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

Gustavo RAMOS CAMPOS,

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.:

PETITIONER'S MOTION FOR EMERGENCY TEMPORARY RESTRAINING ORDER

INTRODUCTION

Petitioner Gustavo Ramos Campos is a native and citizen of Mexico who is being unlawfully detained by U.S. Immigration and Customs Enforcement ("ICE") based on a

precedential and shocking reinterpretation of the bond statutes for noncitizens who entered without inspection. On September 5, 2025, the Board of Immigration Appeals issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding for the first time that long-time residents apprehended in the interior are subject to mandatory detention under 8 U.S.C. § 1225(b)(2). This abrupt reversal strips Immigration Judges of bond jurisdiction and categorically denies individuals like Mr. Ramos Campos the opportunity to seek release.

Every federal district court to consider this issue has rejected the reasoning of *Yajure Hurtado* explicitly or implicitly, holding instead that noncitizens apprehended in the interior after years of residence are detained under 8 U.S.C. § 1226(a) and are therefore eligible for bond. Nevertheless, Respondents continue to apply this new precedent to unlawfully detain long-time residents like Mr. Ramos Campos, separating him from his five U.S. citizen children. Accordingly, Petitioner seeks a temporary restraining order requiring his immediate release or, in the alternative, an immediate bond hearing.

FACTS

Petitioner Gustavo Ramos Campos has lived in the United States for more than twenty years after entering without inspection. He is the father of five U.S. citizen children, ages 18, 16, 14, 12, and 10, and has no criminal history beyond minor traffic infractions for driving without a license.

On September 4, 2025, ICE arrested Mr. Ramos Campos during a workplace raid at the Hyundai facility in Georgia. He was transferred to the Folkston ICE Processing Center, where he remains detained. He is not subject to a final order of removal.

Under the new DHS policy and *Matter of Yajure Hurtado*, Immigration Judges no longer have jurisdiction to redetermine custody for individuals like Mr. Ramos Campos. As a result, he

has been categorically denied the opportunity to seek release on bond, despite his long residence, strong family ties, and clean record.

ARGUMENT

This Court should issue a temporary restraining order because Petitioner has shown all four factors required for relief: "(1) he has a substantial likelihood of success on the merits; (2) irreparable injury will be suffered unless the injunction issues; (3) the threatened injury to the movant outweighs whatever damage the proposed injunction would cause the opposing party; and (4) if used, the injunction would not be adverse to the public interest." *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1268 (11th Cir. 2006). In the Eleventh Circuit, the third and fourth traditional factors merge when the Government is the defendant. *Swain v. Junior*, 961 F.3d 1276, 1293 (11th Cir. 2020) (quoting *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 24 (2008)).

I. Petitioner Has Established Subject-Matter Jurisdiction and Exhaustion is Not Necessary

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. §§ 2201–2202 (declaratory relief), and Article I, Section 9, Clause 2 of the Constitution (Suspension Clause), as Petitioner is presently in custody under the authority of the United States and challenges his custody as unlawful. Federal courts have jurisdiction under § 2241 to hear habeas claims challenging immigration detention. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003). The Supreme Court has upheld this jurisdiction most recently in *Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018).

There is no statutory exhaustion bar for § 2241 detention claims. Exhaustion is prudential and may be excused where futile. See *Santiago-Lugo v. Warden*, 785 F.3d 467, 474–75 (11th Cir.

2015). Because the BIA has now issued a precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), codifying its interpretation of the detention statutes, further administrative appeal is futile. Exhaustion is therefore not required.

II. Petitioner Is Substantially Likely to Succeed on the Merits

Every federal district court to consider this question has rejected DHS's interpretation and held that long-time residents apprehended in the interior are detained under § 1226(a) and are therefore eligible for bond See, e.g., *Diaz v. Hyde,* Civ. No. 25-11613, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rodriguez Vazquez v. Bostock*, Civ. No. 3:25-cv-05240, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, Civ. No. 1:25-cv-11571, 2025 WL 1869299 (D. Mass. July 7, 2025), *Garcia v. Hyde*, Civ. No. 25-11513 (D. Mass. July 14, 2025); *Rosado v. Bondi*, Civ. No. 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez-Benitez v. Francis*, Civ. No. 25-5937, 2025 WL 2371588, ---F. Supp.3d ---- (S.D.N.Y. Aug. 13, 2025); *Dos Santos v. Lyons*, Civ. No. 1:25-cv-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, Civ. No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Escalante v. Bondi,* Civ. No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025); *O.E. v. Bondi*, Civ. No. 25-cv-3051, 2025 WL 2235056 (D. Minn. Aug. 3, 2025); *Arrazola-Gonzalez v. Noem*, Civ. No. 5:25-cv-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Garcia Jimenez v. Kramer*, Civ. No. 25-cv-3162, 2025 WL 2374223 (D. Neb. Aug. 15, 2025); *Mayo Anicasio v. Kramer*, Civ. No. 4:25-cv-3158, 2025 WL 2374224 (D. Neb. Aug 14, 2025); *Rodriguez de Oliveira v. Joyce*, Civ. No. 2:25-cv-00291, 2025 WL 1826118 (D. Me. July 2, 2025); *Leal-Hernandez v. Noem*, Civ. No. 1:25-cv-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Campos*, Civ. No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Romero v. Hyde*, Civ. No. 25-11631, --- F. Supp. 3d ----, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Doe*

v. Moniz, Civ. No. 1:25-cv-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Herrera Torralba*, Civ. No. 2:25-cv-01366, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Kostak v. Trump*, Civ. No. 3:25-1093, 2025 WL 2473136 (W.D. La. Aug. 27, 2025); *Simpiao v. Hyde*, Civ. No. 1:25-cv-11981-JEK. The only case that ruled to the contrary, *Pena v. Hyde*, 2025 WL 2108913 (D. Mass. July 28, 2025), concerned a different issue as to the effect of an approved family petition and is therefore not relevant to the instant case, as a different judge from that same district recognized. *Romero*, --- F. Supp. 3d ----, 2025 WL 2403827, at *1 n.1.

As discussed in the habeas petition, see ECF No. 1, under 8 U.S.C. § 1226(a), individuals are generally entitled to discretionary bond determinations when detained. See 8 C.F.R. §§ 1003.19(a), 1236.1(d). Certain noncitizens who are arrested, charged with, or convicted of specified crimes are subject to mandatory detention until removal proceedings are concluded. 8 U.S.C. § 1226(c). By contrast, under 8 U.S.C. § 1225(b), certain individuals placed in expedited removal or recent arrivals "seeking admission" at the border are subject to mandatory detention.

Following enactment of these statutes, the Executive Office for Immigration Review ("EOIR") promulgated regulations clarifying that people who entered the country without inspection but were apprehended in the interior are detained under § 1226(a), not § 1225. 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) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination."). From 1997 until September 2025, individuals like Mr. Ramos Campos were consistently eligible for bond after their detention.

Now, Respondents have adopted a new interpretation requiring detention under § 1225(b)(2) for all noncitizens who entered without inspection, no matter how long they have

resided in the United States. As of September 5, 2025, the BIA issued a precedential opinion codifying this interpretation in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision represents a sharp break from decades of practice and categorically denies Immigration Judges jurisdiction to consider bond for individuals like Mr. Ramos Campos, who was arrested in a Hyundai workplace raid in Georgia more than twenty years after his entry.

DHS's and DOJ's interpretation defies the INA. The plain text of § 1226(a) covers individuals charged with inadmissibility after entry without inspection. See 8 U.S.C. § 1226(c)(1)(E). Congress reaffirmed this understanding in the Laken Riley Act, which amended § 1226(c) to exclude from bond eligibility only those who entered without inspection and committed specific offenses. If Congress intended all such individuals to be ineligible for bond under § 1225(b)(2), it would not have needed to enact § 1226(c)(1)(E). Construing § 1225(b)(2) as the government suggests violates the canon against surplusage. See *Corley v. United States*, 556 U.S. 303 (2009).

Section 1225(b) applies only to those arriving at ports of entry or apprehended immediately after unlawful entry. In *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Board confirmed that § 1225(b) governs "arriving aliens" apprehended without a warrant at or just after entry. By contrast, § 1226(a) governs "aliens already present in the United States" apprehended by warrant. Mr. Ramos Campos, arrested in Georgia decades after his entry, plainly falls in the latter category. While this Court need not defer to the agency's reasoning after *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), even the Board's own framework supports Petitioner's position.

This interpretation is also consistent with Eleventh Circuit precedent. In *Ortiz-Bouchet v. U.S. Att'y Gen.*, 714 F.3d 1353 (11th Cir. 2013), the court held that noncitizens seeking relief

while already present in the United States were not "applicants for admission." Likewise, the Supreme Court has explained that mandatory detention under § 1225(b) 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).

Therefore, the mandatory detention provisions of § 1225(b)(2) do not apply to Petitioner, a long-time resident apprehended hundreds of miles from the border in a workplace raid. As other district courts have found, detention in these circumstances falls under § 1226(a), and individuals are entitled to bond consideration. See, e.g., *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025).

III. Petitioner Will Suffer Irreparable Injury Absent a Temporary Restraining Order

Petitioner will suffer irreparable harm if this Court does not grant a temporary restraining order, as he will remain detained without the possibility of bond in violation of his constitutional right to due process. See *Arrazola-Gonzalez v. Noem*, 2025 WL 2379285, at *3 (C.D. Cal. Aug. 15, 2025) ("It is well established that the deprivation of constitutional rights unquestionably constitutes irreparable injury") (cleaned up). His detention far away from his home, where he has lived for more than two decades, has severely hampered his ability to communicate with his family and immigration counsel. See *Escalante v. Bondi*, 2025 WL 2212104, at *2 (D. Minn. July 31, 2025) (recognizing the irreparable harm caused by detention practices that impede communication with family and counsel). Each day of patently unlawful ICE detention inflicts irreparable harm by depriving Mr. Ramos Campos of his fundamental liberty interest and separating him from his five U.S. citizen children.

IV. The Balance of Harms Strongly Favors the Petitioner, and the Public Interest Factors Similarly Favor Petitioner

As discussed above, Petitioner suffers the substantial loss of his due process rights as well as meaningful access to his family and counsel. Respondents, by contrast, face no harm from Mr. Ramos Campos's release under reasonable conditions of supervision while his removal proceedings continue. Continued detention only imposes unnecessary costs on taxpayers and perpetuates an unlawful deprivation of liberty. The balance of harms and the public interest thus weigh overwhelmingly in favor of granting emergency relief.

CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that this Court grant his Emergency Motion for a Temporary Restraining Order. Specifically, Petitioner asks this Court to declare that his detention is governed by 8 U.S.C. § 1226(a) and not 8 U.S.C. § 1225(b)(2), and to order his immediate release under reasonable conditions of supervision. In the alternative, Petitioner requests that this Court order Respondents to provide him with a prompt bond hearing before an Immigration Judge applying § 1226(a).

Dated: September 18, 2025

Respectfully submitted,

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