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5
6 UNITED STATES DISTRICT COURT
DISTRICT COURT OF NEW JERSEY

7 Giovanni Fernando MUGLIZA CASTILLO,
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Petitioner,

v.

Todd LYONS, Acting Director,
Immigration and Customs Enforcement; John
TSOUKARIS, Field Office Director of
Enforcement and Removal Operations, Newark
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; Luis SOTO,
Director, Delaney Hall Detention Facility,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

PETITIONER'S DHS NUMBER:

A 

1 **INTRODUCTION**

2 1. Petitioner Geovanny Fernando Mugliza Castillo is in the physical custody of
3 Respondents at the Delaney Hall Detention Facility in Newark, New Jersey. He now faces
4 unlawful detention because the Department of Homeland Security (DHS) and the Executive
5 Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory
6 detention.

7 2. Petitioner is charged with, inter alia, having entered the United States without
8 admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

9 3. Based on this allegation in Petitioner’s removal proceedings, DHS denied
10 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
11 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
12 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
13 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
14 therefore ineligible to be released on bond.

15 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
16 Board) issued a precedent decision, binding on all immigration judges, holding that an
17 immigration judge has no authority to consider bond requests for any person who entered the
18 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
19 The Board determined that such individuals are subject to detention under 8 U.S.C. §
20 1225(b)(2)(A) and therefore ineligible to be released on bond.

21 5. Petitioner’s detention on this basis violates the plain language of the Immigration
22 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
23 previously entered and are now residing in the United States. Instead, such individuals are
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1 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
2 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
3 having entered the United States without inspection.

4 6. Respondents' new legal interpretation is plainly contrary to the statutory
5 framework and contrary to decades of agency practice applying § 1226(a) to people like
6 Petitioner.

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

9 JURISDICTION

10 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
11 Delaney Hall Detention Facility in Newark, New Jersey.

12 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
13 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
14 Constitution (the Suspension Clause).

15 10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
16 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

17 VENUE

18 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
19 500 (1973), venue lies in the United States District Court of New Jersey, the judicial district in
20 which Petitioner currently is detained.

21 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
22 Respondents are employees, officers, and agencies of the United States, and because a
23 substantial part of the events or omissions giving rise to the claims occurred in New Jersey.
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2 **REQUIREMENTS OF 28 U.S.C. § 2243**

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

7 14. Habeas corpus is “perhaps the most important writ known to the constitutional
8 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
9 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
10 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
11 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
12 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

13 **PARTIES**

14 15. Petitioner Geovanny Mugliza is a citizen of Ecuador who has been in
15 immigration detention since June 12, 2025. After arresting Petitioner in Newark, New Jersey,
16 ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to
17 the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

18 16. Respondent Todd LYONS is the Acting Director of Immigration and Customs
19 Enforcement. He is named in his official capacity.

20 17. Respondent John Tsoukaris is the Director of the Newark Field Office of ICE’s
21 Enforcement and Removal Operations division. As such, John Tsoukaris is Petitioner’s
22 immediate custodian and is responsible for Petitioner’s detention and removal. He is named in
23 his official capacity.

1 18. Respondent Kristi Noem is the Secretary of the Department of Homeland
2 Security. She is responsible for the implementation and enforcement of the Immigration and
3 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
4 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

5 19. Respondent Department of Homeland Security (DHS) is the federal agency
6 responsible for implementing and enforcing the INA, including the detention and removal of
7 noncitizens.

8 20. Respondent Pamela Bondi is the Attorney General of the United States. She is
9 responsible for the Department of Justice, of which the Executive Office for Immigration Review
10 and the immigration court system it operates is a component agency. She is sued in her official
11 capacity.

12 21. Respondent Executive Office for Immigration Review (EOIR) is the federal
13 agency responsible for implementing and enforcing the INA in removal proceedings, including
14 for custody redeterminations in bond hearings.

15 22. Respondent Luis Soto is employed as the Director of the Delaney Hall Detention
16 Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued
17 in his official capacity.

18 **LEGAL FRAMEWORK**

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

21 24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
22 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
23 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
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1 while noncitizens who have been arrested, charged with, or convicted of certain crimes are
2 subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

3 25. Second, the INA provides for mandatory detention of noncitizens subject to
4 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
5 referred to under § 1225(b)(2).

6 26. Last, the INA also provides for detention of noncitizens who have been ordered
7 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

8 27. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

9 28. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
10 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
11 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section
12 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1,
13 139 Stat. 3 (2025).

14 29. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining
15 that, in general, people who entered the country without inspection were not considered detained
16 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
17 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;
18 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

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

3 31. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
4 rejected well-established understanding of the statutory framework and reversed decades of
5 practice.

6 32. The new policy, entitled “Interim Guidance Regarding Detention Authority for
7 Applicants for Admission,”¹ claims that all persons who entered the United States without
8 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). *See*
9 Ex. 2. The policy applies regardless of when a person is apprehended, and affects those who
10 have resided in the United States for months, years, and even decades.

11 33. On September 5, 2025, the BIA adopted this same position in a published
12 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
13 United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are
14 ineligible for IJ bond hearings.

15 34. Since Respondents adopted their new policies, dozens of federal courts have
16 rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected
17 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

18 35. Even before ICE or the BIA introduced these nationwide policies, IJs in the
19 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
20 entered the United States without inspection and who have since resided here. There, the U.S.
21 District Court in the Western District of Washington found that such a reading of the INA is
22 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not

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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 upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
2 1239 (W.D. Wash. 2025).

3 36. Subsequently, court after court has adopted the same reading of the INA's
4 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
5 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
6 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
7 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
8 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
9 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
10 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,
11 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
12 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
13 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
14 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
15 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
16 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
17 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
18 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
19 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
20 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
21 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
22 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
23 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
24

1 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
3 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
4 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
5 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

6 37. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it
7 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
8 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

9 38. Section 1226(a) applies by default to all persons “pending a decision on whether
10 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
11 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

12 39. The text of § 1226 also explicitly applies to people charged as being inadmissible,
13 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
14 (E)’s reference to such people makes clear that, by default, such people are afforded a bond
15 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
16 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,
17 the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
18 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025
19 WL 1869299, at *7.

20 40. Section 1226 therefore leaves no doubt that it applies to people who face charges
21 of being inadmissible to the United States, including those who are present without admission or
22 parole.

1 41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
2 recently entered the United States. The statute’s entire framework is premised on inspections at
3 the border of people who are “seeking admission” to the United States. 8 U.S.C.
4 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
5 applies “at the Nation’s borders and ports of entry, where the Government must determine
6 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
7 U.S. 281, 287 (2018).

8 42. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not
9 apply to people like Petitioner, who have already entered and were residing in the United States
10 at the time they were apprehended.

11 **FACTS**

12 43. Petitioner has resided in the United States since December 2, 2022 and lives in
13 Newark, New Jersey.

14 44. On June 12, 2025, Petitioner was arrested Newark ICE ERO officers at 970 Broad
15 St. 11th FL, Newark, NJ 07102. Petitioner is now detained at the Delaney Hall Detention Center.

16 45. DHS placed Petitioner in removal proceedings before the Newark Immigration
17 Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being
18 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States
19 without inspection.

20 46. On August 21, 2025, the Immigration Judge granted Petitioner’s I-485 application for
21 adjustment of status, thereby conferring lawful permanent resident status. Subsequently, on
22 September 25, 2025, Petitioner’s immigration attorney, Claudia Perez, contacted the Assistant
23 Chief Counsel of the Department of Homeland Security and was informed that the government
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1 had appealed the Immigration Judge’s decision to the Board of Immigration Appeals. On
2 September 26, 2025, Attorney Perez contacted the Board and learned that, as of that date, no
3 appeal had been received; however, it was possible that the government’s appeal had not yet
4 been processed.

5 47. Petitioner has been married to a United States citizen, Sandra Velasco, since November 9,
6 2024. Sandra is employed by Lenfam Management and earns approximately \$55,000 annually.
7 Before being taken into custody, Petitioner worked as a painter for the Newalls Painting
8 Company. He has no criminal history. Petitioner is neither a flight risk nor a danger to the
9 community.

10 48. Following Petitioner’s arrest and transfer to the Delaney Hall Detention Center,
11 ICE issued a custody determination to continue Petitioner’s detention without an opportunity to
12 post bond or be released on other conditions.

13 49. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
14 Petitioner’s bond request.

15 50. As a result, Petitioner remains in detention. Without relief from this court, he
16 faces the prospect of months, or even years, in immigration custody, separated from his family
17 and community.

18 **CLAIMS FOR RELIEF**

19 **COUNT I**

20 **Violation of the INA**

21 51. Petitioner incorporates by reference the allegations of fact set forth in the
22 preceding paragraphs.
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1 52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
2 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
3 relevant here, it does not apply to those who previously entered the country and have been
4 residing in the United States prior to being apprehended and placed in removal proceedings by
5 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
6 § 1225(b)(1), § 1226(c), or § 1231.

7 53. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
8 detention and violates the INA.

9 **COUNT II**

10 **Violation of Due Process**

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

13 55. The government may not deprive a person of life, liberty, or property without due
14 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government
15 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
16 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

17 56. Petitioner has a fundamental interest in liberty and being free from official
18 restraint.

19 57. The government’s detention of Petitioner without a bond redetermination hearing
20 to determine whether he is a flight risk or danger to others violates his right to due process.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 23 a. Assume jurisdiction over this matter;

- 1 b. Order that Petitioner shall not be transferred outside of New Jersey while this
2 habeas petition is pending;
- 3 c. Issue an Order to Show Cause ordering Respondents to show cause why this
4 Petition should not be granted within three days;
- 5 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
6 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
7 1226(a) within seven days;
- 8 e. Declare that Petitioner’s detention is unlawful;
- 9 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
10 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under
11 law; and
- 12 g. Grant any other and further relief that this Court deems just and proper.

13 DATED this 3rd of October, 2025.

/s/ Mei F. Chen
Attorney for Petitioner

1 PROOF OF SERVICE

2 I, the undersigned, declare that my office is in San Francisco, California. I am over the
3 age of eighteen (18) years and not a party to the action within. My business address is 405
4 Sansome Street, 2nd Floor, San Francisco, CA 94111. On October 2, 2025, I served the
5 following documents: PETITION FOR WRIT OF HABEAS CORPUS by placing a true and
6 correct copy in a sealed envelope, each addressed as follows:

7 Kristi Noem
U.S. Department of Homeland Security
8 2801 Nebraska Avenue NW
Washington, D.C. 20528

9 Todd Lyons
10 U.S. Immigration and Customs Enforcement is:
500 12th Street SW
11 Washington, DC 20536

12 John Tsoukaris
Enforcement and Removal Operations
13 Newark Field Office
970 Broad St. 11th Floor
14 Newark, NJ 07102

15 Luis Soto
Delaney Hall Detention Facility
16 451 Doremus Avenue
Newark, New Jersey 07105

17 Pamela Bondi
18 950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

19 U.S. Attorney's Office
20 970 Broad Street, 7th Floor
Newark, NJ 07102

21
22 **By mail.** I am readily familiar with the business for collection and processing of
23 correspondence for mailing in the United States Postal Service and that this document, with
24

1 postage fully prepaid, will be deposited with the United States Postal Service this date in the
2 ordinary course of business.

3 A copy of this Memorandum in Support of Application for TRO and OSC, with all
4 related filings was sent by electronic mail to Assistant U.S. Attorney Alex D. Silagi at
5 alex.silagi@usdoj.gov and Supervisory Assistant United States Attorney John Basiak at
6 john.basiak@usdoj.gov.

7 I declare under the penalty of perjury that the foregoing is true and correct. Executed on
8 October 3, 2025, at San Francisco, California.

9 /s/ Mei F. Chen
10 Mei F. Chen

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