

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF ILLINOIS  
EASTERN DIVISION

FERNANDO RUIZ MELESIO )  
Alien #: )  
Petitioner, )

v. )

Case No. 1:25-cv-13291

Sam Olson, IMMIGRATION CUSTOMS )  
ENFORCEMENT AND REMOVAL )  
OPERATIONS CHICAGO FIELD OFFICE )  
DIRECTOR; Sandra Salazar, )  
IMMIGRATION CUSTOMS )  
ENFORCEMENT AND REMOVAL )  
OPERATIONS CHICAGO FIELD OFFICE )  
DIRECTOR; Marcos Charles, ACTING )  
EXECUTIVE ASSOCIATE DIRECTOR, )  
ENFORCEMENT AND REMOVAL )  
OPERATIONS; Todd M. Lyons, ACTING )  
DIRECTOR, IMMIGRATION CUSTOMS )  
ENFORCEMENT, Madison Sheahan, )  
DEPUTY DIRECTOR, IMMIGRATION )  
CUSTOMS ENFORCEMENT; Kristi Noem, )  
SECRETARY OF THE DEPARTMENT OF )  
HOMELAND SECURITY; Pam Bondi, )  
ATTORNEY GENERAL OF THE UNITED )  
STATES )

VERIFIED PETITION

Respondents. )

**EMERGENCY PETITION FOR WRIT of HABEAS CORPUS**

Petitioner, FERNANDO RUIZ MELESIO, by and through his own and proper person, and through his attorney, SAADIA SIDDIQUE, of SIDDIQUE LAW GROUP, LLC, petitions this Honorable Court to issue a writ of habeas corpus under 28 U.S.C. § 2241. Petitioner is challenging his unlawful arrest and detention and inability to request bond contrary to 8 U.S.C. § 1226, which usually allows for release on bond during the pendency of immigration proceedings.

Ruiz Melesio is a citizen of Mexico who entered the United States without inspection on or about 1997 when he was approximately 16 years of age. He was not apprehended at the border and has remained in the United States since this date. He has resided in Evanston, Illinois for approximately 15 years and has five children who are U.S. Citizens. His children range in age from 22 years old to 10 years old and they live with Mr. Ruiz Melesio at an apartment in Evanston, Illinois.

At approximately 2:30 P.M. on October 29, 2025, while working as a landscaper in Skokie, Illinois, he was detained and apprehended at a job site by Immigration and Customs Enforcement (ICE) officers and taken to the ICE facility in Broadview, Illinois. It is believed that he remains at that facility and Respondents have not transferred him outside the jurisdiction of this court. Since that date, Respondents have unlawfully arrested and detained numerous individuals throughout the United States and within Illinois, jailing them without any possibility of release and without any due process protections based upon an erroneous misclassification of detention provisions as being subject to 8 U.S.C. § 1225, which does not allow for release on bond. Ruiz Melesio falls into this category of individuals and is subject to continued detention during the pendency of his immigration court hearings, which as of the date of this filing, have not commenced.

#### Introduction

It is believed that Ruiz Melesio remains detained by Immigration and Customs Enforcement (“ICE”) at a staging facility located in Broadview, Illinois. He was detained, without warrant and his present whereabouts are unknown and under the ICE “Detainee locator” online system it indicates to “Call ICE for Details”. Pet. Ex. A. An attempt to ascertain his whereabouts has yielded no response.

Since his apprehension, Petitioner has not been scheduled for a hearing before an Immigration Judge or placed before the Executive Office for Immigration Review (EOIR), which falls under the jurisdiction of the Department of Justice. As a result, he has not had a meaningful opportunity to present his claims for relief before the Immigration Court or any other agency, including United States Citizenship & Immigration Services (USCIS).

Petitioner is entitled to a removal hearing before an Immigration Judge, who will determine his ultimate removability and any applications for relief. However, until approximately the last three months, Respondents have abruptly and unlawfully reversed decades of settled immigration practice where individuals in Plaintiff's situation would otherwise be entitled to release upon posting an immigration bond while removal proceedings remain pending. Respondents' continued detention of Plaintiff without a hearing on an immigration bond is in violation of law. *See* 8 U.S.C. § 1229a *cf.* *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (under section 1225 proceedings individuals are subject to detention without a bond hearing when encountered at "borders and ports of entry").

Numerous individuals in Petitioner's position have challenged the Respondents' new interpretation that individuals detained in the United States and not at the border are subject to mandatory detention without a bond hearing and its application to all civil immigration detainees and in all Immigration Courts, including people arrested and detained in immigration proceedings in Illinois. *See Ochoa Ochoa v. Crowley*, 1:25-cv-10865 (N.D. Ill. Oct. 16, 2025); *Jimenez v. FCI Berlin, Warden*, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Choglo Chafra v. Scott*, 2025 WL 2688541 (D. Me. Sept. 2, 2025); *Ayala Casun v. Hyde*, 2025 WL 280679 (D.R.I. Oct. 2, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y Aug. 13, 2025); *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Beltran Barrera v. Tindall*, 2025 WL

2690565 (W.D. Ky. Sept. 19, 2025); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *B.D.V.S. v. Forestal*, 2025 WL 2855743 (S.D. Ind. Oct. 8, 2025); and *Zaragoza Mosqueda et al. v. Noem*, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025).

### **Jurisdiction**

The action arises under the Constitution of the United States, the Immigration and Nationality Act of 1952, as amended (“INA”), 8 U.S.C. section 1101 *et seq.*, and the Administrative Procedure Act (“APA”), 5 U.S.C. section 701 *et seq.* This Court has habeas corpus jurisdiction pursuant to 28 U.S.C § 2241, and Article I, section 9, clause 2 of the United States Constitution (the “Suspension Clause”), as Plaintiff is presently subject to immediate detention and custody under color of authority of the United States government, and said custody is in violation of the Constitution, law or treaties of the United States.

This action is brought to compel the Respondents’ officers of the United States, to accord Plaintiff the due process of law to which he is entitled under the Fifth and Fourteenth Amendments of the United States Constitution. Specifically, “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953) (“Aliens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law”).

This Court may grant relief pursuant to 28 USC § 2241, the Declaratory Judgments Act, 28 USC § 2201 *et seq.*, 28 U.S.C. § 1331 (federal question jurisdiction), and the All Writs Act, 28 USC §1651.

**Venue**

Venue lies in this Court pursuant to 28 U.S.C. § 1391(e). The Plaintiff is detained by ICE, Chicago Field Office, Broadview, Illinois facility located in the Northern District of Illinois. Plaintiff is subject to being moved to another undisclosed ICE facility. Undersigned counsel is not aware of what detention facility ICE will move Plaintiff to and requests he remain in the jurisdiction of this court.

**Parties<sup>1</sup>**

Plaintiff is citizen and national of Mexico and presently in the custody of ICE. He is a resident of the State of Illinois and maintains residence in Illinois.

Respondent SAM OLSON is being sued in his official capacity only, as the Field Office Director of the Chicago Field Office of Immigration and Customs Enforcement. As such, he is charged with the detention and removal of aliens which fall under the jurisdiction of the Chicago Field Office. The Chicago Field Office has direct control over Petitioner's detention and removal.

Respondent SANDRA SALAZAR is being sued in her official capacity only, as the Deputy Field Office Director of the Chicago Field Office of Immigration and Customs Enforcement. As such, she is charged with the detention and removal of aliens which fall under the jurisdiction of the Chicago Field Office. The Chicago Field Office has direct control over Petitioner's detention and removal.

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<sup>1</sup> The proper respondent to this petition is the warden or sheriff of the detention center where Petitioner will be detained. *Kholyavskiy v. Achim*, 443 F.3d 946, 949-53 (7th Cir. 2006). As that is unknown, Petitioner will request leave to add that respondent once he is identified.

Respondent TODD M. LYONS is being sued in his official capacity only, as the Acting Director of Immigration and Customs Enforcement. As such, he is charged with the detention and removal of all aliens.

Respondent MADISON SHEAHAN is being sued in his official capacity only, as the Acting Deputy Director of Immigration and Customs Enforcement. As such, he is charged with the detention and removal of all aliens.

Respondent KRISTI NOEM is being sued in her official capacity only, as the Secretary of the Department of Homeland Security (“DHS”).

Respondent PAMELA BONDI is being sued in her official capacity only, as the Attorney General of the United States and administers the Department of Justice, including EOIR, the BIA, and the Immigration Courts.

#### **Factual and Procedural Background**

Petitioner, FERNANDO RUIZ MELESIO, is present in the United States without inspection and based on information and belief, has not been previously apprehended when he crossed the U.S border at or near McAllen, Texas in or about 1997. He has not previously filed any applications with USCIS and has remained in the United States since this date. It is believed he does not have a criminal record or any prior ICE apprehensions or detentions prior to October 29, 2025.

He was gainfully employed as a landscaper for the past 10 years and has filed U.S. Income tax returns under a tax ID number (ITIN) for many years. Pet. Ex. B & C: 2023 and 2022 US Tax Returns. Petitioner has not been issued a Notice to Appear (NTA) which would likely place him in removal proceedings pursuant to 8 U.S.C. § 1229a and will charge him with being present

in the United States without admission and therefore removable pursuant to *inter alia* 8 U.S.C. § 1182(a)(6)(A)(i).

Having been present in the U.S. for over 10 years and with four U.S. Citizen children under 21 years of age, Petitioner is eligible to file for cancellation of removal; adjustment of status to lawful permanent resident pursuant to 8 U.S.C. § 1229b(b) which allows the Attorney General to “cancel removal of, and adjust to the status of an alien lawfully admitted for permanent residence, an alien who is inadmissible or deportable from the United States if the alien-

(A) has been physically present in the United States for a continuous period of not less than 10 years immediately preceding the date of such application;

(B) has been a person of good moral character during such period;

(C) has not been convicted of an offense under section 212(a)(2), 237(a)(2), or 237(a)(3), subject to paragraph (5); and

(D) establishes that removal would result in exceptional and extremely unusual hardship to the alien’s spouse, parent, or child, who is a citizen of the United States or an alien lawfully admitted for permanent residence.

Ruiz Melesio is statutorily eligible for cancellation of removal for certain nonpermanent residents given his long-time residence in the United States, gainful employment, lack of criminal arrests or convictions, and as the sole financial support to his U.S. Citizen children, including his ten year old child who suffers from anxiety, learning disabilities, and other medical conditions.

On or about October 29, 2025, while working at a customer’s home in Skokie, Illinois, he was surrounded by ICE agents and forcibly detained. No warrant was shown or evidence

provided he fell under a class of aliens not entitled to apprehension and release pending resolution of his removal proceedings.

Respondents have not provided Petitioner with an NTA or immigration court date and he anticipates being held, without bond, at an ICE facility. As a person arrested inside the United States and held in civil immigration detention for his pending removal proceedings, he is subject to detention pursuant to 8 U.S.C. § 1226. *See, e.g. Romero*, 2025 WL 2403827, at \*1, 8 – 13 (collecting cases). As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a bond hearing and Petitioner requests such a bond hearing consistent with established precedent. Under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the responsible administrative agency has predetermined Petitioner will be denied a bond hearing, and the government is holding Petitioner under the purported authority of 8 U.S.C. § 1225(b)(2), under which he will not receive a bond hearing.

Since *Matter of Yajure Hurtado* has been decided dozens of individual habeas corpus petitions challenging its misclassification of bond-eligible detainees have been filed in District Courts. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings conducted pursuant to 8 U.S.C. § 1229a. First, 8 U.S.C. § 1226 authorizes detention for individuals in removal proceedings under 8 U.S.C. § 1229a. These individuals are generally entitled to a bond hearing unless they have been convicted or arrested of certain crimes which are subject to mandatory detention. *See* 8 U.S.C. § 1226(c). Second, the INA provides for mandatory detention for those subject to expedited removal pursuant to 8 U.S.C. § 1225(b)(1) and other noncitizen applicants for admission at the border who are deemed not clearly entitled to be admitted. *See* 8 U.S.C. § 1225(b)(2). Final, the INA provides for detention of noncitizens who

have been ordered removed, including individuals in withholding-only proceedings under 8 U.S.C. § 1231(a),(b).

This case concerns the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2), which were enacted as part of the Illegal Immigration and Reform and Immigrant Responsibility Act (IIRIRA) of 1996 and most recently section 1226(a) was amended in early 2025 by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). Following the enactment of IIRIRA in 1996, EOIR drafted regulations indicating that individuals present in the country without inspection, were not considered detained under § 1225 but rather detained under § 1226(a) and thus entitled to a bond hearing. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

Thus, as in Petitioner's case, absent ineligibility due to a criminal history, individuals in § 1229a removal proceedings are entitled to a bond hearing consistent with almost 30 years of practice where individuals arrested inside the United States, even after initially entering without inspection, fall within § 1226 detention proceedings and entitled to request and receive bond. *See Martinez v. Hyde*, No. 25-11613, 2025 WL 2084238, at \*4 n. 9 (D. Mass. July 25, 2025) (citing the United States Solicitor General's representation to the Supreme Court at oral argument that "DHS's long-standing interpretation has been that 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended").

On July 8, 2025, ICE, "in coordination with" the Department of Justice, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice. A series of Board of immigration Appeals (BIA) decisions under authority

of the EOIR, sought to apply § 1225 (b) bond ineligibility to individuals apprehended inside the United States. Petitioner acknowledges that the Supreme Court has held that noncitizens “seeking *initial* admission to the United States” have limited access to constitutional protections. *Landon v. Plasencia*, 459 U.S. 21, 32 (1982). This provision does not apply to Petitioner’s situation.

### **Causes of Action**

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

1. FIRST, the mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Petitioner as he must be placed in removal proceedings under 8 U.S.C. § 1229a and thus entitled to a bond hearing. Section 1225(b) does not apply to those who previously entered the country and have been present and residing in the United States. Petitioner has been present and residing in the United States now for almost 28 years.
2. The application of 8 U.S.C. § 1225(b)(2) to Petitioner’s continued detention without a bond hearing violates 8 U.S.C. § 1226(a), which governs his case.
3. SECOND, under the Administrative Procedure Act, a court must “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law” ... or that is “in excess of statutory jurisdiction authority, or limitations or short of statutory right.” 5 U.S.C. § 706(2)(A) – (C).
4. Petitioner’s continued detention is arbitrary, capricious, an abuse of discretion, and without statutory authority in violation of 5 U.S.C. § 706(2).<sup>2</sup>

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<sup>2</sup> Petitioner-Plaintiff also asserts that his arrest is in violation of this Court’s order in *Castanon Nava, et. al. v. DHS, et. al.*, 1:18-cv-03757 (NDIL)(Judge Cummings) as he was arrested and stopped pursuant to what is believed to be a warrantless arrest and traffic stop.

5. THIRD, Petitioner has a fundamental interest in liberty and being free from official restraint. Respondent' denial of a bond hearing is a violation of his due process rights which "lies at the heart of the liberty that the Clause protects." *Zadvydas*, at 690 (2001).
6. FOURTH, if necessary by way of separate petition, Petitioner requests a temporary restraining order enjoining Respondents from relocating him outside the jurisdiction of this court pending final resolution of his case; and
7. FIFTH, If Petitioner prevails, he requests attorney's fees and costs pursuant to the Equal Access to Justice Act, as amended 28 U.S.C. § 2412.

**Relief Requested:**

WHEREFORE, Petitioner FERNANDO RUIZ MELESIO, respectfully request this  
Honorable Court:

- A. Accept jurisdiction over this action;
- B. Order Respondents not to remove Petitioner outside the jurisdiction of this Court;
- C. Grant the writ of habeas corpus;
- D. Order the Department of Homeland Security to conduct an individualized bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- E. Make a finding that Respondents have acted contrary to law and have abused Petitioner's due process rights, and
- F. Grant any other relief that is equitable and just.

Respectfully Submitted,  
FERNANDO RUIZ MELESIO

By: s/ Saadia Siddique  
One of his attorneys

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**VERIFICATION**

I, Saadia Siddique, declare as follows:

I am an attorney admitted to practice law in the State of Illinois.

Because many of the allegations of this Petition require a legal knowledge not possessed by Petitioner, I am making this verification on his behalf.

I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof to be true to my knowledge, information, or belief.

I certify under penalty of perjury that the foregoing is true and correct and that this declaration was executed on October 30, 2025.

s/Saadia Siddique

SAADIA SIDDIQUE

Siddique Law Group LLC

Attorney for Petitioner

**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on October 30, 2025, I served a copy of this Petition for Writ of Habeas Corpus by email to the following individuals:

Craig Oswald, AUSA  
US Attorney's Office (NDIL Chicago)  
219 South Dearborn  
Chicago, IL 60604  
Craig.Oswald@usdoj.gov

And  
Josua Press, AUSA  
US Attorney's Office (NDIL Chicago)  
219 South Dearborn  
Chicago, IL 60604  
Joshua.Press@usdoj.gov

I ALSO HEREBY CERTIFY that the foregoing documents are served on counsel for all parties through the Court's CM/ECF system.

s/Saadia Siddique  
SAADIA SIDDIQUE  
Siddique Law Group LLC  
Attorney for Petitioner  
Date: October 30, 2025