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**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

Jesus VAZQUEZ GONZALEZ,

Petitioner,

v.

WARDEN of Folkston ICE Processing Center
in their official capacity; George STERLING,
Deputy Field Office Director of the Atlanta
Field Office, U.S. Immigration and Customs
Enforcement; Todd LYONS, in his official
capacity as acting Director of U.S.
Immigration and Customs Enforcement,
Kristi NOEM, in her official capacity as
Secretary of the U.S. Department of
Homeland Security, and Pamela BONDI, in
her official capacity as U.S. Attorney General;
Sirce OWEN, Acting Director for Executive
Office for Immigration Review;

Respondents.

HEARING REQUESTED

Case No.:

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Jesus Vazquez Gonzalez (A ) is a native and citizen of Mexico who was detained by U.S. Immigration and Customs Enforcement (“ICE”) on June 7, 2025. Mr. Vazquez Gonzalez has lived in the United States since around 2001 after entering the country without inspection as a child. Mr. Vazquez Gonzalez is the father of three United States citizen children, ages 10, 15, and 19. He has no criminal history outside a 20-year-old loitering charge which was dismissed and a traffic ticket. Despite his eligibility for relief from removal while not detained, Mr. Vazquez Gonzalez is being held without the possibility of bond at the Folkston ICE Processing Center based on a draconian and nonsensical re-interpretation of the statutes and regulations regarding bond eligibility that has ripped him away from his family.

2. On July 24, 2025, a custody redetermination hearing was held, where the Department of Homeland Security (“DHS”) argued consistent with a new DHS policy that Mr. Vazquez Gonzalez was not eligible for bond despite years of precedent and interpretation suggesting otherwise. This policy instructs all ICE employees to argue that anyone inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for entering the country without inspection is ineligible for bond and subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). The immigration judge assigned to the case agreed with the government, finding that Mr. Vazquez Gonzalez was an “applicant for admission” who is “seeking admission” to the United States and therefore subject to mandatory detention under Immigration and Nationality Act (“INA”) § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A). The immigration judge found this even though Mr. Vazquez Gonzalez entered

the United States over 24 years ago and was not apprehended until less than a month ago and thousands of miles from the southern border of the United States.

3. Mr. Vazquez Gonzalez's detention violates the plain language of the INA and its implementing regulations.

4. Under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), an individual who is apprehended on arrival to the United States is an "applicant for admission" who is "seeking admission" and is therefore subject to mandatory detention. Historically, this has not applied to individuals such as Mr. Vazquez Gonzalez who were never apprehended at the border and lived for years in the United States. Such individuals are typically eligible for bond under INA § 236(a), 8 U.S.C. § 1226(a), which allows for conditional release on bond and specifically applies to those, like Mr. Vazquez Gonzalez, who were charged as inadmissible for having entered the United States without inspection.

5. The Respondents' new illogical interpretation is plainly contrary to the statutory framework and implementing regulations, as immigration judges and DHS have found that § 1226(a) applies to people like Mr. Vazquez Gonzalez for decades. This new interpretation and policy are nonsensical, contrary to law, and arbitrary and capricious in violation of the Administrative Procedure Act ("APA"). This policy was not adopted and implemented under the APA's procedural requirements. Further, Mr. Vazquez Gonzalez's prolonged detention violates his rights under the Fifth Amendment Due Process Clause of the U.S. Constitution.

6. Mr. Vazquez Gonzalez respectfully requests that this Court grant him a Writ of Habeas Corpus, ordering his release from custody on bond. Mr. Vazquez Gonzalez also seeks declaratory relief that establishes that he is subject to detention under § 1226(a) and that he is therefore eligible for bond and release from detention.

JURISDICTION AND VENUE

7. Mr. Vazquez Gonzalez is currently in the physical custody of Respondents in the Folkston ICE Processing Center.

8. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (declaratory relief), 5 U.S.C. § 702 of the APA; and art. I sec. 9, cl. 2 of the United States Constitution (Suspension Clause), as Mr. Vazquez Gonzalez is presently in custody under or by color of the authority of the United States and challenges his custody as in violation of the Constitution, laws, or treaties of the United States.

9. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003). The United States Supreme Court has upheld the federal courts' jurisdiction to review such claims in *Jennings v. Rodriguez*, 583 U.S. 281, 292-96 (2018).

10. Venue is proper in the Southern District of Georgia, Waycross Division, pursuant to 28 U.S.C. §§ 1391 and 2241(d), because Petitioner is detained within this District at the Folkston ICE Processing Center in Folkston, Georgia.

PARTIES

11. Petitioner Jesus Vazquez Gonzalez is a native and citizen of Mexico unlawfully detained at the Folkston ICE Processing Center in Folkston, Georgia. ICE has held him in custody since around June 7, 2025. He is not subject to a final order of removal. An immigration judge at the Lumpkin Immigration Court denied him bond, erroneously finding that he is an "applicant for admission" and therefore ineligible for release on bond.

12. The Warden of the Folkston ICE Processing Center controls the detention center where Petitioner is currently detained under the authority of ICE. As such, they have direct control over Petitioner and are his immediate physical custodian. They are sued in their official capacity.

13. Respondent George Sterling is the acting Director of ICE's Atlanta Field Office, which has jurisdiction over ICE detention facilities in Georgia, including the Folkston ICE Processing Center, and thus is Petitioner's immediate custodian. He is sued in his official capacity.

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

15. Respondent Kristi Noem is the Secretary of DHS, which is responsible for the administration of ICE, a subunit of DHS, and the implementation and enforcement of the immigration laws. As such, Ms. Noem is the ultimate legal custodian of Petitioner. She is sued in her official capacity.

16. Respondent Pamela Bondi is the Attorney General of the United States and head of the Department of Justice, which encompasses the Board of Immigration Appeals ("BIA") and the Immigration Courts. Ms. Bondi shares responsibility for implementation and enforcement of the immigration laws with Respondents Lyons and Noem. Ms. Bondi is a legal custodian of Petitioner. She is sued in her official capacity.

17. Respondent Sirce Owen is the Acting Director of EOIR and has ultimate responsibility for overseeing the operation of the immigration courts and the BIA, including bond hearings. She is sued in her official capacity.

FACTS

18. Mr. Vazquez Gonzalez has resided in the United States since around February 2001 after entering the country without inspection at the age of 15. He has three United States citizen children, ages 10, 15, and 19. His only criminal history is a traffic violation and a dismissed charge for loitering from over 20 years ago. He owns a business and provides jobs to United States citizens. He owns a home, where he resides with his wife and children. He has significant ties to the community and a United States citizen sponsor who is willing to help pay for his bond and make sure he attends his immigration hearings. Just months ago, Mr. Vazquez Gonzalez would have an easy case to be released on bond while he attends his immigration court hearings. However, due to the Respondents' new illegal interpretation of the relevant statutes and regulations, Mr. Vazquez Gonzalez is being forcibly and illegally separated from his family, business, and community.

19. On July 24, 2025, a custody redetermination hearing was held, where DHS argued consistent with the new DHS policy that Mr. Vazquez Gonzalez was not eligible for bond despite years of precedent and interpretation suggesting otherwise. The immigration judge assigned to the case agreed with the government, finding that Mr. Vazquez Gonzalez was an "applicant for admission" who is "seeking admission" to the United States and therefore subject to mandatory detention under INA § 1225(b)(2)(A) despite having entered the United States over two decades ago and not being apprehended until a couple months ago and thousands of miles from the southern border of the United States. *See* Exhibit 1: Bond Order.

20. As a result, Mr. Vazquez Gonzalez remains detained and away from his family and community and is being forced to litigate his right to release on bond in federal court.

LEGAL FRAMEWORK

21. Under 8 U.S.C. § 1226(a), individuals are generally entitled to discretionary bond determinations when detained. 8 C.F.R. §§ 1003.19(a), 1236.1(d). Certain noncitizens who are arrested, charged with, or convicted of certain crimes are subject to mandatory detention until removal proceedings are concluded. 8 U.S.C. § 1226(c).

22. Under 8 U.S.C. § 1225(b)(1), certain noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) are subject to mandatory detention, as are recent arrivals “seeking admission” under INA § 1225(b)(2).

23. Following enactment of these statutes, EOIR drafted new regulations stating that people who entered the country without inspection were not considered detained under § 1225 but were instead detained under § 1226(a). *See* Inspection and Expedite Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination.”). Thus, from 1997 until a few weeks ago, noncitizens like Mr. Vazquez Gonzalez were eligible for bond upon detention.

24. Now, Respondents have adopted a new interpretation of the statute requiring detention for all noncitizens like Mr. Vazquez Gonzalez, despite having been present in the United States for decades. Immigration judges have been relying on an unpublished and undisclosed opinion from the BIA and this new DHS policy to conclude that individuals are subject to mandatory detention under § 1225(b)(2)(A). While some judges are still granting bond in these cases, DHS has begun filing Form EOIR-43, Notice of Service Intent to Appeal Custody Redetermination, in every single case, triggering an automatic stay of the bond decision during

appeal.

25. Mr. Vazquez Gonzalez is not the first to challenge this cruel and illegal reading of the statutes governing his detention. In fact, research suggests that every district court to have addressed this issue has agreed with his position, finding that the Respondents' 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*, No. 3:25-CV-0520-TMC, --- F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (same) *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d --- 2025 WL 2084238, at *9 (D. Mass. July 24, 2025) (same); *Otero Escalante v. Bondi*, 2025 WL 2212104 (D. Minn. July 31, 2025) (recommending granting a temporary restraining order requiring a bond hearing for a noncitizen who, like Mr. Vazquez Gonzalez, was improperly deemed detained under INA § 1225(b)(2)(A) despite having been apprehended inside the country decades after entry).

26. DHS's and DOJ's interpretation defies the INA, as these courts have found, as a plain reading of the text of the statute supports Mr. Vazquez Gonzalez's position that he is detained under § 1226(a) and therefore eligible for bond. The text of § 1226(a) explicitly applies to those charged as inadmissible after entering after inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Congress recently enacted this subsection in the Laken Riley Act to exclude from bond eligibility noncitizens who entered without inspection who commit certain offenses, so if Congress wanted all nonimmigrants to be ineligible for bond, it could have done so. This is consistent with the canon against surplusage, which states that a statute should be construed "so that no part will be inoperative or superfluous, void or insignificant." *Corley v. United States*, 556 U.S. 303 (2009). There would be no need for Congress to specify that noncitizens who entered without inspection

who also committed certain crimes are ineligible for bond under § 1226(c)(1)(E) if they are inherently ineligible under § 1225(b)(2)(A) for entering without inspection. The government's position thus renders this provision "mere surplusage."

27. Section 1225(b), on the other hand, applies to those people arriving at U.S. ports of entry or those who recently entered the United States. In *Matter of Q. Li*, the BIA recently clarified which non-citizens are "arriving alien[s]" and ineligible for bond. 29 I. & N. Dec. 66 (BIA 2025). There, the Respondent was apprehended without a warrant near the southern border of the United States after entering the country without being admitted or paroled. *Id.* at 67. The BIA noted there that the respondent was "apprehended just inside the southern border, and not at a point of entry, on the same day they crossed into the United States." *Id.* at 68 (internal quotation marks and brackets omitted). Thus, the BIA held, the respondent there was an "arriving alien" and subject to mandatory detention under INA § 235(a)(1). The BIA held that "an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) . . . is ineligible for any subsequent release on bond under section 236(a)." *Id.* at 69. The BIA distinguished those detained under 236(a), finding that such respondents are "aliens already present in the United States" and detained by a warrant. *Id.* at 70. Section 235(b), on the other hand, "applies primarily to aliens seeking entry into the United States and authorizes DHS to detain an alien without a warrant at the border." *Id.* at 70 (quotation marks omitted). While this Court need not defer to this analysis after the Supreme Court's overturn of *Chevron*, it shows simply another way that Respondents are not following the law.

28. Mr. Vazquez Gonzalez's approach is consistent with binding precedent in the Eleventh Circuit in *Ortiz-Bouchet v. U.S. Att'y Gen.*, 714 F.3d 1353 (11th Cir. 2013). There, the

Eleventh Circuit found the noncitizens were not “applicants for admission” because they were seeking to adjust status while inside the United States, as opposed to someone who was applying for entry at the border. This is also consistent with Supreme Court precedent, which has held that mandatory detention applies “at the Nation’s borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is inadmissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

29. Therefore, the mandatory detention provisions in § 1225(b)(2) do not apply to Petitioners like Mr. Vazquez Gonzalez, who entered the country and resided within the United States for decades who were apprehended hundreds of miles from the U.S. border at the time of apprehension.

CLAIMS FOR RELIEF

COUNT 1

Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

30. Mr. Vazquez Gonzalez incorporates by reference the allegations of fact set forth in the preceding paragraphs.

31. The mandatory detention provision of § 1225(b)(2) does not apply to all noncitizens like Mr. Vazquez Gonzalez who have been residing in the United States for decades, who were never apprehended at the southern border, and who are not subject to other grounds of inadmissibility. Such noncitizens, like Mr. Vazquez Gonzalez, are detained under § 1226(a) and are eligible for release on bond.

32. Despite this plain reading of the statute that has been the predominant interpretation for over 25 years, Respondents have adopted this new illogical reading and applied it to Mr. Vazquez Gonzalez in violation of the INA.

COUNT II

**Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19
Unlawful Denial of Release on Bond**

33. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

34. Congress and Respondents have made clear in the past that individuals who have entered without inspection were eligible for bond under § 1226 and its implementing regulations.

35. Despite this, Respondents have continued their policy unlawfully detaining Mr. Vazquez Gonzalez by misapplying § 1225(b)(2) in violation of the bond regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

36. Because Petitioner's detention has been unaccompanied by the procedural protections that such a significant deprivation of liberty requires under the Due Process Clause of the Fifth Amendment to the U.S. Constitution, his continued detention without a bond hearing is unlawful.

COUNT III

**Violation of the Administrative Procedure Act Contrary to Law and Arbitrary and
Capricious Agency Policy**

37. Under the APA, a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

38. As discussed through, mandatory detention under § 1225(b)(2) does not apply to all noncitizens residing in the United States for decades who were not apprehended at the

border. Such noncitizens are detained under § 1226(a) and are therefore eligible for release on bond as long as they are not subject to other grounds.

39. Despite this, Respondents have been implementing their new policy applying mandatory detention to all noncitizens like Mr. Vazquez Gonzalez in contradiction of the INA. Such application is arbitrary, capricious, and not in accordance with law, in violation of the APA. 5 U.S.C. § 706(2).

COUNT IV

Violation of the Administrative Procedure Act Failure to Observe Required Procedures

40. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

41. Under the APA, a “reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law.” 5 U.S.C. § 706(2)(D). The APA requires agencies to follow public notice-and-comment rulemaking before promulgating new regulations or amending existing regulations. 5 U.S.C. § 553(b), (c).

42. Respondents failed to comply with the APA by adopting its policy and departing from its regulations without any rulemaking, notice, or opportunity to comment. Respondents failed to publish any new rule, as required by 5 U.S.C. § 533(d).

COUNT IV

Violation of the Administrative Procedure Act Failure to Observe Required Procedures

43. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

44. Under the Fifth Amendment of the Constitution, “[n]o person” shall be “deprived of life, liberty, or property, without due process of law.”

45. “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). “The Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 693.

46. Respondents’ mandatory detention of Mr. Vazquez Gonzalez without the possibility of release on bond violates his due process rights.

PRAYER FOR RELIEF

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

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted within **three days**, pursuant to 28 U.S.C. § 2243;
3. Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from their custody on bond;
4. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
5. In the event that this Court determines that a genuine dispute of material fact exists regarding Petitioner’s entitlement to habeas relief, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243. *See Singh v. U.S. Att’y Gen.*, 945 F.3d 1310, 1315–16 (11th Cir. 2019);
6. Enter preliminary and permanent injunctive relief enjoining Respondents from further

unlawful detention of Petitioner;

7. Declare that Petitioner's detention violates the INA;
8. Declare that Petitioner's detention violates the Due Process Clause;
9. Declare that Petitioner's detention is arbitrary and capricious and in violation of the Administrative Procedures Act;
10. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
11. Grant such further relief as this Court deems just and proper.

Dated: August 29, 2025

Respectfully submitted,

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