

JS 44. (Rev. 08/18)

CIVIL COVER SHEET

5:25cv120-DCB-Rpm

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS

Medina Esparza, Francisco

(b) County of Residence of First Listed Plaintiff

Adams County

(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys (Firm Name, Address, and Telephone Number)

The Riches Law Firm, PLLC; PO Box 1526, Ocean Springs, MS 39566
PH: 228-800-4178

DEFENDANTS

United States Department of Justice, Pamela Bondi, Attorney General et al

County of Residence of First Listed Defendant

(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys (If Known)

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

☐ 1 U.S. Government Plaintiff☐ 3 Federal Question (U.S. Government Not a Party)☒ 2 U.S. Government Defendant☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

Citizen of This State

PTF DEF

☐ 1 ☐ 1

Incorporated or Principal Place of Business in This State

PTF DEF

☐ 4 ☐ 4

Citizen of Another State

☐ 2 ☐ 2

Incorporated and Principal Place of Business in Another State

☐ 5 ☐ 5

Citizen or Subject of a Foreign Country

☐ 3 ☐ 3

Foreign Nation

☐ 6 ☐ 6

IV. NATURE OF SUIT (Place an "X" in One Box Only)

Click here for Nature of Suit Code Descriptions

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
☐ 110 Insurance ☐ 120 Marine ☐ 130 Miller Act ☐ 140 Negotiable Instrument ☐ 150 Recovery of Overpayment & Enforcement of Judgment ☐ 151 Medicare Act ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans) ☐ 153 Recovery of Overpayment of Veteran's Benefits ☐ 160 Stockholders' Suits ☐ 190 Other Contract ☐ 195 Contract Product Liability ☐ 196 Franchise	PERSONAL INJURY ☐ 310 Airplane ☐ 315 Airplane Product Liability ☐ 320 Assault, Libel & Slander ☐ 330 Federal Employers' Liability ☐ 340 Marine ☐ 345 Marine Product Liability ☐ 350 Motor Vehicle ☐ 355 Motor Vehicle Product Liability ☐ 360 Other Personal Injury ☐ 362 Personal Injury - Medical Malpractice PERSONAL INJURY ☐ 365 Personal Injury - Product Liability ☐ 367 Health Care/Pharmaceutical Personal Injury Product Liability ☐ 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY ☐ 370 Other Fraud ☐ 371 Truth in Lending ☐ 380 Other Personal Property Damage ☐ 385 Property Damage Product Liability	☐ 625 Drug Related Seizure of Property 21 USC 881 ☐ 690 Other LABOR ☐ 710 Fair Labor Standards Act ☐ 720 Labor/Management Relations ☐ 740 Railway Labor Act ☐ 751 Family and Medical Leave Act ☐ 790 Other Labor Litigation ☐ 791 Employee Retirement Income Security Act IMMIGRATION ☐ 462 Naturalization Application ☐ 465 Other Immigration Actions	☐ 422 Appeal 28 USC 158 ☐ 423 Withdrawal 28 USC 157 PROPERTY RIGHTS ☐ 820 Copyrights ☐ 830 Patent ☐ 835 Patent - Abbreviated New Drug Application ☐ 840 Trademark SOCIAL SECURITY ☐ 861 HIA (1395ff) ☐ 862 Black Lung (923) ☐ 863 DIWC/DIWW (405(g)) ☐ 864 SSID Title XVI ☐ 865 RSI (405(g)) FEDERAL TAX SUITS ☐ 870 Taxes (U.S. Plaintiff or Defendant) ☐ 871 IRS - Third Party 26 USC 7609	☐ 375 False Claims Act ☐ 376 Qui Tam (31 USC 3729(a)) ☐ 400 State Reapportionment ☐ 410 Antitrust ☐ 430 Banks and Banking ☐ 450 Commerce ☐ 460 Deportation ☐ 470 Racketeer Influenced and Corrupt Organizations ☐ 480 Consumer Credit ☐ 485 Telephone Consumer Protection Act ☐ 490 Cable/Sat TV ☐ 850 Securities/Commodities Exchange ☐ 890 Other Statutory Actions ☐ 891 Agricultural Acts ☐ 893 Environmental Matters ☐ 895 Freedom of Information Act ☐ 896 Arbitration ☐ 899 Administrative Procedure Act/Review or Appeal of ☐ 950 Constitutionality of State Statutes
REAL PROPERTY ☐ 210 Land Condemnation ☐ 220 Foreclosure ☐ 230 Rent Lease & Ejectment ☐ 240 Torts to Land ☐ 245 Tort Product Liability ☐ 290 All Other Real Property	CIVIL RIGHTS ☐ 440 Other Civil Rights ☐ 441 Voting ☐ 442 Employment ☐ 443 Housing/Accommodations ☐ 445 Amer. w/Disabilities - Employment ☐ 446 Amer. w/Disabilities - Other ☐ 448 Education PRISONER PETITIONS ☒ Habeas Corpus: ☐ 463 Alien Detainee ☐ 510 Motions to Vacate Sentence ☐ 530 General ☐ 535 Death Penalty Other: ☐ 540 Mandamus & Other ☐ 550 Civil Rights ☐ 555 Prison Condition ☐ 560 Civil Detainee - Conditions of Confinement			

V. ORIGIN (Place an "X" in One Box Only)

☒ 1 Original Proceeding☐ 2 Removed from State Court☐ 3 Remanded from Appellate Court☐ 4 Reinstated or Reopened☐ 5 Transferred from Another District (specify)☐ 6 Multidistrict Litigation - Transfer☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):

28 U.S.C. § 2241

Brief description of cause:

Petition for Writ of Habeas Corpus

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P.

DEMAND \$

CHECK YES only if demanded in complaint:

JURY DEMAND:

☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions)

JUDGE

DOCKET NUMBER

DATE

10/30/2025

SIGNATURE OF ATTORNEY OF RECORD

FOR OFFICE USE ONLY

RECEIPT =

12886

AMOUNT

APPLYING IF P

JUDGE

MAG. JUDGE

1
2 UNITED STATES DISTRICT COURT
3 SOUTHERN DISTRICT OF MISSISSIPPI

4 FRANCISCO MEDINA ESPARZA,

5
6 Petitioner,

7 v.

8 PAMELA BONDI, in her official capacity as
9 Attorney General of the United States;

10 KRISTI NOEM, in her official capacity as
11 Secretary of the Department of Homeland
12 Security;

13 TODD LYONS, in his official capacity as
14 Acting Director and Senior Official
15 Performing the Duties of the Director of U.S.
16 Immigration and Customs Enforcement;

17 MELLISSA HARPER, in her official capacity
18 as Acting Field Office Director of the New
19 Orleans Field Office of U.S. Immigration and
20 Customs Enforcement, Enforcement and
21 Removal Operations;

22 RAFAEL VERGARA, Warden of the Adams
23 County Correctional Center,
24

Respondents.

Case No. 5:25cv120-DCB-RPM

**PETITION FOR WRIT OF
HABEAS CORPUS**

SOUTHERN DISTRICT OF MISSISSIPPI
FILED

NOV - 3 2025

BY ARTHUR JOHNSTON
DEPUTY

INTRODUCTION

1. Petitioner, Francisco Medina Esparza, hereinafter referred to as “Petitioner”, is in the physical custody of Respondents at the Adams County Correctional Center in Natchez, Mississippi. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have wrongly concluded Petitioner is subject to mandatory detention.

2. After his detention, Petitioner sought a bond redetermination hearing before an immigration judge (IJ), but on September 12, 2025, the IJ denied bond. The IJ concluded that Petitioner is present without admission and is thus subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

3. Petitioner’s detention on this basis violates the plain language of the Immigration and Nationality Act (INA). Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

4. Respondents’ new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

5. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within fourteen days.

JURISDICTION

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Adams County Correctional Center in Natchez, Mississippi.

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

8. 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

9. Petitioner is currently detained in Natchez, Mississippi, which is located within the Southern District of Mississippi, so venue is proper in this Honorable Court pursuant to 28 U.S.C. 1391.

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for 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.*

11. 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

12. Petitioner, FRANCISCO MEDINA ESPARZA, is a citizen of Mexico who has been in immigration detention since August 5, 2025. After arresting Petitioner, U.S. Immigration and Customs Enforcement (ICE) did not set bond and Petitioner requested review of his custody by an IJ. On September 12, 2025, Petitioner was denied bond by an IJ at the LaSalle Immigration Court because he was deemed an "applicant for admission."

13. 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 is a component agency. She is sued in her official capacity.

14. Respondent KRISTI NOEM is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

15. Respondent TODD LYONS is the Acting Director of ICE. He is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Mr. Lyons is a legal custodian of Petitioner. Mr. Lyons is sued in his official capacity.

16. Respondent MELLISSA HARPER is the Director of the New Orleans Field Office of ICE's Enforcement and Removal Operations division. As such, she is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is named in his official capacity.

17. Respondent RAFAEL VERGARA is the Warden of the Adams County Correctional Center, where Petitioner is currently detained under the authority of ICE, and is Petitioner's immediate custodian. He is sued in his official capacity.

LEGAL FRAMEWORK

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

19. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. 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 noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

20. 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).

21. 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).

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

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

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

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

13 26. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
14 rejected well-established understanding of the statutory framework and reversed decades of
15 practice.

16 27. The new policy, entitled “Interim Guidance Regarding Detention Authority for
17 Applicants for Admission,”¹ claims that all persons who entered the United States without
18 inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore
19 are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies
20 regardless of when a person is apprehended, and affects those who have resided in the United
21 States for months, years, and even decades.

22
23 _____
24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applicants-for-admission>.

1 28. In a May 22, 2025, unpublished decision from the Board of Immigration Appeals
2 (BIA), EOIR adopts this same position.² That decision holds that all noncitizens who entered the
3 United States without admission or parole are considered applicants for admission and are
4 ineligible for immigration judge bond hearings.

5 29. ICE and EOIR have adopted this position even though federal courts have
6 rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration
7 court stopped providing bond hearings for persons who entered the United States without
8 inspection and who have since resided here, the U.S. District Court in the Western District of
9 Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not §
10 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States.
11 *Rodriguez Vazquez v. Bostock*, — F. Supp. 3d — 2025 WL 1193850 (W.D. Wash. Apr. 24,
12 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass.
13 July 7, 2025) (granting habeas petition based on same conclusion).

14 30. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez* court
15 explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b),
16 applies to people like Petitioner.

17 31. Section 1226(a) applies by default to all persons “pending a decision on whether
18 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
19 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

20 32. The text of § 1226 also explicitly applies to people charged as being inadmissible,
21 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
22 (E)'s reference to such people makes clear that, by default, such people are afforded a bond
23

24 ² Available at <https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf>.

1 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
2 creates “specific exceptions” to a statute’s applicability, it “proves” that absent those exceptions,
3 the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove*
4 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

5 33. Section 1226 therefore leaves no doubt that it applies to people who face charges
6 of being inadmissible to the United States, including those who are present without admission or
7 parole.

8 34. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
9 recently entered the United States. The statute’s entire framework is premised on inspections at
10 the border of people who are “seeking admission” to the United States. 8 U.S.C. §
11 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
12 applies “at the Nation’s borders and ports of entry, where the Government must determine
13 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
14 U.S. 281, 287 (2018).

15 35. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to
16 people like Petitioner, who have already entered and were residing in the United States at the
17 time they were apprehended.

18 **FACTS**

19 36. Petitioner has resided in the United States since the year 2009.

20 37. On August 5, 2025, Petitioner was detained pursuant to a traffic stop for speeding.
21 Petitioner is now detained at the Adams County Correctional Center in Natchez, Mississippi.

1 38. DHS initiated removal proceedings against the Petitioner pursuant to 8 U.S.C. §
2 1229a. ICE alleges the Petitioner entered the United States without inspection and is seeking
3 admission to the United States.

4 39. Petitioner has family in the United States, including his wife and two children
5 (nine and eight years old), who are all citizens of the United States. Petitioner is neither a flight
6 risk nor a danger to the community. The Petitioner suffers from diabetes and relies on medication
7 to maintain his health.

8 40. Following Petitioner's arrest and transfer to the Adams County Correctional
9 Center, ICE issued a custody determination to continue Petitioner's detention without an
10 opportunity to post bond or be released on other conditions.

11 41. Petitioner subsequently requested a bond redetermination hearing before an IJ.

12 42. On September 12, 2025, an IJ issued a decision that the court lacked jurisdiction
13 to conduct a bond redetermination hearing because the IJ found that Petitioner was an applicant
14 for admission under § 1225(b)(2)(A), and thus it had no jurisdiction to issue a bond.

15 43. As a result, Petitioner remains in detention. Without relief from this court, he
16 faces the prospect of months, or even years, in immigration custody, separated from his family
17 and community.

18 44. Any appeal to the BIA is futile. DHS's new policy was issued "in coordination
19 with DOJ," which oversees the immigration courts. Further, as noted, the most recent
20 unpublished BIA decision on this issue held that persons like Petitioner are subject to mandatory
21 detention as applicants for admission. Finally, in the *Rodriguez Vazquez* litigation, where EOIR
22 and the Attorney General are defendants, DOJ has affirmed its position that individuals like
23 Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A). *See* Mot.
24

1 to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6,
2 2025), Dkt. 49 at 27–31.

3 **CLAIMS FOR RELIEF**

4 **COUNT I**

5 **Violation of the INA**

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

8 46. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
9 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
10 relevant here, it does not apply to those who previously entered the country and have been
11 residing in the United States prior to being apprehended and placed in removal proceedings by
12 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
13 § 1225(b)(1), § 1226(c), or § 1231.

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

16 **COUNT II**

17 **Violation of Due Process**

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

20 49. The government may not deprive a person of life, liberty, or property without due
21 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government
22 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
23
24

1 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653
2 (2001).

3 50. Petitioner has a fundamental interest in liberty and being free from official
4 restraint.

5 51. The government’s detention of Petitioner without a bond redetermination hearing
6 to determine whether he is a flight risk or danger to others violates his right to due process.

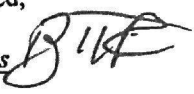
7 **PRAYER FOR RELIEF**

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

- 9 a. Assume jurisdiction over this matter;
- 10 b. Issue a writ of habeas corpus requiring that Respondents release Petitioner or
11 provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 14
12 days;
- 13 c. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
14 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under
15 law; and
- 16 d. Grant any other and further relief that this Court deems just and proper.

17 DATED this 30th of October, 2025.

18 Respectfully submitted,

19 /s/ Brandon H. Riches 

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