UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

WILLIAN ALBERTO GIMENEZ GONZALEZ,

Petitioner,

Case No. 25-cv-13094

PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

Kevin RAYCRAFT, 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.

INTRODUCTION

1. This petition arises from the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

2. Petitioner Willian Gimenez Gonzalez is a resident of Chicago, Illinois.

3. Petitioner came to the United States from Venezuela approximately two years ago, sought asylum from persecution in his home country, and has lived and worked in the United States ever since.

4. On September 12, 2025, Petitioner was arrested by Immigration and Customs Enforcement (ICE) as he attempted to visit a barbershop in Chicago, Illinois and was charged with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

5. Petitioner was first detained at the Broadview Processing Center, located at 1930 Beach Street in Broadview, Illinois.

6. On or about September 13, 2025 —without granting Petitioner the opportunity to contact his attorney and alert them—Respondents transferred Petitioner to North Lake Correctional Facility, located in Baldwin, Michigan, where he remains in physical custody of Respondents.

7. Since his arrest and detention by ICE, Petitioner has not been given the opportunity to post bond or be released on other conditions.

8. Petitioner has requested a bond hearing before the immigration judge presiding over his immigration proceedings, yet that request is futile, as the Board of Immigration Appeals (BIA) recently adopted the position that that persons like Petitioner are subject to mandatory detention as applicants for admission under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

9. The denial of bond is a new policy issued on July 8, 2025,[1] instructing all ICE employees to no longer apply 8 U.S.C. § 1226(a) to people charged with being inadmissible under § 1182(a)(6)(A)(i)—i.e., those who initially entered the United States without inspection. Instead, under the new policy, ICE employees are to subject people like Mr. Gimenez to mandatory detention without bond under § 1225(b)(2)(A), no matter how long they have resided in the United

[1] Available at https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission [https://perma.cc/8SP7-TDDD]

States.

10. As a result, Petitioner remains in mandatory detention. Absent relief from this Court, he faces the prospect of months or years in immigration custody, separated from his family and community, and without the ability to prosecute federal civil rights claims currently pending in the Northern District of Illinois, *see Arias v. City of Chicago*, No. 1:24-cv-6859 (N.D.Ill. Apr. 18, 2025), while being deprived an individualized hearing justifying his detention in violation of the INA and Due Process.

11. Respondents' new legal interpretation, which has caused Mr. Gimenez to be detained without bond, is plainly contrary to the statutory framework of the INA and contrary to both agency regulations and decades of consistent agency practice applying § 1226(a) to people like Mr. Gimenez. It also violates his right to due process by depriving him of his liberty without any consideration of whether such a deprivation is warranted.

12. Accordingly, Mr. Gimenez seeks a writ of habeas corpus requiring that he be immediately released from custody unless Respondents provide him a bond hearing under § 1226(a) within seven days.

JURISDICTION

13. 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).

14. 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.

VENUE

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

16. 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

17. 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.*

18. 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

19. Petitioner Willian Alberto Gimenez Gonzalez is a citizen of Venezuela who has been in immigration detention since September 12, 2025. Mr. Gimenez is currently detained at North Lake Correctional Facility, located in Michigan.

20. 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 Mr. Gimenez's immediate custodian and is responsible for Mr. Gimenez's detention and removal. He is named in his official capacity.

21. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Mr. Gimenez's detention. Ms. Noem has ultimate custodial authority over Mr. Gimenez and is sued in her official capacity.

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

23. 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 (EOIR) and the immigration system it operates is a component agency. She is sued in her official capacity.

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

FACTS

25. Petitioner Willian Alberto Gimenez Gonzalez has resided in the United States since October 2023 and lived in Chicago, Illinois until his arrest by ICE on September 12, 2025.

26. Mr. Gimenez is an asylum seeker whose application for asylum was filed with U.S. Citizenship and Immigration Services ("USCIS") on February 18, 2025.

27. On September 12, 2025, at around 2:00 PM, Mr. Gimenez was stopped by Immigration and Customs Enforcement ("ICE") agents while with his wife outside a barbershop in Chicago's Little Village neighborhood.

28. The ICE officers stated Mr. Gimenez's full name to him and asked him to confirm his identity, which he did. Upon confirmation, he was immediately taken into custody without explanation.

29. Mr. Gimenez was first detained at the Broadview Processing Center, located in Illinois.

30. At around 3:00 P.M. on September 13, 2025, Respondents transferred Mr. Gimenez to the custody of North Lake Correctional Facility, located in Baldwin, Michigan, where he remains in physical custody of Respondents.

31. At the time of his arrest, Mr. Gimenez was in immigration proceedings in Chicago, Illinois pursuant to 8 U.S.C. § 1229a. Since his arrest, Mr. Gimenez's immigration proceedings have been transferred to Detroit Immigration Court.

32. ICE has charged Mr. Gimenez with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

33. Following Mr. Gimenez's arrest and incarceration at the Broadview Processing Center and subsequent transfer to the North Lake Correctional Facility in Michigan, Respondent has not given Mr. Gimenez the opportunity to post bond or be released on other conditions.

34. Mr. Gimenez is neither a flight risk nor a danger to the community. He has lived with his wife in Chicago for nearly two years after fleeing Venezuela due to his fear of being targeted by violence stemming from political upheaval. He has consistently worked in the construction and maintenance industry working to support himself and his family. Mr. Gimenez

has deep and significant ties to his local community beyond his immediate family. He is an active member of Latino Union, a worker center in Chicago and has served as a leader and spokesperson for its activities since joining in 2024. He and his partner are both members of the St. Paul & the Redeemer Episcopal Church in Chicago, whose members have supported his release since he was detained by ICE. Petitioner has no criminal record beyond traffic violations and a trespassing charge which was resolved *nolle prosequi*[2].

35. Around 1:00 A.M. on September 14, 2025, Petitioner's Illinois counsel filed a habeas petition in the Northern District of Illinois, *see Gimenez Gonzalez v. Olson*, No.25-cv-11073 (N.D.Ill. Sep. 14, 2025) believing Petitioner was still being held at the Broadview Processing Center in Chicago. On September 23, 2025, Petitioner's habeas petition and subsequently filed Motion for Temporary Restraining Order was transferred to the Western District of Michigan and administratively filed by the Court on the following day. *See Gimenez Gonzalez v. Olson*, No. 25-cv-01143 (W.D.Mich. Sep. 24, 2025).

36. Petitioner's first habeas petition was procedurally defective as it did not name the proper Respondents. See *Roman v. Ashcroft*, 340 F.3d 314, 322 (6th Cir. 2003) ("the INS District Director for the district where a detention facility is located has power over alien habeas corpus petitioners"); *Malam v. Adducci*, No. 20-10829, 2020 U.S. Dist. LEXIS 59407, at *17-18 (E.D. Mich. Apr. 5, 2020) ("... the Detroit District Director, is the proper Respondent for Petitioner's request for a writ of habeas corpus.").

---

[2] Petitioner is a plaintiff in the lawsuit *Arias v. City of Chicago*, 24-cv-2869, in the Northern District of Illinois, which was filed because of civil rights violations Petitioner experienced, including being dragged into the back room of the store, being beaten by Home Depot security and off-duty Chicago Police officers, epithets based on his perceived ethnicity, and false charges of trespassing.

37. On September 30, 2025, Petitioner voluntarily dismissed his Western District of Michigan habeas petition pursuant to Fed. R. Civ. P. 41(a)(1)(A)(i) prior to any adjudication of the merits. *See Gimenez Gonzalez v. Olson*, No. 25-cv-01143, ECF No. 23 (W.D.Mich. Sep. 30, 2025); *Gimenez Gonzalez v. Olson*, No. 25-cv-01143, ECF No. 21 (W.D.Mich. Sep. 26, 2025) (finding no basis for Petitioner's *ex parte* Temporary Restraining Order but not ruling on the merits of Petitioner's request for a writ of habeas); *Gimenez Gonzalez v. Olson*, 25-cv-01143, ECF No. 15 (holding no jurisdictional basis for considering Petitioner's habeas petition and not ruling on the merits).

38. Mr. Gimenez's voluntary dismissal without prejudice leaves the situation as if the action had never been filed and grants him the right to file the instant petition. *See Bey v. Hemingway*, No. 2:20-CV-12029, 2020 U.S. Dist. LEXIS 171254, at *1 (E.D. Mich. Sep. 18, 2020) (citing to *Sherer v. Construcciones Aeronauticas, S.A.*, 987 F.2d 1246, 1247 (6th Cir.1993)). *See also, Sadler v. Washington*, No. 2:22-CV-11521-TGB-CI, 2023 U.S. Dist. LEXIS 75311, at *3-4 (E.D. Mich. Apr. 30, 2023) (finding no bad faith when habeas petition is withdrawn prior to any decision being rendered by the Court); *Oluwasanmi v. Dir., Bureau of Immigration & Customs Enf't*, No. 21-cv-10288, 2021 U.S. Dist. LEXIS 56761, at *2 (E.D. Mich. Mar. 25, 2021) (allowing dismissal of habeas petition under 41(a)(1)(A)(i) as no Answer or Summary Judgment had been filed).

LEGAL FRAMEWORK

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

40. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Under § 1226(a), individuals who are taken into

immigration custody pending a decision on whether they are to be removed can be detained but are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d).[3] *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Section 1226(a) is the statute that, for decades, has been applied to people like Mr. Gimenez who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

41. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Mr. Gimenez.

42. Third, the INA also provides for detention of noncitizens who have already been ordered removed, *see* 8 U.S.C. § 1231(a)–(b). Section 1231 is not relevant here.

43. This case concerns Respondents' erroneous decision that Mr. Gimenez is subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a).

[3] Section § 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. § 1226(c). That exception is not relevant here.

44. 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).

45. Following the 1996 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.").

46. Thus, in the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, 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)).

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

48. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

49. In a May 22, 2025, unpublished decision from the Board of Immigration Appeals (BIA), EOIR adopted this same position.[4] That decision holds that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an immigration judge.

50. Respondents have adopted this position even though federal courts, including this Court, have rejected this exact conclusion. *See Reyes v. Raycraft*, No. 25-cv-12546, 2025 U.S. Dist. LEXIS 175767, at *19-20 (E.D. Mich. Sep. 9, 2025) ("...[T]he BIA's decision to pivot from three decades of consistent statutory interpretation and call for [petitioner's] detention under § 1225(b)(2)(A) is at odds with every District Court that has been confronted with the same question of statutory interpretation. At least a dozen federal courts concur generally with this Court's interpretation of the statutory language as applied in this context.") (internal citations omitted); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at *23, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) (holding that "[t]here can be no genuine dispute that Section 1226(a), and not Section 1225(b)(2)(A), applies to a noncitizen who has resided in this country for over twenty-six years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border."). *See also*, *Lopez Benitez v.*

[4] *Available at* https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf [https://perma.cc/Z8V4-QDYX].

Francis, No. 25 CIV. 5937 (DEH), 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025) (holding a proper understanding of the relevant statutes, in light of their plain text, and uniform case law interpreting them, compels the conclusion that § 1225 does not apply to a noncitizen who has been residing in the U.S. for more than two years).

51. 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 Mr. Gimenez.

52. 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]."

53. 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)).

54. 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.

55. 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).

See Jennings, 583 U.S. at 287 (explaining 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.").

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

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

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

58. 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.

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

COUNT II
Violation of Due Process

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

61. 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).

62. Mr. Gimenez has a fundamental interest in liberty and being free from official restraint.

63. The government's detention of Mr. Gimenez 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, Mr. Gimenez prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents release Mr. Gimenez from custody or, in the alternative, provide Mr. Gimenez with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days;

c. Enjoin Respondents from transferring the Mr. Gimenez from the jurisdiction of this District pending these proceedings;

d. Declare that 8 U.S.C. § 1226(a)—and not 8 U.S.C. § 1225(b)(2)(A) — is the appropriate statutory provision that governs Mr. Gimenez's detention and eligibility for bond because he is not a recent arrival "seeking admission" to the United States, and instead was already residing in the United States when he was apprehended and charged as inadmissible for having allegedly entered the United States without inspection;

e. Award Mr. Gimenez 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

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

Dated: October 1, 2025

Respectfully submitted,

/s/ Diana E. Marin
Diana E. Marin (P81514)
BLANCHARD & WALKER PLLC
221 N. Main Street, Suite 300
Ann Arbor, MI 48104
(734) 929-4313
marin@bwlawonline.com

/s/ Kevin Herrera
Kevin L. Herrera (Illinois #6324045)*
Raise the Floor Alliance
1 N. La Salle St.
Chicago, IL 60602
Tel. 312-795-9115
**Admission Pending*

Attorneys for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition and Complaint. On the basis of those discussions, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

/s/ Diana E. Marin

Diana E. Marin (P81514)
BLANCHARD & WALKER PLLC
Attorney for Petitioner