

1 **UNITED STATES DISTRICT COURT**
2 **FOR THE EASTERN DISTRICT OF MICHIGAN**

3 ARTURO CONTRERAS-LOMELI,

4 Petitioner,

5 v.

6
7 KEVIN RAYCRAFT, Acting Field
8 Office Director of Enforcement and
9 Removal Operations, Detroit Field
10 Office, Immigration and Customs
11 Enforcement; KRISTI NOEM,
12 Secretary, U.S. Department of Homeland
13 Security; U.S. DEPARTMENT OF
14 HOMELAND SECURITY; PAMELA
15 BONDI, U.S. Attorney General;
16 EXECUTIVE OFFICE FOR
17 IMMIGRATION REVIEW,

18 Respondents.

Case No. 2:25-cv-12826

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

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2 1. Petitioner Arturo Contreras-Lomeli is in the physical custody of
3 Respondents at the North Lake Correctional Facility in Michigan. He now faces
4 unlawful detention because the Department of Homeland Security (DHS) and the
5 Executive Office of Immigration Review (EOIR) have concluded Petitioner is
6 subject to mandatory detention.
7

8 2. Petitioner is charged with, inter alia, having entered the United States
9 without inspection. 8 U.S.C. § 1182(a)(6)(A)(i). Petitioner has resided in the
10 United States for over 21 years.
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12 3. Based on this charge in Petitioner’s removal proceedings, DHS denied
13 Petitioner release from immigration custody, consistent with a new DHS policy
14 issued on July 8, 2025, instructing all Immigration and Customs Enforcement
15 (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e.,
16 those who initially entered the United States without inspection—to be subject to
17 mandatory detention under 8 U.S.C. § 1225(b)(2), no matter how long they have
18 resided in the United States.
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20 4. Petitioner sought a bond redetermination hearing before an
21 Immigration Judge (IJ). On August 27, 2025, the IJ denied bond, concluding that
22 he had no jurisdiction to set a bond for Petitioner. Exhibit A.
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1 5. The IJ based his decision on the same legal analysis advanced by
2 DHS. Indeed, the DHS policy states it was issued “in coordination with the
3 Department of Justice (DOJ).” The IJ concluded that notwithstanding Petitioner’s
4 20 years of residing in the United States, he is nevertheless an “applicant for
5 admission” who is “seeking admission” and subject to mandatory detention under
6 § 1225(b)(2)(A). This position has now been officially sanctioned and made
7 binding in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
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9 6. Petitioner’s detention on this basis violates the plain language of the
10 Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to
11 individuals like Petitioner who previously entered and are now residing in the
12 United States. Instead, such individuals are subject to a different statute, § 1226(a),
13 that allows for release on conditional parole or bond. That statute expressly applies
14 to people who, like Petitioner, are residing in the United States but are charged as
15 inadmissible for having initially entered the United States without inspection.
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17 7. Respondents’ new legal interpretation is plainly contrary to the
18 statutory framework and contrary to both agency regulations and decades of
19 consistent agency practice applying § 1226(a) to people like Petitioner. This new
20 interpretation has been squarely rejected by every federal court to address this
21 issue, including in *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486 (E.D. Mich.
22 Aug. 29, 2025). As court after court has held, § 1225 is a border inspection scheme
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1 that does not apply to noncitizens who were already residing in the United States
2 when they were apprehended. Instead, § 1226(a) plainly applies. And those courts
3 all rejected the government’s argument that exhaustion is a barrier to habeas relief.
4 Petitioner is unaware of any federal courts that have agreed with the government’s
5 position.
6

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

10 9. Petitioner is not challenging any discretionary denial of bond; he is
11 challenging the IJ’s legal determination that Petitioner is not eligible for bond
12 under § 1226(a) in the first place.
13

14 **JURISDICTION**

15 10. Petitioner is in the physical custody of Respondents. Petitioner is
16 detained at the North Lake Correctional Facility in Baldwin, Michigan.

17 11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
18 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of
19 the United States Constitution (the Suspension Clause). *See Rosales-Garcia v.*
20 *Holland*, 322 F.3d 386, 394 (6th Cir. 2003).
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22 12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
23 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
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1 U.S.C. § 1651. *See Ly v. Hansen*, 351 F.3d 263, 266 (6th Cir. 2003) *vacated on*
2 *other grounds by Hamama v. Adducci*, 946 F.3d 875 (6th Cir. 2020).

3 **VENUE**

4 13. Venue is proper in the Eastern District of Michigan under 28 U.S.C. §
5 2241 and 28 U.S.C. § 1391. Petitioner is detained at the direction of, and is in the
6 immediate custody of, Respondent Raycraft. *See Roman v. Ashcroft*, 340 F.3d 314,
7 320-21 (6th Cir. 2003).

8 14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
9 because Respondents are employees, officers, and agencies of the United States,
10 and because a substantial part of the events or omissions giving rise to the claims
11 and relevant facts occurred in the Eastern District.

12 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

18 16. Habeas corpus is “perhaps the most important writ known to the
19 constitutional law . . . affording as it does a *swift* and imperative remedy in all
20 cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)

1 (emphasis added). “The application for the writ usurps the attention and displaces
2 the calendar of the judge or justice who entertains it and receives prompt action
3 from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116,
4 1120 (9th Cir. 2000) (citation omitted).

6 **PARTIES**

7 17. Petitioner Arturo Contreras-Lomeli is a citizen of Mexico who has
8 been in immigration detention since approximately August 12, 2025. Petitioner has
9 resided in the United States since approximately 2003. Both of his parents are
10 lawful permanent residents. He is eligible for relief from removal – cancellation of
11 removal as a nonpermanent resident. 8 U.S.C. § 1229b(b)(1).

12 18. After arresting Petitioner in Michigan, ICE did not set bond so
13 Petitioner requested review of his custody by an IJ. On August 27, 2025, the IJ
14 denied his bond request based solely on jurisdictional grounds.

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

19 20. Respondent Kristi Noem is the Secretary of the Department of
20 Homeland Security. She is responsible for the implementation and enforcement of
21 the Immigration and Nationality Act (INA), and oversees ICE, which is
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1 arrested, charged with, or convicted of certain crimes are subject to mandatory
2 detention, *see* 8 U.S.C. § 1226(c).

3 26. Second, the INA provides for mandatory detention of noncitizens
4 subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent
5 arrivals seeking admission referred to under § 1225(b)(2).
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7 27. Last, the INA also provides for detention of noncitizens who have
8 been ordered removed, *see* 8 U.S.C. § 1231(a)–(b).

9 28. This case concerns the detention provisions at §§ 1226(a) and
10 1225(b)(2).
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12 29. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted
13 as part of the Illegal Immigration Reform and Immigrant Responsibility Act
14 (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546,
15 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended
16 earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
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18 30. Following the enactment of the IIRIRA, EOIR drafted new
19 regulations explaining that, in general, people who entered the country without
20 inspection were not considered detained under § 1225 and that they were instead
21 detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens;
22 Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
23 Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that “[d]espite
24

1 being applicants for admission, [noncitizens] who are present without having been
2 admitted or paroled (formerly referred to as aliens who entered without inspection)
3 will be eligible for bond and bond redetermination.”).

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5 31. Thus, in the decades that followed, most people who entered without
6 inspection and were placed in standard removal proceedings received bond
7 hearings, unless their criminal history rendered them ineligible. That practice was
8 consistent with many more decades of prior practice, in which noncitizens who
9 were not deemed “arriving” were entitled to a custody hearing before an IJ or other
10 hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt.
11 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority
12 previously found at § 1252(a)).

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14 32. However, on July 8, 2025, ICE, “in coordination with” DOJ,
15 announced a new policy that rejected well-established understanding of the
16 statutory framework and reversed decades of practice.

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18 33. The new policy, entitled “Interim Guidance Regarding Detention
19 Authority for Applicants for Admission,”¹ claims that all persons who entered the
20 United States without inspection are subject to the mandatory detention provision
21 under § 1225(b)(2)(A). The policy applies regardless of when a person is
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24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

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

3 34. In a May 22, 2025, unpublished decision from the Board of
4 Immigration Appeals (BIA), EOIR adopts this same position.² The BIA has since
5 adopted that position in a precedential decision, *Matter of Yajure Hurtado*, 29 I&N
6 Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the
7 United States without admission or parole are ineligible for immigration judge
8 bond hearings.
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10 35. ICE and EOIR have adopted this position even though federal courts
11 have rejected this exact conclusion. For example, after IJs in the Tacoma,
12 Washington, immigration court stopped providing bond hearings for persons who
13 entered the United States without inspection and who have since resided here, the
14 U.S. District Court in the Western District of Washington found that such a reading
15 of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to
16 noncitizens who are not apprehended upon arrival to the United States. *Rodriguez*
17 *Vazquez v. Bostock*, --- F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24,
18 2025).
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23 ² Available at <https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf>.
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1 36. Since July, every District Court to consider the issue has rejected the
2 government's position and granted habeas relief: *Lopez-Campos v. Raycraft*, No.
3 2:25-cv-12486 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem, et al*, No.
4 25-cv-02180-DMS-MMP (S.D. Cal. Sept. 3, 2015); *Kostak v. Trump*, No. 3:25-
5 1093 (W.D. La. Aug. 27, 2025) (granting habeas relief under similar
6 circumstances); *Ruben Benitez et al. v. Noem et al.*, 5:25-cv-2190-RGK (C.D. Cal.
7 Aug. 26, 2025) (granting relief to nine habeas petitioners under similar
8 circumstances); *Romero v. Hyde*, 25-CV-11631, 2025 WL 2403827 (D. Mass.
9 Aug. 19, 2025) at *8-13 (petitioner's detention governed by § 1226(a) and not §
10 1225(b)); *Maldonado v. Olson*, 25-CV-3142, 2025 WL 2374411 (D. Minn. Aug.
11 15, 2025) at *11-14 (same); *Dos Santos v. Noem*, 25-CV-12052, 2025 WL
12 2370988 (D. Mass. Aug. 14, 2025) at *6-8 (same); Order, *Gonzalez v. Noem*, 25-
13 CV-2054 (C.D. Cal. Aug. 13, 2025), Dkt. 12 at *6-9 (same); *Rosado v. Figueroa*,
14 No. 25-cv-2157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025) (granting habeas
15 petition based on same conclusion); *Lopez Benitez v. Francis*, No. 25-cv-5937,
16 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025) (same); *Bautista et al. v. Santacruz Jr.*
17 *et al.*, No. 5:25-CV-1873-BFM, ECF No. 14, at *7-8 (C.D. Cal. July 28, 2025)
18 (granting four similarly situated individuals a temporary restraining order for bond
19 hearings on the basis that they were likely unlawfully detained under § 1225(b)
20 instead of § 1226(a)); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL
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1 2084238, at *8 (D. Mass. July 24, 2025) (same); *Gomes v. Hyde*, No. 1:25-CV-
2 11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (same).

3 37. DHS’s and DOJ’s interpretation defies the INA. As the
4 aforementioned courts explained, the plain text of the statutory provisions
5 demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.
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7 38. Section 1226(a) applies by default to all persons “pending a decision
8 on whether the [noncitizen] is to be removed from the United States.” These
9 removal hearings are held under § 1229a, to “decid[e] the inadmissibility or
10 deportability of a[] [noncitizen].”

11 39. The text of § 1226 also explicitly applies to people charged as being
12 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
13 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by
14 default, such people are afforded a bond hearing under subsection (a). As the
15 *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific
16 exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the
17 statute generally applies.” *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing
18 *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400
19 (2010)).
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1 license.³ DHS detained him before he had a chance to prove his innocence.

2 Petitioner is now detained at DHS's North Lake Correctional Facility.

3 45. DHS placed Petitioner in removal proceedings before the Detroit
4 Immigration Court pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner with,
5 *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who
6 entered the United States without inspection and under § 1182(a)(7)(A)(i)(I) as
7 someone who lacks a valid entry document.
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9 46. The Petitioner has lived in the U.S. for more than 21 years. His
10 parents are lawful permanent residents. For relief from removal, he is eligible for
11 cancellation of removal as a nonpermanent resident under 8 U.S.C. § 1229b(b)(1).
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13 47. Following Petitioner's arrest and transfer to the North Lake
14 Correctional Facility, DHS issued a custody determination to continue Petitioner's
15 detention without an opportunity to post bond or be released on other conditions.

16 48. Petitioner subsequently requested a bond redetermination hearing
17 before an IJ.

18 49. On August 27, 2025, an IJ in Detroit, Michigan, denied bond on
19 jurisdictional grounds, consistent with this new DHS and DOJ policy.
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23 ³ See https://www.michigan.gov/-/media/Project/Websites/sos/10lawensn/Foreign_DL_Law_Enforcement.pdf?rev=d418672171694206975e98d3e59dbd39.
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1 apprehended and placed in removal proceedings by Respondents. Such noncitizens
2 are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or
3 § 1231.

4 54. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
5 continued detention and violates the INA.
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7 **COUNT II**

8 **Violation of Due Process**

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

11 56. The government may not deprive a person of life, liberty, or property
12 without due process of law. U.S. Const. amend. V. “Freedom from
13 imprisonment—from government custody, detention, or other forms of physical
14 restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v.*
15 *Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).
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17 57. Petitioner has a fundamental interest in liberty and being free from
18 official restraint.

19 58. The government’s detention of Petitioner without a bond
20 redetermination hearing to determine whether he is a flight risk or danger to others
21 violates his right to due process.
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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 7 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 September 6, 2025.

/s/ Russell Reid Abrutyn
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