Natalia Vieira Santanna
CA BAR No. 337502 MI BAR No. P76443
SANTANNA LAW OFFICES
PO Box 7528, Oakland, CA, 94601
(510) 922-0154 (Telephone)
(510) 903-4211 (Facsimile)
natalia@santannalaw.com (Email)

Jacqueline Nuno
CA Bar No. 349588
SANTANNA LAW OFFICES
PO Box 7528, Oakland, CA 94601
(510) 315-6575 (Telephone)
jacqueline@santannalaw.com (Email)
Attorneys for Petitioner/Plaintiff

UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA

B.J.V.,

Petitioner,

v.

Tonya Andrews, Field Office Director, Golden State Annex, Office of Detention and Removal, U.S. Immigrations and Customs Enforcement, U.S. Department of Homeland Security;

Sergio ALBARRAN, Acting Field Office Director of the San Francisco Immigration and Customs Enforcement Office

David Venturella, Acting Director, Immigration and Customs Enforcement, U.S. Department of Homeland Security;

Markwayne MULLINS, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY;

Todd BLANCHE, in his Official Capacity, Attorney General of the United States;

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

Challenge to Unlawful Incarceration Under Color of Immigration Detention Statutes; Request for Declaratory and Injunctive Relief

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INTRODUCTION

1. Petitioner B.J.V. is in the physical custody of Respondents at Golden State Annex since July 1, 2026. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner 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. Based on this allegation in Petitioner's removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued 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. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) 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.

5. 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.

6. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection. 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.

7. Accordingly, Petitioner seeks a writ of habeas corpus ordering Petitioner's immediate release or requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

8. B.J.V. has resided in the United States since January 2007 and lived in Concord, California prior to his detention, where he lived with his partner, and two U.S. citizen children from another relationship.

9. B.J.B. separated from his wife in 2021 after more than ten years of marriage. That same year, he obtained a domestic violence restraining order against her in Contra Costa County. B.J.V. is the protected party under that order, along with the two minor children he shares with his estranged wife. Pursuant to the restraining order, B.J.V. has full custody of the two children. Although he and his wife remain legally married, he has since stablished a new household with his partner, Sara.

10. B.J.V. was employed and a source of financial support to his family. Since his detention, his family has experienced financial hardship. B.J.V. was the primary breadwinner. Currently, B.J.V.'s two minor children are under the care of his partner, Sara, given his detention. The children's biological mother does not have custody given the domestic violence restraining order and is not present in the children's life.

11. B.J.V. does not have a criminal record, with the exception of a DUI from 2013 in Contra Costa County. B.J.V. complied with all court requirements for this case.

12. B.J.V. has a valid U.S. driver's license but does not have an employment authorization document.

13. B.J.V. has a pending immigration case. In 2026 he filed a Form I-360 petition under the Violence Against Women Act (VAWA) and that application remains pending. See Exhibit 6. On July 14, 2026, B.J.V. appeared in front of an immigration judge. His hearing was continued to August 20, 2026.

14. In the class action *Immigration Center for Women and Children (ICWC) v. Noem* (Case No. 2:25-cv-09848), a federal court issued a nationwide preliminary injunction on May 20, 2026, temporarily blocking U.S. Immigration and Customs Enforcement (ICE) from detaining or deporting noncitizen crime survivors with pending VAWA, U visa, or T visa applications. [1, 2, 3]. Accordingly, because Petitioner has a pending Form I-360 VAWA petition, (See Exhibit 6) Respondents' continued detention of Petitioner violates the nationwide preliminary injunction entered in *Immigration Center for Women and Children (ICWC) v. Noem.*

15. On July 1, 2026, at approximately 7:00 a.m., B.J.V. was driving to work when he was stopped by an unmarked vehicle only a few blocks from his home in Concord, California. The officer, who was dressed in plain clothes with a bulletproof vest displaying what B.J.V. believed was the word "Sheriff," instructed him to exit his vehicle without explaining the reason for the stop. B.J.V. was immediately handcuffed, transported a short distance, placed in ankle restraints, and then informed that the officer was with immigration before being taken into custody and transported to San Francisco.

16. The agents took him into custody drove him to San Francisco and was later transported to Golden State Annex. He was placed into removal proceedings to appear before an IJ and will likely be charged with having entered the United States without inspection and being

present without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i), § 1182(a)(7)(A)(i). Under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), he will be denied the right to a bond hearing absent an order from this court.

17. B.J.V.'s arrest also raises serious Fourth Amendment constitutional concerns. He was stopped by an unmarked vehicle while driving lawfully to work only a few blocks from his home. When he asked why he had been stopped, the officer refused to explain, immediately handcuffed him, transported him to another location, and only then disclosed that he was an immigration officer. At no point before he was taken into custody was B.J.V. informed of the legal basis for the stop or arrest. On information and belief, Respondents did not possess a judicial warrant authorizing the seizure, and nothing known to Petitioner suggests that the stop was supported by reasonable suspicion or probable cause. The circumstances surrounding Petitioner's arrest therefore raise substantial Fourth Amendment concerns.

18. B.J.V. is not a flight risk, as evidenced by his compliance with the officer's requests and his deep ties to his community. B.J.V. is not a danger to the community as evidenced by his lack of criminal record with the exception of the DUI from over ten years ago.

19. B.J.V. will be placed in § 240 of the Immigration and Nationality Act ("§ 240 proceedings"). § 240 proceedings provide important statutory protections, including hearings before an Immigration Judge. See 8 U.S.C. § 1229a(a)(1), (a)(4).

20. It is the position of the Executive Office for Immigration Review (EOIR), which houses both the BIA and immigration judges, that 8 U.S.C. § 1225(b)(2)(A) applies to all individuals who arrived in the United States without documents, regardless of how long they have lived in the United States and regardless of how far they were apprehended from the border.

21. However, § 1225(b)(2)(A) does not apply to individuals, like Petitioner, who are present in the United States. Instead, such individuals are subject to detention under a different statute, § 1226(a), and eligible for release on bond. Nevertheless, earlier 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.

22. On September 5, 2025, the BIA issued *Matter of Yajure Hurtado*, adopting DHS's arguments, overruling prior agency practice, and holding that § 1225(b)(2)(A) applies to all noncitizens present in the United States without admission, including long-term residents who entered without inspection, subjecting them to mandatory detention during removal proceedings.12 29. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025).

23. This reading is a violation of the statute and due process. Historically, DHS interpreted § 1226(a) as applying to individuals like the petitioner - those present without admission but apprehended inland after unlawful entry - allowing bond hearings.

24. Moreover, because Petitioner has a pending Form I-360 VAWA petition, his continued detention is independently inconsistent with the nationwide preliminary injunction entered in *Immigration Center for Women and Children (ICWC) v. Noem*, Case No. 2:25-cv-09848. As such, B.J.V. seeks an order of declaratory and injunctive relief.

25. The Eastern District of California has grappled with similar claims and facts in L*epe v. Andrews*. Then, this court ordered that those respondents released petitioner immediately due to a lack of flight risk or danger indicia. This court also ordered that, "if the government seeks to re-detain petitioner, it must provide no less than seven (7) days' notice to petitioner and must hold a pre-deprivation bond hearing before a neutral arbiter pursuant to section 1226(a) and

its implementing regulations, at which petitioner's eligibility for bond must be considered." *Lepe v. Andrews*, No. 1:25-CV-01163-KES-SKO (HC), 2025 WL 2716910, at *10 (E.D. Cal. Sept. 23, 2025)

26. Other district courts across the country have also rejected similar reinterpretations post- *Yajure Hurtado*. *See Alvarez-Chavez v Kaiser*, 25-cv-06984-LB, at *9 (N.D. Cal. Oct. 9, 2025); *Guerrero Orellana v. Moniz*, No. 25-CV-12664-PBS, 2025 WL 2809996, at *10 (D. Mass. Oct. 3, 2025) (granting TRO; ordering that the government released plaintiff unless he was provided a bond hearing within seven business days of the date of the order); *See also, e.g.*, *Barrera v. Tindall*, No. 3:25-cv-541-RGJ, 2025 WL 2690565, at *1, *4–7 (W.D. Ky. Sept. 19, 2025) (ordering the release of a petitioner who was present in the U.S. for over twenty years, with three U.S. citizen children, because section 1226, not section 1225, applied; "If Congress had intended for Section 1225 to govern all noncitizens present in the country, who had not been admitted, then it would not have recently adopted an amendment to Section 1226 that prescribes a subset of noncitizens be exempt from the discretionary bond framework." (cleaned up and collecting cases)); *Singh v. Lewis*, No. 4:25-cv-96-RGJ, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025) (same; petitioner had been in the United States for more than twelve years and was "not 'seeking admission' into the United States"); *Hasan v. Crawford*, __ F. Supp. 3d __, 2025 WL 2682255, at *6–10, *13 (E.D. Va. Sept. 19, 2025) (ordering immediate release under § 1226, and rejecting argument that § 1225(b)(2) applied to someone like the petitioner who had been in the United States for several months, had not committed any crimes, and attended all required meetings with ICE officials); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 U.S. Dist. LEXIS 171364, at *15–16 (C.D. Cal. July 28, 2025) (same; "respondents fail to

articulate any valid justification, legal or otherwise, for the application of § 1225 to Petitioners as applicants for admission." (cleaned up)).

BACKGROUND REGARDING RECENT IMMIGRATION ENFORCEMENT PRIORITIES

27. According to a July 1, 2026 article by Hamed Aleaziz published in The New York Times, U.S. Immigration and Customs Enforcement ("ICE") significantly increased immigration enforcement activity nationwide, reporting more than 10,000 arrests over a five-day period. The article states that ICE leadership directed field offices to prioritize immigration arrests, with agency officials reportedly instructed to devote approximately 80 percent of officers to arrest operations and to work seven days per week where possible. As reported by The New York Times, ICE's enforcement activity "roughly doubl[ed] from the 1,000 picked up each day earlier this year." The article further states that ICE officials "had been told that 2,000 arrests a day was the new standard for enforcement" and that "ICE officials were told that the White House wanted an increase in arrests." [1]

28. The article further reports that the increase in enforcement has occurred through routine encounters, including arrests during immigration check-ins, traffic stops, and street encounters, rather than through publicly announced large-scale enforcement operations. Internal agency documents cited in the article reportedly showed that ICE's detained population increased by nearly 4,000 individuals, reaching more than 63,000 people in custody during the reporting period.

29. The article describes reports from immigration attorneys and advocates in multiple states, including Texas, Florida, and Utah, indicating an increase in enforcement actions

[1] [1] Hamed Aleaziz, *Immigrant Arrests Surge to 10,000 in 5 Days as ICE Clamps Down*, N.Y. Times, July 1, 2026, https://www.nytimes.com/2026/07/01/us/politics/ice-immigrant-arrests-surge.html.

involving individuals appearing for routine immigration appointments, individuals stopped while driving, and others encountered during ordinary daily activities. The article includes examples of individuals who were arrested during routine check-ins or while traveling to work, church, or recreational activities.

30. The article also reports that immigration attorneys and community advocates observed heightened fear within immigrant communities as enforcement activity increased. According to the attorneys quoted, some noncitizens expressed reluctance to leave their homes, drive, attend appointments, or engage in routine activities because of concerns about detention. The article attributes these concerns to the reported increase in immigration enforcement and the broader expansion of deportation efforts during the Trump Administration.

31. The circumstances surrounding B.J.V.'s arrest are consistent with the increased immigration enforcement activity described above. B.J.V. was not arrested following any criminal investigation or allegation that he posed a danger to the community. Rather, he was taken into immigration custody during a routine morning commute while driving to work. The timing and circumstances of his arrest underscore the importance of ensuring that his continued detention complies with the statutory and constitutional protections governing immigration custody.

JURISDICTION

32. Petitioner is in physical custody of Respondents. Petitioner is detained at Golden State Annex.

33. 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).

34. 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

35. 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 Northern District of California, the judicial district in which Petitioner currently is detained.

36. 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 Northern District of California.

REQUIREMENTS OF 28 U.S.C. § 2243

37. 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).

PARTIES

38. Petitioner B.J.V. is citizen and national of Mexico who has been in immigration detention since July 1, 2026. After Petitioner was arrested in Concord, California, ICE did not set bond. Requesting a review of his custody by an IJ is futile for the reasons mentioned *supra*. Petitioner has resided in the United States since January 2007.

39. Respondent Tonya Andrews is the Field Office Director of ICE at Golden State Annex, and is named in her official capacity. ICE is the component of the DHS that is responsible for detaining and removing noncitizens according to immigration law and oversees custody determinations. In her official capacity, she is the legal custodian of B.J.V.

40. Respondent Sergio ALBARRAN is the Acting Field Office Director of the San Francisco ICE Field Office. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's San Francisco Area of Responsibility, including the detention of Petitioner. Respondent Albarran maintains an office and regularly conducts business in this district. Respondent Albarran is sued in his official capacity.

41. Respondent David Venturella is the Acting Director of ICE and is named in his official capacity. Among other things, ICE is responsible for the administration and enforcement of the immigration laws, including the removal of noncitizens. In his official capacity as head of ICE, he is the legal custodian of B.J.V.

42. Respondent Markwayne MULLINS is the Secretary of the Department of Homeland Security. He 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. Mullins has ultimate custodial authority over Petitioner and is sued in her official capacity.

43. Respondent Todd BLANCHE is the Attorney General of the United States and the most senior official in the U.S. Department of Justice (DOJ) and is named in his official capacity. He has the authority to interpret immigration laws and adjudicate removal cases. The

Attorney General delegates this responsibility to the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA.

CLAIM FOR RELIEF

FIRST CAUSE OF ACTION

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Bond Hearing

1. Petitioner repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

2. 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.

3. 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.

SECOND CAUSE OF ACTION

Violation of the Administrative Procedure Act

Unlawful Denial of Bond

4. Petitioner repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

5. 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.

6. 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).

THIRD CAUSE OF ACTION

Violation of 8 U.S.C. § 1226(a)

Violation of Procedural Due Process

7. Petitioner repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

8. 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).

9. Petitioners have a fundamental interest in liberty and being free from official restraint.

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

FOURTH CAUSE OF ACTION

Violation of the Fourth Amendment

Unreasonable Seizure

11. Petitioner repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

12. The Fourth Amendment protects all persons within the United States, regardless of immigration status, from unreasonable searches and seizures. *INS v. Delgado*, 466 U.S. 210, 215 (1984); *United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990).

13. On July 1, 2026, Petitioner was stopped while lawfully driving to work by an officer in an unmarked vehicle. When Petitioner asked why he had been stopped, the officer refused to explain the basis for the stop, immediately handcuffed him, transported him to another location, and only thereafter informed him that he was an immigration officer.

14. On information and belief, Respondents lacked a judicial warrant authorizing Petitioner's arrest, and nothing presently known to Petitioner demonstrates that the stop or arrest was supported by reasonable suspicion or probable cause.

15. Petitioner's seizure therefore violated the Fourth Amendment to the United States Constitution

16. Petitioner's continued detention flows directly from that unconstitutional seizure and constitutes unlawful custody within the meaning of 28 U.S.C. § 2241.

FIFTH CAUSE OF ACTION

Violation of Nationwide Preliminary Injunction *Immigration Center for Women and Children (ICWC) v. Noem*

11. Petitioner repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

12. On May 20, 2026, the United States District Court issued a nationwide preliminary injunction in Immigration Center for Women and Children (ICWC) v. Noem, Case No. 2:25-cv-09848, temporarily prohibiting U.S. immigration and Customs Enforcement ("ICE") from detaining or removing noncitizens crime survivors with pending Violence Against Women Act ("VAWA"), U visa, or T visa petitions while those applications remain pending.

13. Petitioner has a pending Form I-360 VAWA self-petition that was filed prior to the commencement of these removal proceedings and remains pending before U.S. Citizenship and Immigration Services. Petitioner is therefore among the individuals protected by the nationwide preliminary injunction and is entitled to the protections afforded by that order.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

c. Alternatively, issue a writ of habeas corpus requiring Petitioner's immediate release or Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

d. Respondents should be ordered to comply with the nationwide preliminary injunction entered in *Immigration Center for Women and Children v. Noem.*

e. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

DATED this July 16, 2026

/s/ Natalia Santanna
Natalia Vieira Santanna
Attorney for B.J.V.

VERIFICATION PURSUANT TO 28 U.S.C. 2242

I am submitting this verification on behalf of the Petitioner because I am one of Petitioner's attorneys. I have discussed with the Petitioner's family the events described in the Petition. Based on those discussions, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Exccuted on 7/16/2026, in Oakland, CA.

/s/ Natalia Santanna
Natalia Vieira Santanna
Attorney for B.J.V.