UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JUAN ALBERTO CONTRERAS ALVAREZ, Petitioner, v. KRISTI NOEM, Secretary, U.S. Department of Homeland Security; ROBERT LYNCH, Field Office Director, Detroit Field Office, Immigration and Customs Enforcement; KEVIN RAYCRAFT, Detroit Enforcement and Removal Operations, Immigration and Customs Enforcement. Respondents.	)	Case No. **PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR EMERGENCY INJUNCTIVE RELIEF**

Petitioner, JUAN ALBERTO CONTRERAS ALVAREZ (Petitioner), by and through his undersigned counsel, respectfully petitions this Honorable Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, and seeks Emergency Injunctive Relief pursuant to Fed. R. Civ. P. 65(b) and 28 U.S.C. § 2243. Since September 24, 2025, Petitioner has been unlawfully detained by the U.S. Department of Homeland Security (DHS) and its sub-agency, U.S. Immigration and Customs Enforcement (ICE), without a lawful basis or individualized determination of flight risk or danger.

INTRODUCTION

1. Petitioner is presently detained by U.S. Immigration and Customs Enforcement (ICE) at North Lake Processing Center located in Baldwin, Michigan.
2. Petitioner is a native of Mexico and has been present in the United States for over sixteen (16) years; he is married, has two U.S. citizen children, and provides sole financial support for his family. He is not a danger to the community, has no criminal history, and intends to

seek Cancellation of Removal under INA § 240A(b).

3. Despite his clear eligibility for bond and relief, ICE continues to detain him under an unlawful interpretation of the Immigration and Nationality Act (INA), treating him as an "arriving alien" under 8 U.S.C. § 1225(b) rather than a long-residing noncitizen under 8 U.S.C. § 1226(a). This erroneous classification strips him of the right to a bond hearing and due process.
4. This unlawful detention stems from a new, sweeping decision by the Board of Immigration Appeals (BIA)—*Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—and accompanying "interim guidance" memorandum issued on July 8, 2025. These actions represent a sharp and retroactive departure from decades of established law holding that persons arrested within the U.S. are detained under § 1226(a) and entitled to bond hearings.
5. The Sixth Circuit and Supreme Court have long recognized that civil immigration detention without individualized review is constitutionally limited. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003); *Rosales-Garcia v. Holland*, 322 F.3d 386 (6th Cir. 2003) (en banc).
6. Petitioner's continued detention—without bond, parole, or any meaningful judicial oversight—violates the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act (APA), and the Suspension Clause of the U.S. Constitution.

JURISDICTION AND VENUE

7. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is detained under the authority of the United States in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas*, 533 U.S. at 687; *Demore*, 538 U.S. at 517.
8. This Court also has jurisdiction under 28 U.S.C. § 1331 (federal question), § 1361

(mandamus), and § 1651 (All Writs Act).

9. Venue is proper in the Western District of Michigan, as Petitioner is detained at the North Lake Processing Center in Baldwin, Michigan, within this District. *See* 28 U.S.C. § 1391(b)(2), (e)(1).

PARTIES

10. Petitioner JUAN ALBERTO CONTRERAS ALVAREZ is a native and citizen of Mexico. He has resided continuously in the United States for over sixteen years and is the father of two U.S. citizen children.
11. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security and is responsible for enforcement of immigration laws. She is sued in her official capacity.
12. Respondent ROBERT LYNCH is the Field Office Director for ICE's Detroit Field Office and is responsible for Petitioner's detention. He is sued in his official capacity.
13. Respondent KEVIN RAYCRAFT is the Director of Detroit ICE's Enforcement and Removal Operations Division. He is sued in his official capacity.

CUSTODY

13. Petitioner has been detained by ICE since September 24, 2025, when he was arrested during an immigration raid in Chicago, Illinois, without a judicial warrant and transferred to the North Lake Processing Center.
14. He is detained pursuant to an erroneous classification under 8 U.S.C. § 1225(b) (arriving alien detention), though by law and fact, his detention falls under 8 U.S.C. § 1226(a), which provides for bond hearings before an Immigration Judge.
15. Petitioner's continued custody constitutes unlawful restraint in violation of the Fifth

Amendment and statutory limits on detention under the INA.

FACTUAL BACKGROUND

16. Petitioner entered the United States without inspection in or about December 2008. Since that time, he has established deep family and community ties, living in Chicago, Illinois, with his wife and U.S. citizen minor children.
17. Petitioner has no criminal record, pays taxes, and has consistently worked to support his family.
18. On September 24, 2025, ICE officers detained Petitioner outside his workplace. He was not presented with a warrant nor informed of any pending criminal matter.
19. Petitioner's Notice to Appear (NTA) was not promptly filed in immigration court, delaying his access to judicial review.
20. Petitioner's first master hearing was held on October 27, 2025 in the Detroit Immigration Court under the jurisdiction of the Detroit Field Office. He is represented by attorney Alexandra Reed-Lopez in the Executive Office for Immigration Review (EOIR) proceedings.
21. On the record at the master hearing, counsel for DHS indicated that the Department of Homeland Security opposed Petitioner's position that the Immigration Judge has jurisdiction over Petitioner's bond proceedings.
22. Petitioner intends to pursue Cancellation of Removal under INA § 240A(b), as he meets all statutory requirements.
23. Petitioner's detention became unlawful when DHS asserted he was subject to mandatory detention under INA § 235(b)—a classification reserved for individuals apprehended at ports of entry or during recent border crossings. Petitioner's 16-year residence and

Chicago-based arrest clearly place him within § 236(a) custody, making him bond-eligible.

24. DHS's decision to classify Petitioner under § 235(b) arises from the July 8, 2025 interim guidance memorandum, which unlawfully redefines long-term residents as "arriving aliens." This memo—never published in the Federal Register—violates the APA's notice-and-comment requirement under 5 U.S.C. § 553.

LEGAL FRAMEWORK

A. Statutory Structure

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

25. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while non-citizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

26. 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).

27. 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).

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

29. 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 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

30. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without admission or parole 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 Procedure, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

31. Thus, in the decades that followed, ICE consistently applied § 1226(a) to long-term residents like Petitioner. Most people who entered without admission or parole and were placed in standard removal proceedings received bond hearings unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice during which non-citizens who were not deemed arriving were entitled to a custody hearing before an immigration judge or other hearing officer.

32. Courts uniformly hold that § 1225(b) applies to individuals stopped at or near a port of entry, not to long-term residents arrested in the interior. *See Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520 (BIA 2011); *Bermudez v. Crawford*, 2019 WL 1429500 (N.D. Cal. 2019).

33. Prior to September 5, 2025, the official position of the BIA was that the Immigration Judge had power to grant release on bond under INA § 236(a) if the person did not have a disqualifying criminal record and the judge was satisfied that the individual was not a danger to the community or a flight risk. *See Matter of Akhmedov,* 29 I&N Dec. 166 (BIA 2025).

34. The sudden reversal in *Matter of Yajure Hurtado* and the July 2025 memo unlawfully expands § 1225(b).

35. In *Jennings v. Rodriguez*, the Supreme Court analyzed the statutory sections in question, 8 U.S.C. §§ 1225 and 1226. 583 U.S. 281 at 287 (2018). The Court held that § 1225(b) "applies primarily to aliens seeking entry into the United States." *Id.* at 287. Moreover, the Court noted that § 1226 "applies to aliens already present in the United States." *Id.* at 303.

B. Constitutional Limits

36. Immigration detention is civil, not punitive. Therefore, it must be "narrowly tailored to serve its purpose." *Zadvydas* at 690; *Demore*, 538 U.S. at 527–28.
37. Prolonged detention without individualized review violates the Due Process Clause. *See Jennings v. Rodriguez*, 583 U.S. 830 (2018); *Rosales-Garcia*, 322 F.3d at 410.
38. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003).
39. In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating risks of danger to the community. *Zadvydas* at 690.
40. The Suspension Clause guarantees judicial review of unlawful detention. *Boumediene v. Bush*, 553 U.S. 723 (2008).

ARGUMENT

I. Petitioner's Detention is Unlawful Under 8 U.S.C. § 1226(a)

41. Petitioner was arrested inside the United States after residing here for over 16 years. Therefore, his detention falls squarely under § 1226(a).

42. The BIA's decision in *Matter of Yajure Hurtado* conflicts with the plain text of the INA, legislative history, and decades of consistent agency practice.

43. Courts traditionally deferred to agency interpretations only when Congress's intent is ambiguous and the interpretation is reasonable. *Chevron U.S.A., Inc. v. NRDC*, 467 U.S. 837 (1984). However, under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), courts must now "independently determine the best reading of the statute," without reflexive deference.

44. The statutory structure distinguishes between those arriving at the border (§ 1225) and those already admitted to or residing in the U.S. (§ 1226). Petitioner's long-term presence, employment, and family life demonstrate his status under § 1226(a).

45. Since the July 8, 2025 memorandum, federal courts across the country, this one included, have rejected Respondent's new interpretation of the INA's detention provisions. Courts have consistently adopted the interpretation of the INA that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *See, e.g.*, *Sanchez Alvarez v. Noem*, No. 1:25-cv-01090-JMB-RSK (WDMI, Oct. 17, 2025) (The court granted the petitioner's § 2241 habeas corpus petition and ordered the respondents either to grant a bond hearing under 8 U.S.C. § 1226(a) within five business days or immediately release the petitioner. The court held that the petitioner was wrongly classified under § 1225(b)(2)(A) and that § 1226(a), not § 1225, applied.); *Lopez-Campos v. Raycroft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025), *Pizarro Reyes v. Raycroft*, No.25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025), *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept.

3, 2025) (noting that the "Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention).

46. By detaining Petitioner under § 1225(b), ICE has acted ultra vires, exceeding its statutory authority. *See INS v. Chadha*, 462 U.S. 919, 953 n.16 (1983).

II. The July 8, 2025 "Interim Guidance" Violates the APA

47. The July 8, 2025 memorandum constitutes a substantive rule altering rights and obligations but was promulgated without notice and comment, in violation of 5 U.S.C. § 553.

48. The memo's abrupt reclassification of long-term residents as "arriving aliens" is arbitrary and capricious under 5 U.S.C. § 706(2)(A), lacking reasoned justification.

49. Courts have repeatedly struck down similar DHS policy changes. *See Make the Road N.Y. v. Wolf*, 962 F.3d 612 (D.C. Cir. 2020); *East Bay Sanctuary Covenant v. Biden*, 993 F.3d 640 (9th Cir. 2021).

III. Petitioner's Detention Violates Due Process

50. The government's categorical denial of bond hearings for individuals like Petitioner violates substantive and procedural due process. *See Zadvydas*, 533 U.S. at 690; *Rosales-Garcia*, 322 F.3d at 410.

51. "It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003).

52. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. In the matter at hand, Petitioner has been deprived of his liberty without justification by the government.

53. Petitioner's detention, now over one month and potentially indefinite, has become

excessive, punitive, and unconstitutional.

54. Respondents have not demonstrated that Petitioner needs to be detained. *See Zadvydas,* 583 U.S. at 690 (finding immigration detention must further the goals of 1) ensuring the noncitizen's appearance during removal proceedings and 2) preventing danger to the community).

55. The government's detention of Petitioner without a bond hearing to determine whether he is a flight risk or danger to others violates his rights to due process.

IV. The Court Has Authority to Order Immediate Release or a Bond Hearing

56. Federal courts in this Circuit routinely order release or bond hearings when DHS unlawfully withholds individuals. *See Rosales-Garcia*, 322 F.3d at 414; *Farez-Espinoza v. Napolitano*, 600 F. Supp. 2d 488 (S.D.N.Y. 2009).

57. Under 28 U.S.C. § 2243, the Court may "dispose of the matter as law and justice require," including ordering a bond hearing or direct release.

V. Entitlement to Temporary Restraining Order and Preliminary Injunctive Relief

58. The Court may grant interim relief under Fed. R. Civ. P. 65(b) and 28 U.S.C. § 2243 to prevent irreparable harm pending resolution of the habeas petition.

59. Courts apply the four-factor test from *Winter v. NRDC*, 555 U.S. 7 (2008), as reaffirmed in *Nken v. Holder*, 556 U.S. 418 (2009): likelihood of success on the merits; irreparable harm absent relief; balance of equities; and public interest.

60. Likelihood of Success: Petitioner is likely to prevail because his detention under § 1225(b) is contrary to statute and the Constitution.

61. Irreparable Harm: Every day of unlawful detention constitutes irreparable injury. *Preiser*

v. Rodriguez, 411 U.S. 475 (1973). Petitioner's U.S.-citizen children suffer immediate emotional and economic hardship.

62. Balance of Equities: Releasing or providing a bond hearing for a non-dangerous, long-term resident imposes no harm on the government and prevents the ongoing constitutional violation.

63. Public Interest: Upholding constitutional safeguards and the lawful limits of detention serves the public interest. *Elrod v. Burns*, 427 U.S. 347, 373 (1976).

64. Under these factors, emergency injunctive relief is both warranted and necessary.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Honorable Court:

A. Accept jurisdiction over this action;

B. Order Respondents not to transfer Petitioner out of the Western District of Michigan during the pendency of these proceedings to preserve jurisdiction and access to counsel;

C. Issue a Writ of Habeas Corpus directing Respondents to immediately release Petitioner from custody;

D. In the alternative, order Respondents to provide Petitioner an individualized bond hearing before a neutral Immigration Judge within seven (7) days;

E. Declare that Respondents' classification of Petitioner under INA § 235(b) is unlawful;

F. Award reasonable attorneys' fees and costs for this action; and

G. Grant any other relief the Court deems just and proper.

Date: October 28, 2025

Respectfully submitted,

s/ *Lisandra Fernandez-Silber*
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**Application for Admission Forthcoming*

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