UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

JESUS JOSE PIZARRO REYES,

Petitioner,

v.

KEVIN RAYCRAFT, Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 2:25-cv-12546

PETITION FOR WRIT OF HABEAS CORPUS

[redacted]

INTRODUCTION

1. Petitioner Jesus Jose Pizarro Reyes is in the physical custody of Respondents at the Calhoun County Correctional Facility. 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 inspection. 8 U.S.C. § 1182(a)(6)(A)(i). Petitioner has resided in the United States for over 20 years.

3. Based on this charge 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 initially entered the United States without inspection—to be subject to mandatory detention under 8 U.S.C. § 1225(b)(2), no matter how long they have resided in the United States.

4. Petitioner sought a bond redetermination hearing before an Immigration Judge (IJ). On July 10, 2025, the IJ granted bond of $5,000. DHS reserved appeal and obtained an automatic and administratively unreviewable stay of the bond order. 8 C.F.R. § 1003.19(i). Later, in the full written decision that the

IJ prepared for appellate review, the IJ changed his mind and concluded that he had no jurisdiction to set a bond for Petitioner. He issued an alternate order stating that he would release Petitioner on a bond of $5,000 if he had jurisdiction.

5. The IJ based his decision on the same legal analysis advanced by DHS. Indeed, the DHS policy states it was issued "in coordination with the Department of Justice (DOJ)." The IJ concluded that notwithstanding Petitioner's 20 years of residing in the United States, he is nevertheless an "applicant for admission" who is "seeking admission" and subject to mandatory detention under § 1225(b)(2)(A).

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

7. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to both agency regulations and decades of consistent agency practice applying § 1226(a) to people like Petitioner.

8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within fourteen days.

9. Petitioner is not challenging any discretionary denial of bond – in fact, the IJ would have granted him bond but for this novel and erroneous legal interpretation; he is challenging the IJ's legal determination that Petitioner is not eligible for bond under § 1226(a) in the first place.

JURISDICTION

10. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Calhoun County Correctional Facility in Battle Creek, Michigan.

11. 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). *See Rosales-Garcia v. Holland*, 322 F.3d 386, 394 (6th Cir. 2003).

12. 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. *See Ly v. Hansen*, 351 F.3d 263, 266 (6th Cir. 2003) *vacated on other grounds by Hamama v. Adducci*, 946 F.3d 875 (6th Cir. 2020).

VENUE

13. Venue is proper in the Eastern District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained at the direction, and is in the immediate custody, of Respondent Raycraft. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

14. 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 the Eastern District.

REQUIREMENTS OF 28 U.S.C. § 2243

15. The Court must grant the petition for 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.*

16. 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

17. Petitioner Jesus Jose Pizarro Reyes[1] is a citizen of Mexico who has been in immigration detention since approximately June 26, 2025. After arresting Petitioner in Michigan, ICE did not set bond so Petitioner requested review of his custody by an IJ. On July 10, 2025, the IJ issued a bond of $5,000. ICE appealed, invoking the automatic and administratively unreviewable stay provisions of 8 C.F.R. § 1003.19(i). ICE deems Petitioner to be subject to mandatory detention under 8 U.S.C. § 1225(b)(2), an argument that the IJ acquiesced after ICE filed its appeal. Petitioner has resided in the United States since approximately 2005.

18. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Director Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

19. Respondent Kristi Noem 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

[1] The Petitioner's last name is misspelled as "Pizzaro" in the agency record.

responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

20. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

21. 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 is a component agency. She is sued in her official capacity.

22. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

LEGAL FRAMEWORK

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

24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally 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).

25. 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).

26. Last, the INA also provides for detention of noncitizens who have been ordered removed, *see* 8 U.S.C. § 1231(a)–(b).

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

28. 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).

29. Following the 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. 10,312, 10,323 (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.").

30. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, 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 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)).

31. However, on July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

32. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[2] claims that all persons who entered the United States without inspection are subject to the mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is

[2] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

apprehended, and affects those who have resided in the United States for months, years, and even decades.

33. In a May 22, 2025, unpublished decision from the Board of Immigration Appeals (BIA), EOIR adopts this same position.[3] That decision holds that all noncitizens who entered the United States without admission or parole are ineligible for immigration judge bond hearings.

34. ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Bautista et al. v. Santacruz Jr. et al.*, No. 5:25-CV-1873-BFM, ECF No. 14, at *7-8 (C.D. Cal. July 28, 2025) (granting four similarly situated individuals a temporary restraining order for bond hearings on the basis that they were likely unlawfully detained under § 1225(b) instead of § 1226(a)); *Rosado v.*

[3] *Available at* https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf.

Figueroa, No. 25-cv-2157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (granting habeas petition based on same conclusion); *Lopez Benitez v. Francis,* No. 25-cv-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025) (same); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (same); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025) (same).

35. DHS's and DOJ's interpretation defies the INA. As the aforementioned courts explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

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

37. 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). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing

Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393, 400 (2010)).

38. 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.

39. 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). Indeed, the Supreme Court has explained 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." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

40. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

FACTS

41. Petitioner has resided in the United States since 2005 and lives in Detroit, Michigan.

42. On June 26, 2025, Petitioner was arrested by ICE. Looking for someone else, ICE stopped the vehicle that Petitioner was in. After Petitioner

asserted his rights, ICE arrested him. Petitioner is now detained at the Calhoun County Correctional Facility.

43. DHS placed Petitioner in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

44. The Petitioner has lived in the U.S. for approximately 20 years. He and his wife have two children, both of whom are U.S. citizens. As relief from removal, he is eligible for cancellation of removal as a nonpermanent resident under 8 U.S.C. § 1229b(b)(1). As the IJ found in initially setting bond and then in denying bond solely for lack of jurisdiction, Petitioner has proven that he is not a flight risk or a danger to the community.

45. Following Petitioner's arrest and transfer to the Calhoun County Correctional Facility, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

46. Petitioner subsequently requested a bond redetermination hearing before an IJ.

47. On July 10, 2025, an IJ in Detroit, Michigan issued a decision granting Petitioner release on a bond of $5,000. DHS filed an appeal to the Board

of Immigration Appeals (BIA) invoking the automatic stay provisions of 8 C.F.R. § 1003.19(i).

48. As part of the appellate process, the IJ was required to issue a memorandum decision. 8 C.F.R. § 1003.6(c)(2). Although the DHS did not file a motion to reconsider and even though the appeal divested the IJ of jurisdiction over his initial bond decision, the IJ changed his decision during the appeal. In his bond memorandum, the IJ found that he lacked jurisdiction to conduct a bond redetermination hearing because Petitioner was an applicant for admission under § 1225(b)(2)(A). Since the decision that DHS appealed is now in their favor, the appeal is likely moot and the time for filing a new appeal has expired.

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

50. Any new appeal to the BIA is untimely and futile. DHS's new policy was issued "in coordination with DOJ," which oversees the immigration courts. Further, as noted, the most recent unpublished BIA decision on this issue held that persons like Petitioner are subject to mandatory detention as applicants for admission. Finally, in the *Rodriguez Vazquez* litigation, where EOIR and the Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioner are applicants for admission and subject to detention under §

1225(b)(2)(A). *See* Mot. to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025), Dkt. 49 at 27–31.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

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

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

COUNT II

Violation of Due Process

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

55. 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).

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

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

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue an order preventing Respondent from transferring Petitioner outside of Michigan;

c. Issue a writ of habeas corpus requiring that Respondents release Petitioner or provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 14 days;

d. 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

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

DATED August 14, 2025.

/s/ Russell Reid Abrutyn

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