UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF MICHIGAN

REYNALDO HURTADO-MEDINA; FERNANDO PEREZ PEREZ; CHRISTOPHER POLANCO; BAYRO RAMIREZ-RAMOS,

Petitioners,

v.

KEVIN RAYCRAFT, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; Kristi NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No.

Hon.

PETITION FOR WRIT OF HABEAS CORPUS

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. This policy has led to the unlawful detention of countless noncitizens nationwide. Dozens of habeas corpus petitions for their release have been filed in jurisdictions across the country (including at least seven in the Eastern District of Michigan). Virtually every merits decision in those cases has found for the petitioners, either granting them a bond hearing or ordering their immediate release.

3. Petitioner Hurtado-Medina has been unlawfully detained without the possibility of bond in furtherance of this policy. Petitioner came to the United States 37 years ago and has lived here ever since.

4. On September 18, 2025, Mr. Hurtado-Medina was taken into immigration custody when he was riding as a passenger in a car his stepson, a U.S. citizen, was driving.

5. Petitioner Fernando Perez Perez has been unlawfully detained without the possibility of bond in furtherance of this policy. Petitioner came to the United States 19 years ago and has lived here ever since.

6. Mr. Perez Perez was taken into immigration custody after a traffic stop conducted by ICE officers in Chicago on September 16, 2025. He was transferred from Broadview Processing Center in Broadview, Illinois to North Lake Processing Center in Baldwin, Michigan on September 21, 2025.

7. Petitioner Christopher Polanco has been unlawfully detained without the possibility of bond in furtherance of this policy. Petitioner came to the United States 17 years ago and has lived here ever since.

8. Mr. Polanco was taken into immigration custody after a traffic stop on August 28, 2025. After Mr. Polanco failed to provide the officer with valid identification, the officer asked Mr. Polanco to step outside of his car, and it was subsequently revealed by Mr. Polanco's acquaintance that Mr. Polanco is undocumented.

9. Petitioner Bayro Ramirez-Ramos has been unlawfully detained without the possibility of bond in furtherance of this policy. Petitioner came to the United States four years ago and has lived here ever since.

10. Mr. Ramirez-Ramos was taken into immigration custody on September 13, 2025. He was carpooling with two other people to work, and the car was stopped by DHS and FBI agents in unmarked vehicles. Mr. Ramirez-Ramos was not the driver. The agents requested documents but did not tell the occupants why they were being stopped. The agents were looking for a different individual but nonetheless

placed Mr. Ramirez-Ramos under arrest. At the time of the stop, Mr. Ramirez-Ramos already had an ongoing case in immigration court with a hearing date set.

11. Respondents placed each Petitioner in civil immigration removal proceedings, alleging that each had entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

12. Petitioners are currently in the physical custody of Respondents at North Lake Processing Center in Baldwin, Michigan, which falls under the purview of the Detroit Field Office of Immigration and Customs Enforcement (ICE).

13. Under 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond, Petitioners are entitled to a bond determination. That statute expressly applies to people who, like Petitioners, are residing in the United States but are charged as inadmissible for having initially entered the United States without inspection. In accordance with 8 U.S.C. § 1226(a), the Department of Homeland Security (DHS) and Executive Office of Immigration Review (EOIR) have for decades provided bond determinations and bond hearings to people like Petitioners who have been living in the United States but allegedly entered without inspection.

14. However, pursuant to a new governmental policy announced on July 8, 2025,[1] Petitioners are now being unlawfully detained without bond. The new policy

[1] ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission (Jul. 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-

instructs 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 Petitioners to mandatory detention without bond under § 1225(b)(2)(A)—a provision that has historically been applied only to recent arrivals at the U.S. border—no matter how long they have resided in the United States.

15. Detaining Petitioners 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 Petitioners. It also violates Petitioners' right to due process by depriving them of their liberty without any consideration of whether such a deprivation is warranted.

16. Accordingly, Petitioners seek a writ of habeas corpus requiring that they be immediately released from custody unless Respondents provide them bond hearings under § 1226(a) within seven days.

17. Petitioners are not challenging any discretionary denial of bond; they are challenging the legal determination that they are not eligible for bond under § 1226(a) in the first place.

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regarding-detention-authority-for-applications-for-admission [https://perma.cc/8SP7-TDDD].

JURISDICTION

18. Petitioners Reynaldo Hurtado-Medina, Fernando Perez Perez, Christopher Polanco, and Bayro Ramirez-Ramos are in the physical custody of Respondents. Petitioners are detained at the North Lake Processing Center in Baldwin, Michigan.

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

20. 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

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

22. 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

23. The Court must grant a petition for a 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.*

24. 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

25. Petitioner Reynaldo Hurtado-Medina is a citizen of Mexico who has resided in the United States since 1988. He has been in immigration detention since September 18, 2025, and is currently detained at North Lake Processing Facility. After taking custody of Petitioner, ICE did not set bond. Mr. Hurtado-Medina's immigration counsel advised him that seeking a bond hearing would be futile, as

judges at the Detroit Immigration Court are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

26. Petitioner Fernando Perez Perez is a citizen of Mexico who has resided in the United States since 2007. He has been in immigration detention since September 16, 2025, and is currently detained at North Lake Processing Center. After taking custody of him, ICE did not set a bond. Mr. Perez Perez's immigration counsel advised him that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

27. Petitioner Christopher Polanco is a citizen of Mexico who has resided in the United States since 2008. He has been in immigration detention since August 29, 2025, and is currently detained at North Lake Processing Center. After taking custody of Petitioner, ICE did not set bond. Mr. Polanco's immigration counsel advised him that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

28. Petitioner Bayro Ramirez-Ramos is a citizen of Guatemala who has resided in the United States since 2021. He has been in immigration detention since September 13, 2025, and is currently detained at North Lake Processing Center.

After taking custody of Petitioner, ICE did not set bond. Mr. Ramirez-Ramos's immigration counsel advised him that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

29. 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 Petitioners' immediate custodian and is responsible for Petitioners' detention and removal. He is named in his official capacity.

30. 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 Petitioners' detention. Ms. Noem has ultimate custodial authority over Petitioners and is sued in her official capacity.

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

32. 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 and the immigration court system it operates are component agencies. She is sued in her official capacity.

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

FACTS

Petitioner Reynaldo Hurtado-Medina

34. Petitioner Hurtado-Medina has resided in the United States since at least 1988 and lives in Taylor, Michigan. He entered the U.S. as a minor at age 15. Petitioner is 52 years old.

35. Mr. Hurtado-Medina has four stepchildren who consider him a father figure, all of whom are U.S. citizens and live with him. Mr. Hurtado-Medina has been gainfully employed in Michigan as a contractor for over twenty years. He has specialized training as an electrician and works as a special contractor for landscaping and pools. He also co-owns three properties in the state. He has been active in his church community, where he attended services and volunteered. He suffers from medical conditions including high blood pressure, pre-diabetes, damaged discs in his back, depression, anxiety, and a heart condition. In addition, Mr. Hurtado-Medina has no criminal convictions.

36. On September 18, 2025, Mr. Hurtado-Medina was riding as a passenger in a car his stepson, a U.S. citizen, was driving. Mr. Hurtado-Medina and his son were pulled over by cars that appeared to be private vehicles. When Mr. Hurtado-

Medina could not produce immigration documentation, one of the individuals aggressively pulled his arms. Mr. Hurtado-Medina was handcuffed and taken to an ICE facility in Detroit. He is now detained at North Lake Processing Center in Baldwin, Michigan.

37. DHS placed Mr. Hurtado-Medina in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE charged Petitioner with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

38. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue detaining Mr. Hurtado-Medina without providing an opportunity to post bond or be released under other conditions.

39. Mr. Hurtado-Medina's immigration counsel advised him that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

40. Mr. Hurtado-Medina is clearly neither a flight risk nor a danger to the community, as demonstrated by the following:

- Mr. Hurtado-Medina has a large family in the United States who relies on him financially and emotionally. His four stepchildren are all U.S. citizens.
- Mr. Hurtado-Medina has continuously resided in the United States for nearly forty years, since he entered at age fifteen.
- Mr. Hurtado-Medina has lived in the state of Michigan for over fifteen years.
- Mr. Hurtado-Medina co-owns three properties in Michigan.
- Mr. Hurtado-Medina has been gainfully employed as a contractor for over twenty years.
- Mr. Hurtado-Medina has no criminal convictions.

41. Mr. Hurtado-Medina is working with an immigration attorney and has strong claims for relief based on his family ties, his financial interest in his business, and his desire to remain with his family and community.

42. Without relief from this court, Mr. Hurtado-Medina faces the prospect of months—or possibly years—in immigration custody, separated from family and community. Mr. Hurtado-Medina has several chronic illnesses for which he will not receive the same care while in detention.

Petitioner Fernando Perez Perez

43. Petitioner Fernando Perez Perez has resided in the United States since at least 2007 and lives in Chicago, Illinois. He is 41 years old.

44. Mr. Perez Perez is the father of three daughters who are United States citizens, ages 10, five, and two years old. He is the sole financial provider for his family. He has provided for his family by cleaning and maintaining boats for the last 10 years. He also finds time to contribute to his community. He volunteers at his church weekly by cleaning and maintaining the building after services. In addition, Mr. Perez Perez has no criminal convictions.

45. On September 16, 2025, Mr. Perez Perez picked up a friend in Chicago and was driving to work when he was stopped by ICE officers. They asked for his ID and he gave them his valid Illinois driver's license. An officer took the license to their vehicle and when the officer returned, he informed Mr. Perez Perez that he was under arrest because he is undocumented. Mr. Perez Perez was transferred from Broadview Processing Center in Broadview, Illinois on September 21, 2025. He is now detained at North Lake Processing Center in Baldwin, Michigan.

46. DHS placed Mr. Perez Perez in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE charged him with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

47. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue detaining him without providing an opportunity to post bond or be released under other conditions.

48. Mr. Perez Perez's immigration counsel advised him that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

49. Mr. Perez Perez is neither a flight risk nor a danger to the community, as demonstrated by the following:

- Mr. Perez Perez has continuously resided in the United States for over 19 years.
- Mr. Perez Perez is the sole financial provider for his family and pays for all of the family's living expenses, including rent at the property where they currently reside.
- Mr. Perez Perez is deeply committed to his family's well-being and to raising his three daughters, who are United States citizens.
- Mr. Perez Perez has been gainfully employed in the same industry for the past decade.
- Mr. Perez Perez has no criminal convictions.

50. Mr. Perez Perez is working with an immigration attorney and has strong claims for relief based on his familial relationships and ties to the community.

51. Without relief from this court, he faces the prospect of months—or possibly years—in immigration custody, separated from family and community.

52. Mr. Perez Perez's detention has been emotionally trying for his family. It has especially affected his 10-year-old daughter and has taken an emotional and psychological toll on her. In addition, since Mr. Perez Perez is the sole financial provider for his family, without relief his family will face severe financial hardship.

Petitioner Christopher Polanco

53. Petitioner Christopher Polanco has resided in the United States since at least 2008 and lives in Eastpointe, Michigan. He is 24 years old, and entered the United States as a minor at the age of seven. He has lived in the United States for just over 17 years.

54. Mr. Polanco is an upstanding member of the community, as well as his family's breadwinner. He has worked in factories, restaurants, and most recently landscaping to ensure his family had food to eat, and a place to live. He aspires to complete his education at Oakland Community College, then matriculate into a four-year institution to earn a degree in aerospace engineering.

55. Mr. Polanco plans to marry his longtime girlfriend, who is a United States citizen.

56. On August 28, 2025, Mr. Polanco was driving with one of his friends when he was pulled over by the Troy Police Department. The police officer asked Mr. Polanco to exit his vehicle after failing to provide valid identification. He patted Mr. Polanco down, placed him in handcuffs, and then searched his vehicle. The officer asked Mr. Polanco's friend about Mr. Polanco's immigration status. Mr. Polanco's friend disclosed that Mr. Polanco is undocumented leading to his detention.

57. Troy police officer took Mr. Polanco to jail and notified ICE of his immigration status. They held Mr. Polanco overnight to detain him until ICE apprehended Mr. Polanco. Mr. Polanco has been detained in ICE custody since August 29, 2025.

58. DHS placed Petitioner in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE charged Petitioner with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

59. Following the initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue detaining Petitioner without providing an opportunity to post bond or be released under other conditions.

60. Mr. Polanco's immigration counsel advised him that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

61. Petitioner is clearly neither a flight risk nor a danger to the community, as demonstrated by the following:

- Mr. Polanco has been in the United States for over 17 years, and is his family's breadwinner. As the eldest sibling in the family, Mr. Polanco feels a strong obligation to provide for his family. His family has depended on him to pay for groceries, telephone bills, and rent, among other expenses. Mr. Polanco plans to continue to provide for his family after he is released. Mr. Polanco's family is financially struggling, and Mr. Polanco, having a deep commitment to his family, feels an obligation to care for them.
- Mr. Polanco is in a committed relationship with his girlfriend, and wants to marry her.
- Mr. Polanco has no criminal history.

62. Petitioner is working with an immigration attorney and has strong claims for relief based on his family ties, strong work ethic, and his commitment to start a family with his girlfriend.

63. Without relief from this court, Petitioner faces the prospect of months—or possibly years—in immigration custody, separated from family and community. Further, Mr. Polanco's detention has severe consequences on his family as he is the sole breadwinner for the family.

Petitioner Bayro Ramirez-Ramos

64. Petitioner Bayro Ramirez-Ramos has resided in the United States since at least 2021. Mr. Ramos is 20 years old; he entered the United States as a minor when he was 15 years old.

65. Mr. Ramirez-Ramos came to the United States from Guatemala. He fears returning to his home country and wants to remain with his family in the United States. Mr. Ramirez-Ramos lives with his partner and their one-year-old son, who just celebrated his birthday. Mr. Ramirez-Ramos has been working as a roofer since his entry into the United States and is the only financial supporter of his partner and child. While he is detained, Mr. Ramirez-Ramos's family has no support and has had to rely on personal loans to pay the rent, leaving them with uncertainty for the coming months. His partner is currently the sole caretaker of their son and is struggling financially and emotionally due to Mr. Ramirez-Ramos's detention.

66. Mr. Ramirez-Ramos was apprehended on September 13, 2025, in Detroit, Michigan. He was carpooling with two other people to work; Mr. Ramirez-

Ramos was not the driver. The driver turned at a traffic light, and the car was surrounded by unmarked vehicles occupied by ICE and FBI agents. Agents asked the occupants of the car for identification but did not tell the occupants why they were stopped. Agents were looking for a different individual who was not an occupant of the vehicle.

67. At the time of the stop, Mr. Ramirez-Ramos was already in the midst of removal proceedings. Mr. Ramirez-Ramos had already been issued an NTA and was complying with all his immigration requirements and hearings; he appeared with Counsel to a Detroit immigration master calendar hearing on May 1, 2025, and had a hearing set for October 27, 2025. Despite these facts, he was placed back into ICE custody.

68. Mr. Ramirez-Ramos was initially detained at the ICE Detroit Field Office. He is now detained at North Lake Processing Center in Baldwin, Michigan.

69. DHS placed Mr. Ramirez-Ramos in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE charged Mr. Ramirez-Ramos with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

70. Following the re-initiation of removal proceedings, ICE either did not conduct a custody determination or chose to continue detaining Petitioner without providing an opportunity to post bond or be released under other conditions.

71. Mr. Ramirez-Ramos's immigration counsel advised that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming people who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

72. Mr. Ramirez-Ramos is clearly neither a flight risk nor a danger to the community, as demonstrated by the following:

- Mr. Ramirez-Ramos lives with his partner and their one-year-old son, who just celebrated his birthday. His partner is currently the sole caretaker of their child.
- Mr. Ramirez-Ramos fears returning to his home country; he wishes to remain in the United States with his family.
- Mr. Ramirez-Ramos has been working in roofing since his initial entry into the United States. His partner and child depend on the wages from Mr. Ramirez-Ramos's employment.
- Mr. Ramirez-Ramos has no criminal history.

73. Mr. Ramirez-Ramos is working with an immigration attorney and has strong claims for relief based on his family ties, employment history, and fear of returning to his home country.

74. Without relief from this court, Petitioner faces the prospect of months—or possibly years—in immigration custody, separated from family and community.

LEGAL FRAMEWORK

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

76. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens who are in removal proceedings. *See* 8 U.S.C. § 1229a. *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"). 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 seek release on bond.[2] The bond may be set by ICE itself as part of an initial custody determination, *see* 8 C.F.R. § 1236.1(c)(8), and/or the individual may seek a bond hearing in immigration court at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(a) is the statute that, for decades, has been applied to people like Petitioners who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

77. 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*

[2] 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 does not apply to Petitioners here.

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 Petitioners.

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

79. This case challenges Respondents' erroneous decision that Petitioners are subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a).

80. 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, 582–583, 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).

81. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not 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.").

82. 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)).

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

84. 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 and even—like Petitioners Mr. Hurtado-Medina, Mr. Perez Perez and Mr. Polanco, and Mr. Ramirez-Ramos—for years.

85. In decision after decision, federal courts—both nationwide and here in the Eastern District of Michigan—have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *See, e.g., Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 25-CV-11571, 2025 WL 1869299 (D. Mass. July 7, 2025); *Martinez v. Hyde*, --- F. Supp. 3d. ---, 2025 WL 2084238 (D. Mass. July 24, 2025); Order, *Bautista v. Santacruz Jr.*, No. 25-CV-1873 (C.D. Cal. July 28, 2025), Dkt. 14;[3] *Rosado v. Figueroa et al.*, No. 25-CV-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, --- F. Supp. 3d. ---, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); Order, *Gonzalez v. Noem*, 25-CV-2054 (C.D. Cal. Aug. 13, 2025), Dkt. 12; *Dos Santos v. Noem*, No. 25-CV-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, --- F. Supp. 3d. ---, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 25-CV-01789-ODW,

[3] *Bautista et al. v. Santacruz Jr. et al.* is also a putative class action seeking only declaratory relief for the class. The proposed class, which would include Petitioners, has not yet been certified. Ultimately, however, Petitioners would still require a writ of habeas corpus from this Court even if they obtain declaratory relief in *Bautista*.

2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, --- F. Supp. 3d. ---, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce,* No. 25 Civ. 6373, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Leal-Hernandez v. Noem*, No. 25-CV-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); Order, *Ruben Benitez et al. v. Noem et al.*, 25-CV-2190 (C.D. Cal. Aug. 26, 2025), Dkt. 11; *Larysa Kostak v. Trump et al.*, 25-CV-1093 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Diaz Diaz v. Mattivelo*, No. 25-CV-12226, 2025 WL 2457610 (D. Mass. Aug. 27, 2025); *Francisco T. v. Bondi*, No. 25-CV-03219, 2025 WL 2629839 (D. Minn. Aug. 29, 2025); *Lopez-Campos v. Raycraft*, --- F.Supp.3d. ---, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Garcia v. Noem*, No. 25-CV-02180, 2025 WL 2549431 (S.D. Ca. Sept. 3, 2025); *Hernandez Nieves v. Kaiser*, No. 25-CV-06921, 2025 WL 2533110 (N.D. Cal., Sept. 3, 2025); *Doe v. Moniz*, No. 25-CV-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-CV-326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Mosqueda v. Noem*, No. 25-CV-02304, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Hinestroza v. Kaiser*, No. 25-CV-07559, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); *Sampiao v. Hyde*, No. 25-CV-11981, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Guzman v. Andrews*, No. 25-CV-01015, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Lopez Santos v. Noem*, No. 25-CV-01193, 2025 WL

2642278 (W.D. La. Sept. 11, 2025); *Salcedo Aceros v. Polly Kaiser et al.*, No. 25-CV-5624, 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); Order, *Lamidi v. FCI Berlin, Warden*, No. 25-CV-297 (D.N.H. Sept. 15, 2025), Dkt. 14; *Garcia Cortes, v. Noem et al.*, No. 25-CV-02677, 2025 WL 2652880 (D. Colo. Sept. 16, 2025); *Maldonado Vazquez v. Feeley et al.*, No. 25-CV-01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); *Velasquez Salazar v. Dedos et al.*, No. 25-CV-00835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Hasan v. Crawford*, No. 25-CV-1408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Yumbillo v. Stamper*, No. 25-CV-00479, 2025 WL 2688160 (D. Me. Sept. 19, 2025); *Beltran Barrera v. Tindall*, No. 25-CV-541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Chogllo Chafla v. Scott*, No. 25-CV-00437, 2025 WL 2688541 (D. Me. Sept. 21, 2025); *Giron Reyes v. Lyons*, No. 25-CV-4048, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Brito Barrajas v. Noem et al.*, No. 25-CV-00322, 2025 WL 2717650 (S.D. Iowa Sept. 23, 2025); *Lepe v. Andrews*, No. 25-CV-01163, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Hernandez Lopez v. Hardin*, No. 25-CV-830, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV-07492, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025); *Zumba v. Noem*, No. 25-CV-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Tocagon v. Moniz*, No. 25-CV-12453, 2025 WL 2778023 (D. Mass. Sept. 29, 2025); *Romero-Nolasco v. McDonald*, No. 25-CV-12492, 2025 WL 2778036 (D. Mass. Sept. 29, 2025); *J.U. v. Maldonado*, No. 25-CV-04836, 2025

WL 2772765 (E.D.N.Y. Sept. 29, 2025); *Barrios v. Shepley*, No. 25-CV-00406, 2025 WL 2772579 (D. Me. Sept. 29, 2025); *Quispe-Ardiles v. Noem*, No. 25-CV-01382, 2025 WL 2783800 (E.D. Va. Sept. 30, 2025); *Rodriguez v. Bostock*, No. 25-CV-05240, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025).[4]

86. This list is undoubtedly incomplete. As the media has reported, the government's new no-bond policy has "led to dozens of recent rulings from gobsmacked judges who say the administration has violated the law and due process rights .... The pile up of decisions is growing daily." Kyle Cheney and Myah Ward, *Trump's New Detention Policy Targets Millions Of Immigrants. Judges Keep Saying It's Illegal*, Politico (Sept. 20, 2025, at 4:00 PM ET), https://www.politico.com/news/2025/09/20/ice-detention-immigration-policy-00573850.

87. In recent months, the Eastern District of Michigan has twice rejected Respondents' interpretation of the INA and granted writs of habeas corpus to detained noncitizens to whom Respondents denied a bond hearing. On August 29, 2025, Judge Brandy McMillion granted a writ of habeas corpus to an identically

[4] *But see Chavez v. Noem*, No. 25-CV-02325, 2025 WL 2730228 (S.D. Cal. Sept. 24, 2025) (denying request for *ex parte* temporary restraining order on grounds that the petitioners' motion did not raise "serious questions going to the merits."); *Vargas Lopez v. Trump*, No. 25-CV-526, 2025 WL 2780351 (D. Neb. Sept. 30, 2025) (denying habeas petition primarily due to "the mistakes in the Petition, including the failure of Vargas Lopez to attach certain referenced exhibits.").

situated petitioner, concluding, "There 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 . . . years and was already within the United States when apprehended and arrested during a traffic stop, and not upon arrival at the border." *Lopez-Campos*, --- F.Supp.3d. ---, 2025 WL 2496379, at *8. And on September 9, 2025, Judge Robert White issued the same relief to another identically situated petitioner, reasoning that "the legislative history and agency guidance . . . in conjunction with the statutory interpretation" clearly entitles the petitioner to a bond hearing under § 1226(a). *Pizarro Reyes*, No. 25-CV-12546, 2025 WL 2609425, at *8.

88. On September 5, 2025, the BIA issued a decision that rejected the overwhelming consensus of the federal courts. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision, which binds all IJs, held that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an IJ.

89. The *Yajure Hurtado* decision—like the government policy it seeks to uphold—defies the INA. As Judge Robert White wrote—after noting that federal district courts are not bound by agency interpretations of statutes—the BIA's reasoning is unpersuasive and "at odds with every District Court that has been confronted with the same question of statutory interpretation." *Pizarro Reyes*, 2025

WL 2609425, at *7. *See also Sampiao*, 2025 WL 2607924, at *8 n.11 (noting court's disagreement with BIA's analysis in *Yajure Hurtado*); *Beltran Barrera*, No. 25-CV-541, 2025 WL 2690565, at *5 (same); *Chogllo Chafla*, No. 25-CV-00437, 2025 WL 2688541, at *7-8 (same).

90. As court after court has explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioners.

91. 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]."

92. 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, "When Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez*, 779 F. Supp. 3d at 1256-57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

93. 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.

94. 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.").

95. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people who have already entered and were long residing in the United States at the time they were apprehended by immigration authorities and detained. Because § 1226(a), not § 1225(b), is the applicable statute, Petitioners' detention without eligibility for bond is unlawful.

96. Petitioners seek relief from this Court because any months-long appeal to the BIA of an IJ's decision denying bond would be futile. A new request for a bond hearing is likewise futile. First, the agency's position is clear: both IJs and future panels of the BIA must follow the *Yajure Hurtado* decision. Further, the new governmental policy was issued "in coordination with DOJ," which oversees the

immigration courts, including the BIA—up to and including the ability of the Attorney General to modify or overrule decisions of the BIA, *see* 8 C.F.R. § 1003.1(h). It is therefore unsurprising that the BIA has (erroneously) held that persons like Petitioners are subject to mandatory detention under § 1225(b)(2)(A), rather than being bond-eligible under § 1226(a). Moreover, in the numerous identical habeas corpus petitions that have been filed nationwide, EOIR and the Attorney General are often respondents and have consistently affirmed via briefing and oral argument that individuals like Petitioners are applicants for admission and subject to detention under § 1225(b)(2)(A). *See, e.g.,* Resp. to Pet., *Lopez Campos v. Raycraft*, No. 25-CV-12546 (E.D. Mich. Aug. 9, 2025), Dkt. 9; Resp. to Pet., *Pizarro Reyes v. Raycraft*, No. 25-CV-12546 (E.D. Mich. Aug. 27, 2025), Dkt. 4.

97. Second, by the time the BIA could even issue an appeal—a process that typically takes at least six months, *Rodriguez*, 779 F. Supp. 3d at 1245, and in many cases roughly a year, *id.*—the harm of Petitioners' unlawful detention will be impossible to remediate. Nor will the downstream effects of continued detention be remediable: Petitioners' families and communities will be left without caretakers, breadwinners, and contributors for months.

98. Third, neither IJs nor the BIA have the authority to decide constitutional claims. *See Sterkaj v. Gonzales*, 439 F.3d 273, 279 (6th Cir. 2006). Here, Petitioners claim not only that Respondents are unlawfully detaining them without bond

hearings under an inapplicable statute, but also that such detention violates Petitioners' constitutional right to due process if the government seeks to deprive them of their liberty.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

99. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

100. Respondents are unlawfully detaining Petitioners without bond pursuant to the mandatory detention provision at 8 U.S.C. § 1225(b)(2).

101. Section 1225(b)(2) does not apply to Petitioners, who previously entered the country and have long been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents.

102. Instead, Petitioners should be subject to the detention provisions of § 1226(a) and are therefore entitled to a custody determination by ICE, and if custody is continued, to a custody redetermination (i.e., a bond hearing) by an immigration judge.

103. Respondents' application of 8 U.S.C. § 1225(b)(2) to Petitioners results in Petitioners' unlawful detention without the opportunity for a bond hearing and violates the INA.

COUNT II

Violation of Due Process

104. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

105. 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).

106. Petitioners have a fundamental interest in liberty and being free from official restraint.

107. The government's detention of Petitioners without an opportunity for a custody determination or bond hearing to decide whether each Petitioner is a flight risk or danger violates Petitioners' right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

a. Assume jurisdiction over this matter;

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

c. Enjoin Respondents from transferring Petitioners 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 Petitioners' detention and eligibility for bond because Petitioners are not recent arrivals "seeking admission" to the United States, and instead were already residing in the United States when apprehended and charged as inadmissible for having allegedly entered the United States without inspection;

e. Award Petitioners 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 15, 2025

Respectfully submitted,

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