

1 UNITED STATES DISTRICT COURT
2 FOR THE EASTERN DISTRICT OF VIRGINIA
3 ALEXANDRIA DIVISION

4 Jinlong Piao,

5 c/o Immigrants First PLLC
6 9401 Centreville Rd, Suite 204
7 Manassas, VA 20110

8 Petitioner,

9 v.

10 Todd M. Lyons, Acting Director, Immigration
11 Customs and Enforcement; Russell Hott, Field
12 Office Director of Enforcement and Removal
13 Operations, Washington Field Office,
14 Immigration and Customs Enforcement; Kristi
15 NOEM, Secretary, U.S. Department of
16 Homeland Security; Pamela BONDI, U.S.
17 Attorney General, US Department of Justice;
18 Paul Perry, Superintendent of the Caroline
19 Detention Facility

20 Respondents.

Civil Action No. 1:25-cv-01725

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner, Jinlong Piao , alleged to be a citizen and national of
3 China, is in the physical custody of Respondents at the Caroline Detention Facility in Bowling
4 Green, Virginia. He now faces unlawful detention because the Department of Homeland Security
5 (DHS) and the Executive Office of Immigration Review (EOIR) have concluded either that
6 Petitioner is subject to mandatory or lawful detention despite having been detained since March
7 26, 2025, when ICE-ERO agents appeared to his apartment and apprehended him, taking him
8 into their custody.

9 2. From as far back as November 18, 2012, per DHS's Notice to Appear (NTA,
10 Form I-862) document, DHS has charged Petitioner for being removable based on Section
11 237(a)(1)(B) of the INA. Petitioner appears to be detained due to Petitioner's case appeal (of a
12 removal order based on an asylum application denied by the Immigration Judge on April 14,
13 2017) having been dismissed on November 24, 2017. Subsequent motions to reopen to the
14 Immigration Judge and Board of Immigration of Appeals were denied were denied on April 3,
15 2025 and August 7, 2023, respectively. A joint motion to reopen, based on his marriage to a U.S.
16 citizen and an immigrant petition (Form I-130) approved by USCIS based on this marriage (See
17 Exhibit B), was sent to DHS on May 21, 2025, to attempt to revive his case and provide a
18 pathway for lawful permanent residence for him. It is still pending with DHS. In light of
19 Petitioner's long detention since March 25, 2025, no clear explanation has been given for his
20 indefinite, prolonged, and excessive detention, other than remarks about the Chinese government
21 and embassy supposedly not issuing a passport to Petitioner, which they say they need in order to
22 deport him.

3. Based on these allegations in Petitioner's removal proceedings, DHS denied Petitioner release from immigration custody and having continued to hold Petitioner in detention.

4. On September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. Petitioner entered the United States with admission (See Exhibit C: I-94), so this BIA case should not apply to him.

5. Petitioner's detention on this basis would violate the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. If Respondents detained Petitioner on this basis, Respondents' new legal interpretation would be plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

JURISDICTION

7. Petitioner is in the physical custody of Respondents. Petitioner has been detained at the Caroline Detention Facility in Bowling Green, Virginia since March 26, 2025.

1 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
2 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

3 PARTIES

4 14. Petitioner Jinlong Piao is alleged to be a citizen of China who has been in
5 immigration detention at the Caroline Detention Facility since March 26, 2025. After arresting
6 Petitioner, ICE did not set bond and has held Petitioner in prolonged, indefinite, and excessive
7 detention.

8 15. Respondent Todd M. Lyons is the Acting Director of ICE. In his official capacity,
9 he oversees all ICE operations nationwide, including detention and removal decisions. He is
10 responsible for setting and enforcing ICE policy and may authorize or delay removal of
11 noncitizens in ICE custody.

12 16. Respondent Russell Hott is the Director of the Washington Field Office of ICE’s
13 Enforcement and Removal Operations division. As such, Russell Hott is Petitioner’s immediate
14 custodian and is responsible for Petitioner’s detention and removal. He is named in his official
15 capacity.

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

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

1 19. Respondent Pamela Bondi is the Attorney General of the United States. She is
2 responsible for the Department of Justice, of which the Executive Office for Immigration Review
3 and the immigration court system it operates is a component agency. She is sued in her official
4 capacity. The Executive Office for Immigration Review (EOIR) is the federal agency responsible
5 for implementing and enforcing the INA in removal proceedings, including for custody
6 redeterminations in bond hearings.

7 20. Paul Perry is the Superintendent of the Caroline Detention Facility, where
8 Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official
9 capacity.

10 LEGAL FRAMEWORK

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

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

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

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

23 25. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
24

1 26. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
2 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
3 104--208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section
4 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1,
5 139 Stat. 3 (2025).

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

11 28. Thus, in the decades that followed, most people who entered without inspection
12 and were placed in standard removal proceedings received bond hearings, unless their criminal
13 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
14 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
15 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
16 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
17 “restates” the detention authority previously found at § 1252(a)).

18 29. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
19 rejected well-established understanding of the statutory framework and reversed decades of
20 practice.

21 30. The new policy, entitled “Interim Guidance Regarding Detention Authority for
22 Applicants for Admission,”¹ claims that all persons who entered the United States without
23

24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
2 policy applies regardless of when a person is apprehended, and affects those who have resided in
3 the United States for months, years, and even decades.

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

8 32. Since Respondents adopted their new policies, dozens of federal courts have
9 rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected
10 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

11 33. Even before ICE or the BIA introduced these nationwide policies, IJs in the
12 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
13 entered the United States without inspection and who have since resided here. There, the U.S.
14 District Court in the Western District of Washington found that such a reading of the INA is
15 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
16 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
17 1239 (W.D. Wash. 2025).

18 34. Subsequently, court after court has adopted the same reading of the INA's
19 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
20 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
21 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
22 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
23 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
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2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

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

1 36. Section 1226(a) applies by default to all persons “pending a decision on whether
2 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
3 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

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

12 38. Section 1226 therefore leaves no doubt that it applies to people who face charges
13 of being inadmissible to the United States, including those who are present without admission or
14 parole.

15 39. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
16 recently entered the United States. The statute’s entire framework is premised on inspections at
17 the border of people who are “seeking admission” to the United States. 8 U.S.C.
18 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
19 applies “at the Nation’s borders and ports of entry, where the Government must determine
20 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
21 U.S. 281, 287 (2018).

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

4 41. Petitioner is being irreparably harmed by his ongoing unlawful detention without
5 a bond hearing.

6 42. The Immigration Court lacks jurisdiction to adjudicate the constitutional claims
7 raised by Petitioner, and any attempt to raise such claims would be futile. *See Flores-Powell*,
8 677 F. Supp. 2d at 463 (holding “exhaustion is excused by the BIA’s lack of authority to
9 adjudicate constitutional questions and its prior interpretation” of the relevant statute).

10 43. There is no statutory requirement for Petitioner to exhaust administrative
11 remedies. Accordingly, there is no requirement for Petitioner to further exhaust administrative
12 remedies before pursuing this Petition. *See Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74,
13 (1st Cir. 1997) (explaining that, where statutory exhaustion is not required, administrative
14 exhaustion not required in situations of irreparable harm, futility, or predetermined outcome).
15 However, in this case, 180 days have elapsed, and Petitioner’s counsel has already requested
16 Petitioner’s release on parole, but ICE-ERO has denied the requests and have continued
17 Petitioner’s detention. *See Exhibit A: E-mail thread.*

18 44. Petitioner’s prolonged detention is not reasonable. The Supreme Court case,
19 *Zadvydas v. Davis*, 553 U.S. 678 (2001), held that section 241 of the INA (8 U.S.C. § 1231)
20 contains an implicit time limitation and did not authorize indefinite detention of foreigners that
21 no other country would accept. The Court held that detention for up to six months after entry of a
22 removal order is “presumptively reasonable.” This petitioner in this case differs from that of
23 *Zadvydas* in that he does not have a criminal record. (an aside to show our petitioner is even
24

1 more sympathetic with greater positive equities). The legal framework in post-removal detention
2 cases can be summarized this way. After six months of post-removal detention, if an alien can
3 provide good reason to believe that he or she is unlikely to be removed in the reasonably
4 foreseeable future, and the government cannot provide evidence showing otherwise, the alien
5 must be released.

6 **FACTS**

7 45. Petitioner has resided in the United States since August 25, 2007 when he entered
8 the United States with a student (F-1) visa. See Exhibit C.

9 46. Petitioner has been detained at the Caroline Detention Facility since March 26,
10 2025, when ICE-ERO agents appeared to his apartment and apprehended him, taking him into
11 their custody. Respondents continue to detain him, even past the 180 day mark. See Exhibit A.

12 47. DHS placed Petitioner in removal proceedings before in the past at the
13 Immigration Court in New York, NY. However, he was ordered removed on April 14, 2017 and
14 the case appeal was dismissed on November 14, 2017. Subsequent motions to reopen were filed
15 and denied as explained below.

16 48. Petitioner had once pursued immigration relief through an asylum application.
17 Petitioner has a U.S. citizen wife and two U.S. citizen children (two daughters who are just 5 and
18 1 year old). They are suffering significant and extreme hardships from not having Petitioner in
19 the home with them. As mentioned below, Petitioner has submitted a joint motion to reopen
20 (based on approved immigrant petition from his U.S. citizen wife- See Exhibit B) to DHS on
21 May 21, 2025 to attempt to revive his case and provide a pathway for lawful permanent
22 residence for him. If DHS does not join in on this motion, Petitioner plans to file another joint
23 motion to reopen with the BIA or the Immigration Court.

1 residing in the United States prior to being apprehended and placed in removal proceedings by
2 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
3 § 1225(b)(1), § 1226(c), or § 1231.

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

6 **COUNT II**
7 **Violation of Due Process**

8 55. Petitioner incorporates by reference the allegations of fact set forth in preceding
9 paragraphs.

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

14 57. Petitioner has a fundamental interest in liberty and being free from official restraint.

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

17 59. Petitioner’s prolonged detention is not reasonable and is unlawful. The Supreme Court
18 case, *Zadvydas v. Davis*, 553 U.S. 678 (2001), held that section 241 of the INA (8 U.S.C.
19 § 1231) contains an implicit time limitation and did not authorize indefinite detention of
20 foreigners that no other country would accept. The Court held that detention for up to six
21 months after entry of a removal order is “presumptively reasonable.” But in the instant
22 case, Petitioner has been detained for more than six months, having been detained since
23 March 26, 2025 (has been detained for 196 days and counting). After six months of post-
24 removal detention, if an alien can provide good reason to believe that he or she is

1 unlikely to be removed in the reasonably foreseeable future, and the government cannot
2 provide evidence showing otherwise, the alien must be released.

3 **PRAYER FOR RELIEF**

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

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

18 DATED this 9th day of October, 2025.

19 

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