manuel Bernal Lopez, and submit this verification on his behalf. I hereby certify under penalty of perjury under the laws of the United States of America that the foregoing factual statements made in the Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 17th day of July, 2026.

Respectfully Submitted

/s/Gurpreet Kaur

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PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Southern District of California while this habeas petition is pending;

c. Issue an Order to Show Cause why this Petition should not be granted within three days;

d. Declare that Petitioner is not an "applicant for admission "1225(b), seeking admission" or an "arriving alien" and that Petitioner's detention is unlawful;

e. Issue a writ of habeas corpus directing Respondents to immediately release Petitioner from custody or in the alternative (1) provide a bond hearing under 8 U.S.C. § 1226(a); and (2) return to Petitioner all belongings and papers that were in his possession at the time of his detention;

f. Order that Respondents cannot re-detain Petitioner without notice and a predeprivation hearing before this Court where the government bears the burden of justifying re-detention by clear and convincing evidence; and

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

Respectfully Submitted

/s/Gurpreet Kaur

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