ACLU OF HAWAI‘I FOUNDATION

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IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF HAWAI‘I

JUAN JOSE ESTRADA LOPEZ, Petitioner, vs. MICHAEL J.D. SMITH, Warden, Federal Detention Center, Honolulu, Hawai‘i; POLLY KAISER, Acting Field Office Director, San Francisco Field Office, Immigration and Customs Enforcement; PAM BONDI, Attorney General of the United States; KRISTI NOEM, Secretary of Homeland Security, in Their Official Capacities, Respondents.	CIVIL NO. _____ Hon. **VERIFIED PETITION FOR WRIT OF HABEAS CORPUS; DECLARATION OF COUNSEL; EXHIBITS 1-3**

INTRODUCTION

1. This petition arises from the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act ("INA") and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

2. This policy has led to the unlawful detention of countless noncitizens nationwide. Dozens of habeas corpus petitions for their release have been filed across the country. Virtually every merits decision in those cases has found for the petitioners, either granting them a bond hearing or ordering their immediate release.

3. Petitioner Juan Jose Estrada Lopez has been unlawfully detained without the possibility of bond under this policy for the past five months—since August 2025. Through this petition, he challenges the legal determination that he is not even eligible for bond under § 1226(a).[1]

4. Mr. Estrada Lopez entered the United States without inspection in May 2022. For the nearly four years since, he has lived and worked in the United States.

[1] He is not challenging any discretionary denial of bond because, as discussed below, the immigration court refused to hold a bond determination or bond hearing.

5. In March 2024, Mr. Estrada Lopez married a United States citizen, Ms. Emily Estrada. In 2025, Ms. Estrada filed a Petition for Alien Relative ("I-130 Petition") as the spouse of Mr. Estrada Lopez, which is the first step in helping him to apply for a Permanent Resident Card.

6. At his I-130 Petition interview on August 13, 2025, Mr. Estrada Lopez was suddenly taken into immigration custody. After taking custody of Mr. Estrada Lopez, ICE did not set bond. Instead, Respondents alleged that he was subject to mandatory detention because he had entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

7. Mr. Estrada Lopez is currently in the physical custody of Respondents at the Honolulu Federal Detention Center ("FDC Honolulu"), which falls under the purview of the San Francisco Field Office of Immigration and Customs Enforcement ("ICE"). Pursuant to the policies discussed below, Mr. Estrada Lopez is being held without bond.

8. Under 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond, Mr. Estrada Lopez is entitled to a bond determination. That statute expressly applies to people like Mr. Estrada Lopez who are residing in the United States but are charged as inadmissible for having initially entered the country without inspection. In accordance with 8 U.S.C. § 1226(a), the Department of Homeland Security ("DHS") and the Executive Office for Immigration Review

("EOIR") have for decades provided bond determinations and bond hearings to people like Mr. Estrada Lopez who have been living in the United States for years but allegedly entered without inspection.

9. But pursuant to a new governmental policy ("DHS Policy") announced on July 8, 2025,[2] Mr. Estrada Lopez is now being unlawfully detained without bond. The new policy instructs all ICE employees to no longer apply 8 U.S.C. § 1226(a) to people charged with being inadmissible under § 1182(a)(6)(A)(i)—i.e., those who initially entered the United States without inspection. Instead, under the new policy, ICE employees are instructed to subject people like Mr. Estrada Lopez to mandatory detention without bond under § 1225(b)(2)(A)—a provision that has historically been applied only to recent arrivals at the U.S. border—no matter how long they have resided in the United States.

10. Detaining Mr. Estrada Lopez without bond is plainly contrary to the statutory framework of the INA and contrary to both agency regulations and decades of consistent agency practice applying § 1226(a) to people like him. It also

[2] ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission [https://perma.cc/8SP7-TDDD].

violates Mr. Estrada Lopez's right to due process by depriving him of his liberty without any consideration of whether such a deprivation is warranted.

11. Accordingly, Mr. Estrada Lopez seeks a writ of habeas corpus requiring that he be immediately released from custody unless he is provided with a bond hearing under § 1226(a) within seven days.

12. A federal court has already held in a nationwide class action that individuals like Mr. Estrada Lopez are eligible for bond under § 1226(a). In *Maldonado Bautista v. Santacruz*, Case No. 25-CV-01873, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025), the District Court in the Central District of California granted nationwide class relief to people like Mr. Estrada Lopez who are noncitizens "without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention" under other statutory detention provisions. *Bautista v. Santacruz*, 2025 WL 3713987, at *32 (defining a "Bond Eligible Class").

13. Under this ruling, all Bond Eligible Class members "are entitled to relief in the form of declaratory relief, which declares the DHS Policy unlawful, and grants vacatur under the APA, which sets aside the DHS Policy." *Id.*

14. Nonetheless, the EOIR and its subagency the Immigration Court and DHS have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Mr. Estrada Lopez be denied the opportunity to be released on bond.

15. Mr. Estrada Lopez requested review of his custody (*i.e.*, a bond hearing) by an administrative Immigration Judge at the Honolulu Immigration Court, pursuant to 8 U.S.C. § 1226(a)(1) and in light of the *Maldonado Bautista* decision.

16. On December 22, 2025, Petitioner was denied eligibility for bond by the Immigration Judge because he was deemed subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

17. The Immigration Judge determined that she did not have jurisdiction to issue a bond because she is bound by the agency's prior decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

18. In *Matter of Yajure Hurtado*, the BIA ruled that people who "surreptitiously cross into the United States" qualify as "applicants for admission" under § 1225(b)(2)(A), and thus Immigration Judges "have no authority to redetermine the custody conditions of a [noncitizen] who crossed the border unlawfully without inspection," even if that noncitizen has lived in the United States for years. *Matter of Yajure Hurtado*, 29 I&N Dec. at 228.

19. Immigration Judges across the country, and in Mr. Estrada Lopez's case, have maintained that they are bound by the agency's decision in *Matter of Yajure Hurtado*, and therefore lack jurisdiction to grant a bond hearing to Bond Eligible Class members like Mr. Estrada Lopez.

20. In this petition, Mr. Estrada Lopez challenges Respondents' erroneous determination that he is subject to mandatory detention without bond under § 1225(b)(2).

21. Mr. Estrada Lopez requests that this Court determine that he is eligible for bond under § 1226(a) because he is a Bond Eligible Class member under the ruling in *Maldonado Bautista*.

22. Alternatively, Mr. Estrada Lopez is eligible for bond because the DHS Policy is unlawful.

23. Mr. Estrada Lopez respectfully requests that the Court expeditiously grant this petition, as he has been unlawfully detained for five months.

JURISDICTION

1. Petitioner Juan Jose Estrada Lopez is in the physical custody of Respondents. He is detained at FDC Honolulu in Honolulu, Hawai‘i.

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

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

VENUE

4. Venue is proper in the District of Hawai‘i under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Mr. Estrada Lopez is detained in an immigration detention facility at the direction of, and is in the immediate custody of, Respondent Michael J.D. Smith, the Warden of FDC Honolulu. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434–47 (2004) (immediate-custodian rule and district-of-confinement principle).

5. 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 and relevant facts occurred in this District.

PARTIES

6. Petitioner Juan Jose Estrada Lopez is a citizen of Nicaragua who has resided in the United States since 2022. He has been in immigration detention since August 13, 2025, and is currently detained at FDC Honolulu.

7. Respondent Michael J.D. Smith is the Warden of FDC Honolulu and is Mr. Estrada Lopez’s immediate custodian while he is in immigration detention. He is named in his official capacity.

8. Respondent Polly Kaiser is the Acting Field Office Director of the San Francisco ICE Field Office, which oversees immigration enforcement operations in Honolulu, Hawai‘i. As such, Kaiser is one of Mr. Estrada Lopez's immediate custodians and is responsible for his detention and removal. She is named in her official capacity.

9. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is the agency responsible for Mr. Estrada Lopez's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

10. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates are component agencies. She is sued in her official capacity.

REQUIREMENTS OF 28 U.S.C. § 2243

1. The Court must grant the petition for a writ of habeas corpus or order Respondents to show cause "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

2. 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), *overruled on other grounds by, Wainwright v. Sykes*, 433 U.S. 72 (1977). "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).

FACTS

Petitioner Juan Jose Estrada Lopez

1. Petitioner Juan Jose Estrada Lopez entered the United States without inspection in May 2022. He has resided within the country since that time, and now lives in Captain Cook, Hawai‘i, where he has worked for several years at a local coffee farm. Mr. Estrada Lopez is 42 years old.

2. Mr. Estrada Lopez has no criminal history. He married a U.S. citizen, Emily Estrada, on March 2, 2024.

3. Removal proceedings were commenced against Mr. Estrada Lopez in September 2022, pursuant to 8 U.S.C. § 1229a. ICE charged Petitioner with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection—that is, without "being admitted or paroled."

4. After they married, Ms. Emily Estrada filed a I-130 Petition for Alien Relative, as the spouse of Mr. Estrada Lopez, to help him obtain his green card.

5. At Mr. Estrada Lopez's interview for his spousal petition on August 13, 2025, he was detained by ICE officers. Mr. Estrada Lopez is now being held at FDC Honolulu in Honolulu, Hawai‘i.

6. Following Mr. Estrada Lopez's detention, ICE did not conduct a custody determination and has continued to detain Mr. Estrada Lopez for months without providing an opportunity to post bond or be released under other conditions.

7. Mr. Estrada Lopez subsequently requested a bond hearing before an immigration judge. On December 22, 2025, an immigration judge issued a decision that the court lacked jurisdiction to conduct a bond hearing because Petitioner was an applicant for admission under 8 U.S.C. § 1225(b)(2)(A). *See* Exhibit 2 (Petitioner Bond Decision).

8. The Immigration Judge did not make any factual findings or in any way suggest that Mr. Estrada Lopez is a flight risk or danger to the community.

9. Mr. Estrada Lopez is clearly neither a flight risk nor danger to the community, as demonstrated by the following:

- He has a stable job and home with his wife, Ms. Emily Estrada, in Captain Cook, Hawai‘i. They work together at the same company and live together.
- He has no criminal history.

10. Mr. Estrada Lopez is working with an immigration attorney and has strong claims for immigration relief.

11. Without relief from this Court, Mr. Estrada Lopez faces the prospect of continued unjustified and prolonged detention in immigration custody, separated from his family and community—and he has already been unlawfully detained for five months.

LEGAL FRAMEWORK

Immigration Detention Statutes

12. The INA prescribes three basic forms of detention for the majority of noncitizens in removal proceedings.

13. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens who are in removal proceedings. *See* 8 U.S.C. § 1229(a); *see also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained, but

they are generally entitled to seek release on bond.[3] The bond may be set by ICE itself as part of an initial custody determination, *see* 8 C.F.R. § 1236.1(c)(8), and/or the individual may seek a bond hearing in immigration court at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(a) is the statute that, for decades, has been applied to people like Mr. Estrada Lopez who have been living in the United States and are charged with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i)*; see Martinez v. Hyde*, 792 F. Supp. 3d 211, 217 (D. Mass. 2025) (noting the new DHS policy means "that virtually every non-citizen not previously admitted to the United States is subject to mandatory detention, without the possibility of a bond hearing, regardless of how long or under what circumstances that person has maintained a presence in the United States" and observing "such an approach would upend decades of practice").

14. Second, the INA provides for mandatory detention of certain recently-arrived noncitizens, including those subject to expedited removal under 8 U.S.C. § 1225(b)(1). *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 109 (2020) (explaining that individuals who are subject to expedited removal are those that (1) have been in the United States for less than two years, (2) are inadmissible

[3] Section § 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. § 1226(c). That exception does not apply to Mr. Estrada Lopez.

because they lack a valid entry document, and (3) are "among those whom the Secretary of Homeland Security has designated for expedited removal"). Other recent arrivals seeking admission (typically at the border) under § 1225(b)(2) are also subject to mandatory detention. *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the country"). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Mr. Estrada Lopez under the new DHS Policy.

15. Third, the INA also provides for detention of noncitizens who have already been ordered removed. *See* 8 U.S.C. § 1231. Section 1231 is not relevant here.

16. This case challenges Respondents' erroneous determination that Mr. Estrada Lopez is subject to mandatory detention without bond under § 1225(b)(2), rather than being bond-eligible under § 1226(a).

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

18. Following the 1996 enactment of the IIRIRA, the EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not 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) (explaining that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

19. In the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, unless their criminal history rendered them ineligible. 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 immigration judge or other hearing officer. *See generally* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) (INA § 236(a)) "restates" the detention authority previously found at § 1252(a) (INA § 242(a))).

20. However, on July 8, 2025, ICE, "in coordination with" the Department of Justice, suddenly announced a new governmental policy that

rejected the well-established understanding of the statutory framework and reversed decades of agency practice.[4]

21. The new DHS policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even for decades or since infancy.

22. In decision after decision, federal courts—both nationwide and here in the District of Hawai'i—have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. This is true in the District of Hawai'i. *See Rico-Tapia v. Smith*, No. CV 25-00379, 2025 WL 2950089 (D. Haw. Oct. 10, 2025). And the same goes for numerous courts across the nation. *See, e.g.*, *Gomes v. Hyde*, No. 25-CV-11571, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, 792 F.Supp.3d 211 (D. Mass. 2025); *Bautista v. Santacruz Jr.*, No. 25-CV-1873, 2025 WL 2670875 (C.D. Cal. July 28,

[4] ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission [https://perma.cc/8SP7-TDDD].

2025); R. & R., *Rosado v. Figueroa*, No. 25-CV-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, 795 F.Supp.3d 475 (S.D.N.Y. 2025); *Gonzalez v. Noem*, No. 25-CV-02054, 2025 WL 2633187 (C.D. Cal. Aug. 13, 2025), Dkt. 12; *Dos Santos v. Noem*, No. 25-CV-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, 795 F.Supp.3d 1134 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 25-CV-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, 795 F.Supp.3d 271 (D. Mass. 2025); *Samb v. Joyce*, No. 25 Civ. 6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 25-CV-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 25-CV-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi* 797 F.Supp.3d 957 (D. Minn. 2025); *Diaz Diaz v. Mattivelo*, No. 25-CV-12226, 2025 WL 2457610 (D. Mass. Aug. 27, 2025); *Francisco T. v. Bondi*, 797 F.Supp.3d 970 (D. Minn. 2025); *Lopez-Campos v. Raycraft*, 797 F.Supp.3d 771 (E.D. Mich. 2025); Order, *Garcia v. Kaiser*, No. 25-CV-06916, 2025 WL 3500767 (N.D. Cal. Aug. 29, 2025), Dkt. 22; *Garcia v. Noem*, No. 25-CV-02180, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Hernandez Nieves v. Kaiser*, No. 25-CV-06921, 2025 WL 2533110 (N.D. Cal., Sept. 3, 2025); *Doe v. Moniz*, No. 25-CV-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-CV-326, 2025 WL 2639390 (D.N.H. Sept.

8, 2025); *Mosqueda v. Noem*, No. 25-CV-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Guzman v. Andrews*, No. 25-CV-01015, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Lopez Santos v. Noem*, No. 25-CV-01193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); *Salcedo Aceros v. Kaiser*, No. 25-CV-06924, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); *Garcia Cortes, v. Noem*, No. 25-CV-02677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Pablo Sequen v. Kaiser*, No. 25-CV-06487, 2025 WL 2650637 (N.D. Cal. Sept. 16, 2025); *Velasquez Salazar v. Dedos*, No. 25-CV-00835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Hasan v. Crawford*, No. 25-CV-1408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Chiliquinga Yumbillo v. Stamper*, No. 25-CV-00479, 2025 WL 2688160 (D. Me. Sept. 19, 2025); *Barrera v. Tindall*, No. 25-CV-541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Chogllo Chafla v. Scott*, No. 25-CV-00437, 2025 WL 2688541 (D. Me. Sept. 21, 2025); *Singh v. Lewis*, No. 25-CV-96, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Giron Reyes v. Lyons*, No. C25-4048, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Barrajas v. Noem*, No. 25-CV-00322, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Lopez v. Hardin*, No. 25-CV-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025); *Roa v. Albarran*, No. 25-CV-07802, 2025 WL 2732923 (N.D. Cal. Sept.

25, 2025); *Zumba v. Bondi*, No. 25-CV-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV-07492, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025); *Alves da Silva v. U.S. Immigr. & Customs Enf't*, No. 25-CV-284, 2025 WL 2778083 (D.N.H. Sept. 29, 2025); *Chang Barrios v. Shepley*, No. 25-CV-00406, 2025 WL 2772579 (D. Me. Sept. 29, 2025); *Inlago Tocagon v. Moniz*, No. 25-CV-12453, 2025 WL 2778023 (D. Mass. Sept. 29, 2025); *J.U. v. Maldonado*, No. 25-CV-04836, 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Romero-Nolasco v. McDonald*, No. 25-CV-12492, 2025 WL 2778036 (D. Mass. Sept. 29, 2025); *Quispe v. Crawford*, No. 25-CV-1471, 2025 WL 2783799 (E.D. Va. Sept. 29, 2025); *Chiliquinga Yumbillo v. Stamper*, No. 25-CV-00479, 2025 WL 2783642 (D. Me. Sept. 30, 2025); *Quispe-Ardiles v. Noem*, No. 25-CV-01382, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025); *Rodriguez v. Bostock*, No. 25-CV-05240, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025); *D.S. v. Bondi*, No. 25-CV-3682, 2025 WL 2802947 (D. Minn. Oct. 1, 2025); *Casun v. Hyde*, No. 25-CV-427, 2025 WL 2806769 (D.R.I. Oct. 2, 2025); *Chanaguano Caiza v. Scott*, No. 25-CV-00500, 2025 WL 2806416 (D. Me. Oct. 2, 2025); *Guzman Alfaro v. Wamsley*, No. 25-CV-01706, 2025 WL 2822113 (W.D. Wash. Oct. 2, 2025); *Rocha v. Hyde*, No. 25-CV-12584, 2025 WL 2807692 (D. Mass. Oct. 2, 2025); *Escobar v. Hyde*, No. 25-CV-12620, 2025 WL 2823324 (D. Mass. Oct. 3, 2025); *Cordero Pelico v. Kaiser*, No. 25-CV-07286, 2025 WL 2822876 (N.D. Cal. Oct. 3, 2025);

Echevarria v. Bondi, No. 25-CV-03252, 2025 WL 2821282 (D. Ariz. Oct. 3, 2025); *Guerrero Orellana v. Moniz*, 2025 WL 2809996 (D. Mass. Oct. 3, 2025); *Artiga v. Genalo*, No. 25-CV-5208, 2025 WL 2829434 (E.D.N.Y. Oct. 5, 2025); *Hyppolite v. Noem*, No. 25-CV-4304, 2025 WL 2829511 (E.D.N.Y. Oct. 6, 2025).[5]

23. This list is undoubtedly incomplete. According to a recent survey of court decisions nationwide, "[m]ore than 300 federal judges, including appointees of every president since Ronald Reagan, have now rebuffed the administration's six-month-old effort to expand its so-called 'mandatory detention' policy," and those "judges have ordered immigrants' release or the opportunity for bond hearings in more than 1,600 cases." Kyle Cheney, *Hundreds of Judges Reject Trump's Mandatory Detention Policy, With No End In Sight*, Politico (Jan. 5, 2026, at 5:55 AM ET), https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494?cid=apn. The government's new no-bond policy has "led to dozens of recent rulings from gobsmacked judges who say the administration has violated the law and due process rights." Kyle Cheney & Myah Ward, *Trump's New Detention Policy Targets Millions of Immigrants. Judges Keep Saying It's Illegal*, Politico (Sept. 20, 2025, at 4:00 PM ET),

[5] *But see, e.g.*, *Chavez v. Noem*, No. 25-CV-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025).

https://www.politico.com/news/2025/09/20/ice-detention-immigration-policy-00573850.

24. On September 5, 2025, the Board of Immigration Appeals issued a precedential decision that rejected the overwhelming consensus of the federal courts. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In keeping with the administration's new policy, that decision held that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an immigration judge.

25. The BIA's decision in *Yajure Hurtado*—like the government policy it seeks to uphold—defies the INA.

26. As court after court has explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Mr. Estrada Lopez. *See Rico-Tapia*, 2025 WL 2950089, at *6–7; *Pizarro Reyes*, 2025 WL 2609425, at *7 (observing that the BIA's reasoning in *Yajure Hurtado* is unpersuasive and "at odds with every District Court that has been confronted with the same question of statutory interpretation").

27. Section 1226(a)—which permits bond hearings—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 § 1229(a) to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

28. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who allegedly 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 noncitizens are afforded a bond hearing under subsection (a). As one court has explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez*, 779 F. Supp. 3d at 1256–57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

29. Section 1226 therefore clearly applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

30. By contrast, § 1225(b)—the section that authorizes mandatory detention—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)*; see Jennings*, 583 U.S. at 287 (explaining that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible").

31. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people who have already entered and have been residing in the United States at the time they were apprehended by immigration authorities and detained.

32. Because § 1226(a), not § 1225(b), is the applicable statute, Mr. Estrada Lopez's detention without bond is unlawful.

No Exhaustion Required

33. Courts "may waive the prudential exhaustion requirement if 'administrative remedies are inadequate or not efficacious, pursuit of administrative remedies would be a futile gesture, irreparable injury will result, or the administrative proceedings would be void.'" *Hernandez v. Sessions*, 872 F.3d 976, 988 (9th Cir. 2017) (quoting *Laing v. Ashcroft*, 370 F.3d 994, 1000 (9th Cir. 2004)). Petitioner seeks relief from this Court because any months-long appeal to the BIA of the Immigration Judge's decision denying bond or new request for a bond hearing would be futile, and irreparable injury would result in the meantime for the reasons discussed below. *See Castillo-Villagra v. I.N.S.*, 972 F.2d 1017, 1024 (9th Cir. 1992) ("The prudential exhaustion requirement does not apply where it would be futile."); *El Rescate Legal Servs., Inc. v. Exec. Off. of Immigr. Rev.*, 959 F.2d 742, 747 (9th Cir. 1991) (same).

34. First, the BIA's position is clear: Both immigration judges and future panels of the BIA must follow the *Yajure Hurtado* decision. The new DHS policy

was issued "in coordination with the Department of Justice," which oversees the immigration courts, including the BIA—up to and including the ability of the Attorney General to modify or overrule decisions of the BIA. *See* 8 C.F.R. § 1003.1(h). It is therefore unsurprising, given this DHS-DOJ coordination, that the BIA has (erroneously) held that persons like Mr. Estrada Lopez are subject to mandatory detention under § 1225(b)(2)(A), rather than being bond-eligible under § 1226(a). Moreover, in the numerous identical habeas corpus petitions that have been filed nationwide, EOIR and the Attorney General are often respondents and have consistently affirmed via briefing and oral argument that individuals like Mr. Estrada Lopez are applicants for admission and subject to detention under § 1225(b)(2)(A). *See, e.g.*, *Salcedo Aceros v. Kaiser,* 2025 WL 2637503, at *7.

35. Second, by the time the BIA could even issue an appeal—a process that typically takes at least six months, *see Rodriguez*, 779 F. Supp. 3d at 1245, and in many cases roughly a year, *see id.* at 1248—the harm of Mr. Estrada Lopez's unlawful detention will be impossible to remediate. Here, the "delays inherent in the administrative process . . . would result in the very harm that the bond hearing was designed to prevent: prolonged detention without due process." *Hechavarria v. Whitaker*, 358 F. Supp. 3d 227, 237 (W.D.N.Y. 2019) (cleaned up). Nor will the downstream effects of continued detention be remediable: Mr. Estrada Lopez's

family and community will be left without a caretaker and contributor as long as he is detained—and he has already been unlawfully in detention for five months.

36. Finally, the need for waiver is amplified in the context of a habeas corpus petition, which demands a "swift" remedy in the face of illegal detention. *Fay v. Noia*, 372 U.S. 391, 400 (1963). Here, Mr. Estrada Lopez claims not only that Respondents are unlawfully detaining him without a bond hearing under an inapplicable statute, but also that such detention violates Mr. Estrada Lopez's constitutional right to due process if the government seeks to deprive him of his liberty.

Maldonado Bautista *Decision and Bond Eligible Class*

37. Mr. Estrada Lopez also brings this petition to seek enforcement of his rights as a member of the Bond Eligible Class certified in *Maldonado Bautista v. Santacruz*, No. 25-CV-01873 (C.D. Cal.). He is being unlawfully detained because DHS and the EOIR have refused to abide by the declaratory judgment issued on behalf of the certified class.

38. On November 20, 2025, the District Court in the Central District of California granted partial summary judgment on behalf of individual plaintiffs similarly situated to Mr. Estrada Lopez and on November 25, 2025, certified a nationwide class ("Bond Eligible Class") and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, Case No. 25-CV-01873, 2025

WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (Order Granting Partial Summary Judgment to Named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, Case No. 25-CV-01873, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (Order Certifying Plaintiffs-Petitioners' Proposed Nationwide Bond Eligible Class, Incorporating and Extending Declaratory Judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

39. The Bond Eligible Class is defined as "[a]ll noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." *Maldonado Bautista*, 2025 WL 3288403, at *9.

40. The declaratory judgment held that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), and not under § 1225(b)(2)(A)—and thus, class members are entitled to consideration for release on bond. *Maldonado Bautista*, 2025 WL 3289861, at *11.

41. On December 18, 2025, the court entered final judgment and certified the Bond Eligible Class as to the claims that "the DHS Policy violates the INA and statutory Due Process." *Maldonado Bautista v. Santacruz*, Case No. 25-CV-01873, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025). The court clarified that under

this ruling, "all members of the Bond Eligible Class are entitled to relief in the form of declaratory relief, which declares the DHS Policy unlawful, and grants vacatur under the APA, which sets aside the DHS Policy." *Id.*

42. The declaratory judgment held that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

43. Petitioner Juan Jose Estrada Lopez is a member of the Bond Eligible Class, as he:

a. does not have lawful status in the United States and is currently detained at the Honolulu Federal Detention Center;

b. entered the United States without inspection over three years ago and was not apprehended upon arrival; and

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

44. Respondents are detaining Mr. Estrada Lopez in violation of the declaratory judgment issued in *Maldonado Bautista*, and this Court should accordingly order that within one day, Mr. Estrada Lopez must be released. Alternatively, the Court should order Mr. Estrada Lopez's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

45. Respondents are bound by the final judgment issued on December 18, 2025, and therefore may not relitigate the interpretation of the DHS Policy because the *Maldonado Bautista* court declared the DHS Policy unlawful and granted vacatur of the policy under the APA, thereby setting aside the DHS Policy. *Maldonado Bautista*, 2025 WL 3713987, at *32. To the extent Respondents attempt to do so in litigating this habeas petition, issue preclusion prevents this argument. *See Paulo v. Holder*, 669 F.3d 911, 917 (9th Cir. 2011) (explaining that issue preclusion "applies when: (1) the issue necessarily decided at the previous proceeding is identical to the one which is sought to be relitigated; (2) the first proceeding ended with a final judgment on the merits; and (3) the party against whom issue preclusion is asserted was a party or in privity with a party at the first proceeding" (cleaned up)). Here, the issue of the DHS Policy's interpretation was fully decided by the *Maldonado Bautista* court, in which there is a final judgment on the merits, and Respondents were either parties to that proceeding or in privity to the respondents in that case. Should Respondents request or try to relitigate this issue, Mr. Estrada Lopez respectfully requests that the Court order additional briefing.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

47. Respondents are unlawfully detaining Mr. Estrada Lopez without bond pursuant to the mandatory detention provision at 8 U.S.C. § 1225(b)(2).

48. Section 1225(b)(2) does not apply to Mr. Estrada Lopez, who entered the country without inspection over two years ago and has been residing in the United States since then prior to being detained by Respondents.

49. Instead, Mr. Estrada Lopez should be subject to the detention provisions of § 1226(a) and is therefore entitled to a custody determination by ICE, and if custody is continued, to a custody redetermination (i.e., a bond hearing) by an immigration judge.

50. Respondents' application of 8 U.S.C. § 1225(b)(2) to Mr. Estrada Lopez results in his unlawful detention without the opportunity for a bond hearing and violates the INA.

51. Moreover, as a member of the *Maldonado Bautista* Bond Eligible Class, Mr. Estrada Lopez is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

52. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute codified at § 1225(b)(2) to class members.

53. The order granting class certification in *Maldonado Bautista* further orders that "[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole." *Maldonado Bautista*, 2025 WL 3288403, at *9.

54. Respondents are parties to *Maldonado Bautista* and bound by that court's final judgment.

55. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Mr. Estrada Lopez's statutory rights under the INA and the court's judgment in *Maldonado Bautista*.

COUNT II

Violation of Due Process

56. Mr. Estrada Lopez repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

57. 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 Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

58. Mr. Estrada Lopez has a fundamental interest in liberty and being free from official restraint.

59. The government's detention of Mr. Estrada Lopez without an opportunity for a custody determination or bond hearing to decide whether he is a flight risk or danger violates Mr. Estrada Lopez's right to due process.

PRAYER FOR RELIEF

WHEREFORE, Mr. Estrada Lopez prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents release Mr. Estrada Lopez within one day;

c. Alternatively, issue a writ of habeas corpus requiring that Respondents release Mr. Estrada Lopez from custody unless he is provided with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days;

d. Enjoin Respondents from transferring Mr. Estrada Lopez from the jurisdiction of this District pending these proceedings;

e. Declare that 8 U.S.C. § 1226(a)—and not 8 U.S.C. § 1225(b)(2)(A)—is the appropriate statutory provision that governs Mr. Estrada Lopez's detention and eligibility for bond because he is not a recent arrival "seeking admission" to the United States, and instead was

already residing in the United States when detained for having allegedly entered the United States without inspection;

f. Award Mr. Estrada Lopez 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

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

Dated: January 13, 2026

Respectfully submitted,

/s/ Leilani Stacy

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242 AND 28 U.S.C. § 1746

1. I, Leilani Stacy, declare:

2. I am counsel for Petitioner, Juan Jose Estrada Lopez, in the above-captioned matter. Pursuant to 28 U.S.C. § 2242, I submit this verification on his behalf.

3. I have reviewed the foregoing Verified Petition for Writ of Habeas Corpus and the accompanying exhibits. The factual statements therein are true and correct to the best of my knowledge, information, and belief, based on my personal knowledge and the records maintained in the ordinary course of my representation.

4. I declare under penalty of perjury that the foregoing is true and correct.

Executed on January 13, 2026.

/s/ *Leilani Stacy*
Leilani Stacy
Attorney for Petitioner