

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NEW YORK

MATEO JOEL CHAVEZ-CHILEL,

Petitioner,

v.

JOSEPH E. FREDEN, in his official capacity as ICE Deputy Field Office Director; KRISTI NOEM, in her official capacity as Secretary of Homeland Security, and TODD M. LYONS, in his official capacity as Acting Director of Immigration and Customs Enforcement, and PAMELA BONDI, in her official capacity as Attorney General of the United States,

Respondents.

Case No. 25-cv-914

**VERIFIED PETITION FOR A
WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner came to the United States in 2007 and entered without inspection.
2. After filing his application for asylum and withholding of removal with United States Citizenship and Immigration Services (“USCIS”), he obtained a valid work permit.
3. Recently, the Department of Homeland Security swept him up in one of their enforcement actions.
4. Upon information and belief, he is detained at the Buffalo Federal Detention Facility (“BFDF”) in Batavia, New York.
5. Ordinarily, he would be entitled to a bond hearing before an immigration judge. But recent decisions by the Board of Immigration Appeals which dramatically re-interpret 8 U.S.C. §§ 1225(b) and 1226(a) will now make that impossible without this Court’s intervention to ensure that he receives due process and that he can avail himself of all protections provided under the U.S. Constitution and the Immigration and Nationality Act (“INA”).

6. Petitioner now seeks this Court's help to ensure that he can vindicate those rights.

JURISDICTION

7. This action arises under the Constitution of the United States, the APA, and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause). Under 8 U.S.C. § 1252(e)(2), this Court has habeas authority to determine whether Petitioner is a noncitizen and whether Petitioner was ordered removed under 8 U.S.C. § 1225(b)(1).

9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. Venue is proper because Petitioner is detained at the Buffalo Federal Detention Facility ("BFDF") in Buffalo, New York, which is within the jurisdiction of this District.

11. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States, a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District, and Petitioner resides in this District. There is no real property involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a

return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” Id. (emphasis added).

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

14. To the extent required, Petitioner has exhausted his administrative remedies as required by law and his only remedy is by way of this judicial action. *Mathon v. Feeley*, No. 20 CV-07105-FPG, 2021 U.S. Dist. LEXIS 260853, at *6-7 (W.D.N.Y. Oct. 13, 2021).

PARTIES

15. Petitioner is currently detained by the Department of Homeland Security at the BFDF. He is currently in removal proceedings.

16. Respondent, Joseph E. Freden, is the ICE Deputy Field Office Director and is the senior ICE officer in charge of the BFDF in Batavia, New York. He is Chavez-Chilel’s immediate custodian, and, upon information and belief, resides in the Western District of New York.

17. Respondent Todd Lyons is sued in his official capacity as Acting Director of the United States Immigration and Customs Enforcement. In this capacity, Respondent Lyons oversees all detention of noncitizens held in ICE custody and is a legal custodian of petitioner with the authority to release him.

18. Respondent Kristi Noem is sued in her official capacity as Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for

the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, the component agency responsible for Petitioner's detention and custody. Respondent Noem is a legal custodian of Petitioner.

19. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals.

STATEMENT OF FACTS

20. Petitioner is a native and citizen of Guatemala.

21. Upon information and belief, on or about September 22, 2025, Petitioner was arrested in Massachusetts by U.S. Immigration and Customs Enforcement ("ICE") and/or other federal agents acting on ICE's behalf on or about.

22. Upon information and belief, Petitioner is currently being held in ICE's custody in the Western District of New York at the Buffalo Federal Detention Facility.

23. Upon information and belief, Petitioner is present in the United States and, upon information and belief, the Department of Homeland Security ("DHS") has alleged or will allege that Petitioner was not previously admitted or paroled into the United States.

24. Upon information and belief, Petitioner has submitted an affirmative I-589 Application for Asylum and Withholding of Removal which is currently pending before the United States Citizenship and Immigration Services.

25. Upon information and belief, Petitioner has a valid work permit that enables him to legally work in the United States as a result of his pending I-589.

26. Upon information and belief, Petitioner is not in proceedings before an immigration court at the time of the filing of this petition.

27. Upon information and belief, Petitioner does not have a criminal record.

28. Upon information and belief, neither the Department of Homeland Security nor its sub-agencies have made any claim that he is a danger to persons or property or a flight risk.

29. Upon information and belief, Petitioner has a wife and two U.S. Citizen-children.

LEGAL BACKGROUND

30. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(1), including because Petitioner does not meet the criteria for Expedited Removal. *See Make the Road New York v. Noem*, No. 25-190, 2025 WL 2494908, at *23 (D.D.C. Aug. 29, 2025).

31. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2), including because, as a person already present in the United States, Petitioner is not presently “seeking admission” to the United States. *See Materano v. Arteta*, 2025 U.S. Dist. LEXIS 179608, at *30-31 (S.D.N.Y. Sep. 9, 2025) (explaining that the terms “arriving” and “seeking admission” are present-tense words and do not apply to an individuals who have been in the country for several years) citing *Benitez v. Francis*, 2025 U.S. Dist. LEXIS 157214, at *21-23 (S.D.N.Y. Aug. 8, 2025) (also holding that expanding detention under 1225(b) would greatly expand mandatory detention beyond what how DHS has traditionally treated this statute and that enforcing it this way would negate 8 U.S.C § 1226(a)).

32. On information and belief, Petitioner was not, at the time of arrest, paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), and therefore Petitioner could not “be returned” under that provision to mandatory custody under 8 U.S.C. § 1225(b) or any other form of custody. Petitioner is not subject to mandatory detention under § 1225 for this reason as well.

33. Instead, as a person arrested inside the United States and held in civil immigration detention, Petitioner is subject to detention, if at all, pursuant to 8 U.S.C. § 1226. *See Aguiriano*, 2025 WL 2403827, at *1, 8-13 (collecting cases).

34. Petitioner is not lawfully subject to mandatory detention under 8 U.S.C. § 1226(c), including because he has not been convicted of any crime that triggers such detention. *See Demore v. Kim*, 538 U.S. 510, 513-14, 531 (2003) (allowing mandatory detention under § 1226(c) for brief detention of persons convicted of certain crimes and who concede removability).

35. Accordingly, Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a).

36. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a custody redetermination hearing (colloquially called a “bond hearing”) with strong procedural protections. 8 C.F.R. 236.1(d) & 1003.19(a)-(f). But even this was taken away from detainees.

37. On September 5, 2025, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals issued a decision which purports to require the Immigration Court to unlawfully deny a bond hearing to all persons such as Petitioner who are known as entry without inspection under 8 U.S.C. § 1226(a).¹

38. The responsible administrative agency has therefore predetermined that Petitioner will be denied a bond hearing and any request to get a bond hearing in front of an immigration judge absent an order from this court will be futile.

39. Petitioner respectfully requests a bond hearing with the burden on the government to prove by clear and convincing evidence that he is not a danger to the public or property and not

¹ The BIA’s reversal and newly revised interpretation of the statute are not entitled to any deference. *See Loper Bright Ent. v. Raimondo*, 603 U.S. 369, 412-13 (2024).

a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger. *Cantor v. Freden*, 761 F. Supp. 3d 630, 635-41 (W.D.N.Y. 2025)

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. 1226(a) and Associated Regulations

- 40. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).
- 41. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. See 8 C.F.R. 236.1(d) & 1003.19(a)-(f).
- 42. Petitioner has not been, and will not be, provided with a bond hearing as required by law.
- 43. Petitioner's continuing detention is therefore unlawful.

COUNT TWO

**Violation of Fifth Amendment Right to Due Process
(Failure to Provide Bond Hearing Under 8 U.S.C. § 1226(a))**

- 44. Because Petitioner is a person arrested inside the United States and is subject to detention, if at all, under 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment to the United States Constitution requires that Petitioner receive a bond hearing with strong procedural protections. See *Cantor v. Freden*, 761 F. Supp. 3d 630, 635-41 (W.D.N.Y. 2025).
- 45. Petitioner has not been, and will not be, provided with a bond hearing as required by law.
- 46. Petitioner's continuing detention is therefore unlawful.

COUNT THREE

**Violation of Fifth Amendment Right to Due Process
(Failure to Provide an Individualized Hearing for Domestic Civil Detention)**

47. “In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).

48. The Fifth Amendment’s Due Process Clause specifically forbids the Government to “deprive[]” any “person . . . of . . . liberty . . . without due process of law.” U.S. Const. amend. V.

49. “[T]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); cf. *Department of Homeland Security v. Thuraissigiam*, 591 U.S. 103, 139-40 (2020) (holding noncitizens due process rights were limited where the person was not residing in the United States, but rather had been arrested 25 yards into U.S. territory, apparently moments after he crossed the border while he was still “on the threshold”).

50. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty” protected by the Due Process Clause. *Zadvydas*, 533 U.S. 678 at (2001).

51. The Supreme Court has thus “repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection,” including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); see also *Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes); *Foucha v. Louisiana*, 504 U.S. 71, 81-83 (1992) (same for civil commitment for mental illness); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997) (same for commitment of sex offenders).

52. Petitioner was arrested inside the United States and is being held without being provided any individualized detention hearing.

53. Petitioner's continuing detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

COUNT FOUR
Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

54. Because Petitioner is not being provided a bond hearing, the government is not taking any steps to effectuate its substantive obligation to ensure that immigration detention bears a "reasonable relation" to the purposes of immigration detention (i.e., the prevention of flight and danger to the community during the pendency of removal proceedings) and is not impermissibly punitive. *See Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).

55. Further, "civil detention comports with due process only when a 'special justification' outweighs the 'individual's constitutionally protected interest in avoiding physical restraint.'" *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 U.S. Dist. LEXIS 156344, at *41 (D. Ariz. Aug. 11, 2025) (quoting *Zadvydas*, 533 U.S. at 690).

56. Just yesterday in *Chafla v. Scott*, the District Court of Maine not only held that the government must identify a specific policy which would weigh in favor of the Petitioner's continued detention without a hearing, but also that public interest weighs against detention without a hearing. No. 2:25-cv-00437-SDN, 2025 LX 422663 at *34 (D. Me. Sep. 21, 2025). This court also stated explicitly that it found Yajure Hurtado "unavailing for...statutory interpretation reasons." *Id.* at *22.

57. Petitioner's detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Order that Petitioner shall not be transferred outside this District;
3. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
4. Declare that Petitioner's detention is unlawful.
5. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or, in the alternative, provide Petitioner with a bond hearing and order Petitioner's release with the burden on the government to prove by clear and convincing evidence that he is not a danger to the public or property and not a flight risk and to likewise demonstrate by clear and convincing evidence that no alternatives to detention can mitigate the risk of flight or danger or on conditions the Court deems just and proper.
6. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
7. Grant any further relief this Court deems just and proper.

Dated: September 22, 2025
Buffalo, New York

Respectfully submitted,

s/ Aaron J. Aisen

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*Pro hac vice application forthcoming

Counsel for Petitioner

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

I represent Petitioner, Mateo Joel Chavez-Chilel , and submit this verification on his behalf.

I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 22nd day of September, 2025.

/s/Todd C. Pomerleau
Todd C. Pomerleau