

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Uriel Rojas Vargas,	§	
	§	
Petitioner,	§	
	§	
V.	§	
	§	
KRISTI NOEM, Secretary of the United States	§	
Department of Homeland Security;	§	
PAMELA BONDI, United States Attorney	§	
General;	§	Civil Case No. 1:25-cv-1699
MIGUEL VERGARA, San Antonio Field Office	§	
Director for Enforcement and Removal, U.S.	§	
Immigration and Customs Enforcement,	§	
Department of Homeland Security;	§	
CHARLOTTE COLLINS, Warden, T. Don Hutto	§	
Detention Center, Taylor, Texas;	§	
UNITED STATES DEPARTMENT OF	§	
HOMELAND SECURITY;	§	
UNITED STATES IMMIGRATION AND	§	
CUSTOMS ENFORCEMENT;	§	
EXECUTIVE OFFICE FOR IMMIGRATION	§	
REVIEW;	§	
	§	

Respondents.

PETITIONER'S MOTION FOR A TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION

I. PRELIMINARY STATEMENT

1. Petitioner Uriel Rojas Vargas, a Mexican citizen who has resided in the United States for over 7 years with his U.S. citizen spouse and children, is unlawfully detained by U.S. Immigration and Customs Enforcement ("ICE") at the T. Don Hutto Detention Center in Taylor, Texas, since about September 23, 2025.

2. Under the current BIA legal framework in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Petitioner is ineligible to seek a bond redetermination hearing before the IJ or BIA because they claim that all EWIs are applicants for admission and subject to mandatory detention. This interpretation erroneously applies § 1225(b) to long-term residents like Petitioner, who was apprehended in the interior, violating the Immigration and Nationality Act ("INA"), bond regulations, and the Fifth Amendment's Due Process Clause.

3. Petitioner has been detained for over 28 days, causing irreparable harm through family separation and loss of liberty. As detailed in the Petition (incorporated by reference), federal courts nationwide have rejected this novel interpretation in similar cases. Petitioner seeks a TRO and PI to enjoin his continued detention, order his immediate release or an opportunity to seek a bond redetermination hearing before an IJ.

II. FACTUAL BACKGROUND

4. The facts are fully set forth in the Petition and incorporated herein. In summary: Petitioner entered the U.S. without inspection on or about February 23, 2018, and has lived in Austin, Texas, with strong family and community ties and no criminal convictions. On or about September 23, 2025, ICE detained him after dismissed charges in Travis County, Texas. On September 5, 2025, the BIA adopted *Matter of Yajure Hurtado*, reversing decades of practice

treating interior-apprehended long-term EWIs (entries without inspection) as eligible for bond under § 1226(a). Under this novel legal framework, the Petitioner is ineligible to seek a bond redetermination hearing before the IJ or the BIA.

III. LEGAL STANDARD

5. A TRO and PI requires: (1) a substantial likelihood of success on the merits; (2) a substantial threat of irreparable injury; (3) that the threatened injury outweighs any harm to the non-movant; and (4) that the injunction serves the public interest. *Winter v. Nat. Res. Def. Council, Inc.*, 555 U.S. 7, 20 (2008); see also *Clark v. Prichard*, 812 F.2d 991, 993 (5th Cir. 1987). In immigration habeas cases, courts routinely grant such relief to prevent unlawful detention. See, e.g., *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025) (granting habeas and enjoining detention under similar facts).

IV. ARGUMENT

A. PETITIONER IS LIKELY TO SUCCEED ON THE MERITS

6. As detailed in the Petition, Petitioner raises strong claims that his detention violates the INA, bond regulations, and due process.

7. First, the mandatory detention provision of § 1225(b)(2)(A) does not apply to long-term EWIs like Petitioner, who are governed by § 1226(a). The plain text of § 1226 applies to all noncitizens "pending a decision on whether the [noncitizen] is to be removed," including those charged as inadmissible under § 1182(a)(6)(A)(i). See Petition ¶¶ 35-37. By contrast, § 1225(b) targets "arriving" aliens at ports of entry or recent border crossers. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). The BIA's reliance on *Matter of Yajure Hurtado* ignores legislative history, longstanding agency practice (62 Fed. Reg. 10312, 10323 (1997)), and DHS's

prior positions (e.g., *Jennings* oral argument). Multiple federal courts have agreed in 2025 cases: *Gomes v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025); and others cited in Petition ¶¶ 32, 44. Including in Texas: *Hernandez-Ramiro v. Bondi*, No. 5:25-cv-01207-XR (W.D. Tex. Oct 15, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-CV-112, 2025 WL _____ (S.D. Tex. Oct. 8, 2025) (granting habeas relief and ordering bond hearing for long-term resident detained inland under § 1226(a), rejecting DHS's § 1225(b) argument); *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL _____ (S.D. Tex. Oct. 7, 2025) (granting habeas and ordering bond hearing within 14 days for similar inland detainee).

8. Second, the detention violates bond regulations (8 C.F.R. §§ 236.1, 1236.1, 1003.19), which historically afforded bond hearings to long-resident EWIs. Petition ¶¶ 49-52.

9. Third, the indefinite detention without bond violates due process. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petition ¶¶ 50-53.

B. PETITIONER WILL SUFFER IRREPARABLE HARM ABSENT RELIEF

10. Respondents are unlawfully interpreting the INA, which would undoubtedly result in the Petitioner's release because he is not a danger to the community or a flight risk. He has established irreparable harm absent injunctive relief. *Rodriguez Vazquez v. Bostock*.

11. Furthermore, Petitioner's ongoing detention—now exceeding 28 days—causes irreparable harm through loss of liberty, family separation from his U.S. citizen spouse and children, and inability to pursue relief out of the detained EOIR docket. The Petitioner's spouse filed an I-130 Petition for Alien Relative in favor of the Petitioner. He has a viable path to lawful status through his wife's petition, waiver, and consular process. Courts recognize such harms as

irreparable in immigration contexts. See, e.g., *Gomes v. Hyde*, supra (granting release). Without a TRO and PI, Petitioner faces prolonged detention pending full habeas review, violating the INA and the Petitioner's Due Process Rights.

C. THE BALANCE OF EQUITIES TIPS IN THE PETITIONER'S FAVOR

12. The government has no legitimate interest in detaining a non-criminal with strong equities, and where he is not a flight risk or a danger to the community. Release on bond mitigates any concerns. Further, the practice the Petitioner seeks to enjoin is an outlier to the government's longstanding interpretation and enforcement of its immigration laws. *Rodriguez Vazquez v. Bostock*.

13. In contrast, Petitioner faces severe harm from his continued unlawful detention, separation of family, including U.S. citizen spouse who is pregnant, and seven children, mental health issues, and making it harder to access legal representation to defend against removal. *Rodriguez Vazquez v. Bostock*. Furthermore, Petitioner has a prima facie I-130 Petitioner pending with USCIS, as a spouse of a U.S. citizen. According to USCIS official website¹, this type of petition usually takes 17 months. Cornering the Petitioner into the EOIR detained docket means his removal proceedings and appeal will be decided within 2 years, not giving USCIS enough time to adjudicate his pending I-130 petition. On the other hand, if the Petitioner is out on bond, he would be transferred to the non-detained docket, which, due to the high volume of cases, will be resolved in 4-5 years, and in which he could seek administrative closure or termination under 8 C.F.R. § 1003.18, to seek relief before USCIS and not EOIR.

D. THE PUBLIC INTEREST FAVORS RELIEF

¹ <https://egov.uscis.gov/processing-times/>

14. Enjoining unlawful detention promotes due process and adherence to the INA, especially amid judicial consensus rejecting *Matter of Yajure Hurtado*. There is no public interest in perpetuating erroneous agency actions. See Petition ¶¶ 32-33.

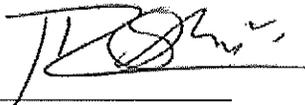
E. NO BOND IS REQUIRED

15. Under Fed. R. Civ. P. 65(c), the Court has discretion to waive security for indigent detainees. Petitioner, detained and without means, requests no bond be required.

F. CONCLUSION

16. For the foregoing reasons, the Court should grant the TRO and PI after notice and hearing. Petitioner requests immediate release or an order ordering EOIR to hold a fair bond redetermination hearing and enjoin further detention under § 1225(b).

Respectfully submitted, October 22, 2025.



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CERTIFICATE OF SERVICE

I, Patricio Garza Izaguirre, certify that on this date a true and correct copy of this **PETITIONER'S MOTION FOR A PRELIMINARY INJUNCTION**, and all the attached documents described in the index above, were served to the following by the CM/ECF system:

1. KRISTI NOEM, Secretary of the United States Department of Homeland Security;
2. PAMELA BONDI, United States Attorney General;
3. MIGUEL VERGARA, San Antonio Field Office Director for Enforcement and Removal, U.S. Immigration and Customs Enforcement, Department of Homeland Security;
4. CHARLOTTE COLLINS, Warden, T. Don Hutto Detention Center, Taylor, Texas;
5. UNITED STATES DEPARTMENT OF HOMELAND SECURITY;
6. UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT;
7. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

On October 22, 2025



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