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6 **UNITED STATES DISTRICT COURT**
7 **MIDDLE DISTRICT OF GEORGIA**

8 ROMAN VERDUGO CHILEL,

9 Petitioner,

10 v.

11 Jason Streeval, in his official capacity as
Warden of Stewart Detention Center; LaDeon
12 FRANCIS, in his official capacity as Field
Office Director of Enforcement and Removal
13 Operations, Atlanta Field Office, Immigration
and Customs Enforcement; Kristi NOEM, in
14 her official capacity as Secretary, U.S.
Department of Homeland Security; Pamela
15 BONDI, in her official capacity as U.S.
Attorney General

16 Respondents.
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Case No. 4:25-CV-326

**PETITION FOR WRIT OF
HABEAS CORPUS**

I. INTRODUCTION

1. Petitioner Roman Verdugo Chilel is in the physical custody of Respondents at the Stewart Detention Center located in Lumpkin, Georgia. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

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

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

4. Similarly, 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.

5. Petitioner’s detention on this basis violates the plain language of the Immigration and Nationality Act (“INA”). 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.

1 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
2 having entered the United States without inspection.

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

6 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released
7 unless Respondents provide a new custody redetermination hearing under § 1226(a) within seven
8 days whereby the Immigration Judge does have jurisdiction over Petitioner's custody
9 redetermination request.

10 II. JURISDICTION

11 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
12 Stewart Detention Center in Lumpkin, Georgia.

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

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

18 III. VENUE

19 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
20 500 (1973), venue lies with the district court having jurisdiction over the custodian of the
21 detainee. In the case at hand, venue is proper with the United States District Court for the Middle
22 District of Georgia, the judicial district encompassing the Stewart Detention Center in Lumpkin,
23 Georgia in Stewart County, Georgia.

12. 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 occurred in the Middle District of Georgia.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

13. 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, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

14. 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).

V. PARTIES

15. Petitioner Roman Verdugo Chilel is alleged to be a citizen of Mexico who entered the United States without admission, inspection, or parole. Petitioner is currently detained at the Stewart Detention Center in the custody, and under the direct control, of Respondents and their agents. Petitioner has been in immigration detention since September 2025. After arresting Petitioner, ICE did not set bond. Counsel for Petitioner filed a motion for custody redetermination, but bond was denied on October 14, 2025 as the Immigration Judge found he did not have jurisdiction pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

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

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

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

25. 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).

26. Following the 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. 10312, 10323 (Mar. 6, 1997).

27. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). 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 Immigration Judge 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)).

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

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

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

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

16 32. Even before ICE or the BIA introduced these nationwide policies, Immigration
17 Judges in the Tacoma, Washington, immigration court stopped providing bond hearings for
18 persons who entered the United States without inspection and who have since resided here.
19 There, the U.S. District Court in the Western District of Washington found that such a reading of
20 the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
21 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
22 1239 (W.D. Wash. 2025).

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

33. Subsequently, several courts have adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 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 §

1 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
2 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
3 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

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

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

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

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

21 38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
22 recently entered the United States. The statute’s entire framework is premised on inspections at
23 the border of people who are “seeking admission” to the United States. 8 U.S.C.

1 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
2 applies “at the Nation’s borders and ports of entry, where the Government must determine
3 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
4 U.S. 281, 287 (2018).

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

8 FACTS

9 40. Petitioner has resided in the United States since approximately 2022 and lives in
10 Conyers, Georgia.

11 41. Petitioner was arrested for an allegation of having committed a traffic infraction.
12 Petitioner is now detained by DHS at the Stewart Detention Center in Lumpkin, Georgia.

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

17 43. Petitioner married twenty-four (24) year-old U.S. citizen Angelica Herrera on or
18 about February 3, 2025. Petitioner has one U.S. citizen child through marriage (a stepchild) –
19 three-year-old [REDACTED] Herrera; and one biological U.S. citizen child [REDACTED]
20 Herrera (seven months). Petitioner owns his own construction company, [REDACTED]
21 and is able to financially support his family through his business endeavors. Petitioner is an
22 active member of his church and has received a diploma of completion for the New Believers
23 school of ministry. Petitioner’s sister-in-law, U.S. Citizen Mayra Esquivel Herrera, attests to
24

Respondent's demonstration of excellent character and notes that she is prepared to assist him with stable housing, transportation to any court or other legal appointments, and financial support as needed, to ensure he attends all future court dates. Apart from the aforementioned arrest for a traffic offense, to the knowledge of undersigned counsel Petitioner has never been arrested for any other reason. As such, Petitioner is neither a flight risk nor a danger to the community.

44. Following Petitioner's arrest and transfer to the Stewart Detention Center, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

45. Petitioner subsequently requested a bond redetermination hearing before an immigration judge.

46. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider Petitioner's bond request. The Judge denied Petitioner's request for release on bond finding that he lacks jurisdiction.

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

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

54. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III

Violation of Fifth Amendment Right to Due Process

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

56. 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 (2001).

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

58. The government's detention of Petitioner 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, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Middle District Court of Georgia while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- e. Declare that Petitioner's detention is unlawful.

1 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
2 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under
3 law; and

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

5 DATED this 14th of October, 2025.

6 Respectfully Submitted,
7 The Kennedy Immigration Firm, LLC

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