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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

LAURO MARTINEZ MATIRES,

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Petitioner,

v.

LADEON FRANCIS, Field Office
Director of Enforcement and Removal
Operations, Atlanta Field Office,
Immigration and Customs Enforcement;
TODD LYONS, Acting Director, U.S.
Immigration Customs Enforcement,
KRISTI NOEM, Secretary, U.S.
Department of Homeland Security; PAM
BONDI, U.S. Attorney General;
DAREN K. MARGOLIN, Director,
Executive Office for Immigration
Review (EOIR); MICHAEL
BRECKON, Warden of FOLKSTON
ICE PROCESSING CENTER,

Respondents.

Case No. 5:25-cv-126

**PETITION FOR WRIT OF
HABEAS CORPUS**

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INTRODUCTION

1. Petitioner Mr. Lauro Martinez Matires is in the physical custody of Respondents at the Folkston ICE Processing Center. 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

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

4 10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
5 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
6 § 1651.
7

8 VENUE

9 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
10 484, 493- 500 (1973), venue lies in the United States District Court for the Middle
11 District of Georgia, the judicial district in which Petitioner currently is detained.
12

13 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
14 because Respondents are employees, officers, and agencies of the United States, and
15 because a substantial part of the events or omissions giving rise to the claims
16 occurred in the Southern District of Georgia.
17

18 REQUIREMENTS OF 28 U.S.C. § 2243

19 13. The Court must grant the petition for writ of habeas corpus or order
20 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief.
21 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return
22 “within three days unless for good cause additional time, not exceeding twenty days,
23 is allowed.” *Id.*
24

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

9 **PARTIES**

10 15. Petitioner Mr. Lauro Martinez is native and citizen of Mexico who has
11 been in immigration detention since June 17, 2025. After arresting Petitioner, ICE
12 did not set bond and Petitioner is unable to obtain review of his custody by an IJ,
13 pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
14 (BIA 2025).

16 16. Respondent George Sterling is the Director of the Atlanta Field Office
17 of ICE’s Enforcement and Removal Operations division. As such, George Sterling
18 is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and
19 removal. He is named in his official capacity.

21 17. Respondent Kristi Noem is the Secretary of the Department of
22 Homeland Security. She is responsible for the implementation and enforcement of
23 the Immigration and Nationality Act (INA), and oversees ICE, which is responsible
24

1 for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner
2 and is sued in her official capacity.

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

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

11 20. Respondent, Daren Margolin, is the director of the Executive Office for
12 Immigration Review (EOIR). EOIR is the federal agency responsible for
13 implementing and enforcing the INA in removal proceedings, including for custody
14 redeterminations in bond hearings.
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16 21. Respondent; Michael Breckon is employed by GEO Group as Warden
17 of the Folkston ICE Processing Center, where Petitioner is detained. He has
18 immediate physical custody of Petitioner. He is sued in his official capacity.
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LEGAL FRAMEWORK

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

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5 23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in
6 standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in §
7 1226(a) detention are generally entitled to a bond hearing at the outset of their
8 detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been
9 arrested, charged with, or convicted of certain crimes are subject to mandatory
10 detention, *see* 8 U.S.C. § 1226(c).

11
12 24. Second, the INA provides for mandatory detention of noncitizens
13 subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent
14 arrivals seeking admission referred to under § 1225(b)(2).

15
16 25. Last, the INA also provides for detention of noncitizens who have been
17 ordered removed, including individuals in withholding-only proceedings, *see* 8
18 U.S.C. § 1231(a)–(b).

19
20 26. This case concerns the detention provisions at §§ 1226(a) and
1225(b)(2).

21
22 27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as
23 part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA)
24 of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582

1 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this
2 year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

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

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10 29. Thus, in the decades that followed, most people who entered without
11 inspection and were placed in standard removal proceedings received bond hearings,
12 unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c).
13 That practice was consistent with many more decades of prior practice, in which
14 noncitizens who were not deemed “arriving” were entitled to a custody hearing
15 before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R.
16 Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the
17 detention authority previously found at § 1252(a)).
18

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20 30. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new
21 policy that rejected well-established understanding of the statutory framework and
22 reversed decades of practice.
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1 31. The new policy, entitled “Interim Guidance Regarding Detention
2 Authority for Applicants for Admission,”¹ claims that all persons who entered the
3 United States without inspection shall now be subject to mandatory detention
4 provision under § 1225(b)(2)(A). The policy applies regardless of when a person is
5 apprehended and affects those who have resided in the United States for months,
6 years, and even decades.

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

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

17 34. Even before ICE or the BIA introduced these nationwide policies, IJs
18 in the Tacoma, Washington, immigration court stopped providing bond hearings for
19 persons who entered the United States without inspection and who have since
20 resided here. There, the U.S. District Court in the Western District of Washington
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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 found that such a reading of the INA is likely unlawful and that § 1226(a), not §
2 1225(b), applies to noncitizens who are not apprehended upon arrival to the United
3 States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

4
5 35. Subsequently, court after court has adopted the same reading of the
6 INA's detention authorities and rejected ICE and EOIR's new interpretation. *See*,
7 *e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7,
8 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025
9 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX
10 DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and*
11 *recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133
12 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
13 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-
14 SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v.*
15 *Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15,
16 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19,
17 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug.
18 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263
19 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025
20 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-
21 KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-
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1 CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27,
2 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL
3 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-
4 DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v.*
5 *Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8,
6 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich.
7 Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D.
8 Mass. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL
9 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that
10 § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-
11 cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same);
12 *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb.
13 Aug. 14, 2025) (same).

14
15
16 36. Courts have uniformly rejected DHS’s and EOIR’s new interpretation
17 because it defies the INA. As the *Rodriguez Vazquez* court and others have explained,
18 the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b),
19 applies to people like Petitioner.
20

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

3 38. The text of § 1226 also explicitly applies to people charged as being
4 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
5 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by
6 default, such people are afforded a bond hearing under subsection (a). As the
7 *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific exceptions’
8 to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute
9 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*
11 *Gomes*, 2025 WL 1869299, at *7.

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

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

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

7 **FACTS**

8 42. Plaintiff, Lauro Martinez , is a native and citizen of Mexico who has
9 resided continuously in the United States since 2004. He was born on October 23,
10 1983, and for more than twenty years has built a stable, productive, and law-abiding
11 life in this country.
12

13 43. Plaintiff resides in South Carolina, where he owns his home and has
14 maintained steady employment with U.S. Battery Manufacturing Co. for more than
15 ten years. He is a hardworking and contributing member of his community who files
16 his taxes annually, pays his mortgage, and has established deep family and
17 community ties.
18

19 44. Plaintiff is in a long-term domestic relationship with Juana Lopez
20 Vasquez, who suffers from multiple serious medical conditions, including diabetes
21 and high blood pressure. Together, they have a blended family that depends on
22 Plaintiff’s emotional and financial support. His children include G [REDACTED]
23 born [REDACTED] age 25 (adopted stepchild); R [REDACTED] born N [REDACTED]
24

1 [REDACTED] age 15 (biological); I [REDACTED] born [REDACTED] 2011, age 14
2 (biological); and M [REDACTED] born [REDACTED] 1999, age 26 (stepchild). Plaintiff's
3 presence in the household is essential to his partner and their children, particularly
4 given Ms. Lopez Vasquez's chronic health conditions. His detention has caused the
5 family significant emotional and financial hardship.
6

7 45. Plaintiff has a single conviction from 2012 for Driving Under the
8 Influence and Child Endangerment, for which he fully complied with all court-
9 ordered requirements and paid all fines and penalties. Since that isolated incident
10 more than thirteen years ago, Plaintiff has demonstrated rehabilitation, maintained
11 stable employment, and lived a law-abiding life focused on supporting his family.
12 He currently has a pending DUI charge from July 2025 for which no conviction has
13 been entered. He is presumed innocent until proven guilty, and this pending charge
14 should not be used to justify his indefinite detention or to question his character.
15

16 46. Importantly, Plaintiff's criminal history does not disqualify him from
17 eligibility for bond under the Immigration and Nationality Act. His past offenses do
18 not trigger mandatory detention under 8 U.S.C. § 1226(c), as they are neither
19 aggravated felonies nor crimes involving moral turpitude. He poses no danger to the
20 community, has substantial ties to South Carolina, owns property, and has
21 consistently demonstrated respect for the law and for his family responsibilities.
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1 47. Pursuant to Matter of Yajure Hurtado, 28 I&N Dec. 377 (BIA 2021),
2 the Immigration Judge currently lacks jurisdiction to consider Plaintiff's bond
3 request. As a result, Plaintiff remains detained without an individualized bond
4 hearing. Without relief from this Court, he faces the prospect of months, or even
5 years, in immigration custody, separated from his family, his home, and his
6 community.
7

8 48. Accordingly, Plaintiff respectfully requests his immediate release, or in
9 the alternative, a new bond hearing before an Immigration Judge to reassess his
10 continued detention in light of his long-standing equities and rehabilitation.
11

12 **CLAIMS FOR RELIEF**

13 **COUNT I** 14 **Violation of the INA**

15 49. Petitioner incorporates by reference the allegations of fact set forth in
16 the preceding paragraphs.

17 50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
18 apply to all noncitizens residing in the United States who are subject to the grounds
19 of inadmissibility. As relevant here, it does not apply to those who previously
20 entered the country and have been residing in the United States prior to being
21 apprehended and placed in removal proceedings by Respondents. Such noncitizens
22 are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or
23 § 1231.
24

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

3 **COUNT II**

4 **Violation of the Bond Regulations**

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6 52. Petitioner incorporates by reference the allegations of fact set forth in
7 preceding paragraphs.

8 53. In 1997, after Congress amended the INA through IIRIRA, EOIR and
9 the then-Immigration and Naturalization Service issued an interim rule to interpret
10 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and
11 Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants
12 for admission, [noncitizens] who are present without having been admitted or
13 paroled (formerly referred to as [noncitizens] who entered without inspection) will
14 be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis
15 added). The agencies thus made clear that individuals who had entered without
16 inspection were eligible for consideration for bond and bond hearings before IJs
17 under 8 U.S.C. § 1226 and its implementing regulations.
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19
20 54. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy
21 and practice of applying § 1225(b)(2) to individual like Petitioner.

22 55. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
23 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
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COUNT III
Violation of Due Process

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

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

12 58. Petitioner has a fundamental interest in liberty and being free from
13 official restraint.

14 59. The government’s detention of Petitioner without a bond
15 redetermination hearing to determine whether he is a flight risk or danger to others
16 violates his right to due process.
17

18
PRAYER FOR RELIEF

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

- 20 a. Assume jurisdiction over this matter;
21 b. Order that Petitioner shall not be transferred outside the Southern
22 District of Georgia while this habeas petition is pending;
23 c. Issue an Order to Show Cause ordering Respondents to show cause why
24 this Petition should not be granted within three days;

- 1
- 2 d. Issue a Writ of Habeas Corpus requiring that Respondents release
- 3 Petitioner or, in the alternative, provide Petitioner with a bond hearing
- 4 pursuant to 8 U.S.C. § 1226(a) within seven days;
- 5 e. Declare that Petitioner’s detention is unlawful;
- 6 f. Award Petitioner attorney’s fees and costs under the Equal Access to
- 7 Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other
- 8 basis justified under law; and
- 9 g. Grant any other and further relief that this Court deems just and proper.

10 DATED this 21st day of October, 2025.

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