UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

Raul ALBINO ARELLANO,

Petitioner,

v.

Kristi NOEM, Secretary, Department of Homeland Security; DEPARTMENT OF HOMELAND SECURITY; **Pamela BONDI**, Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; GARRETT RIPA, Miami Field Office Director, ICE Enforcement and Removal Operations; IMMIGRATION AND CUSTOMS ENFORCEMENT; and **Ronnie WOODALL**, Warden of Baker Correctional Institution.

Respondents.

Case No.: 3:25-cv-1333

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, RAUL ALBINO ARELLANO, is a noncitizen and longtime resident of the United States who is currently detained under the custody of Immigration and Customs Enforcement ("ICE") in Baker Correctional Institute ("BCI") in Sanderson, Florida.

2. Petitioner has resided in the United States for approximately three decades. ICE detained Petitioner after a traffic stop in Orange County, Florida on October 5, 2025. Petitioner was a passenger in a vehicle driven by another individual when he was detained by ICE.

3. Upon information and belief, based on the Department of Homeland Security's (DHS) common practice, Petitioner has been charged with, *inter alia*, entering the United States without inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

4. Based on this charge of removability, Petitioner is ineligible for release from immigration custody. Since July 8, 2025, DHS has adhered to a new policy in which any noncitizen charged with inadmissibility under § 1182(a)(6)(A)(i) (those who enter without inspection) to be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

5. On September 5, 2025, the Board of Immigration Appeals ("BIA") held in a precedential decision, bound on *all* immigration judges, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) that a noncitizen charged with inadmissibility under § 1182(a)(6)(A)(i) is an "applicant for admission" and thus subject to mandatory detention under § 1225(b)(2)(A). The BIA's decision in *Matter of Yajure Hurtado* was contrary to decades of settled law and immigration policy.

6. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act ("INA") and implementing regulations.

7. Subparagraph 1225(b)(2)(A) applies to individuals who are apprehended on arrival in the United States. It states that an "applicant for admission" who is "seeking admission" shall be detained for a removal proceeding. *Id.* It does not apply to individuals like Petitioner, who is arrested and detained by ICE after having entered and begun residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to individuals, like Petitioner, who are charged with inadmissibility under § 1182(a)(6)(A)(i).

8. Petitioner will categorically be denied bond under DHS's and EOIR's nationwide policy of denying bond to individuals like Petitioner.

9. Accordingly, Petitioner seeks a writ of habeas corpus. Petitioner seeks an order requiring Respondents to immediately release him, or in the alternative, Petitioner requests an order requiring his release unless Respondents provide a bond hearing under § 1226(a) within seven days.

10. Absent an order from this Court, Petitioner will be removed to Mexico.

JURISDICTION

11. Petitioner is in the physical custody of Respondents and is detained at BCI in Sanderson, Florida.

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

13. 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

14. Venue properly lies within the Middle District of Florida, Jacksonville Division under 28 U.S.C. § 1391(e), because this is a civil action in which Respondents are employees, officers, and agencies of the United States; Petitioner is detained in this District; and a substantial part of the events or omissions giving rise to this action occurred in the District.

REQUIREMENTS OF 28 U.S.C. § 2243

15. 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, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

16. 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).

PARTIES

17. Petitioner Raul Albino Arellano was detained by ICE on October 5, 2025, and has been detained at BCI since that date. He has resided in the United States since at least 1997.

18. Respondent Kristi Noem is the Secretary of DHS. She is responsible for the implementation and enforcement of the 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.

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

20. Respondent Garrett Ripa is the Director of the Miami Field Office of ICE's Enforcement and Removal Operations Division. As such, Mr. Ripa is Petitioner's immediate custodian and is responsible for his detention and removal. He is sued in his official capacity.

21. Respondent Ronnie Woodall is employed by Respondent FDC as Warden of BCI, where Petitioner is detained. He has immediate physical custody of Petitioner and is sued in his official capacity.

22. Respondent EOIR is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

23. Respondent DHS is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

24. Defendant ICE is the agency within DHS responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

FACTS

25. Petitioner Raul Albino Arellano is a long-time resident of the United States who has resided here since at least 1997. Upon information and belief, Petitioner did not encounter immigration officials when he entered the United States.

26. Petitioner has two United States adult sons, ages 30 and 27.

27. On October 5, 2025, ICE detained Petitioner. He is now detained at BCI in Sanderson, Florida. Upon information and belief, Petitioner has never been held in ICE custody.

28. ICE has placed Petitioner in removal proceedings before an immigration judge pursuant to 8 U.S.C. § 1229a. Upon information and belief, DHS has charged him with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without admission or parole at an unknown place and an unknown time.

29. It is current ICE policy to deny all noncitizens in detention, including Petitioner, without bond. Thus, a bond and custody redetermination hearing before an immigration judge is the usual remedy in cases like Petitioner's. However, due to DHS's new policy and the BIA's recent decision in *Matter of Yajure Hurtado*, the immigration judge no longer has jurisdiction over Petitioner to hear any claims regarding Petitioner's eligibility for bond.

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

31. Even if Petitioner sought bond and custody redetermination before the immigration judge, any appeal to the BIA would be futile given the BIA's decision in *Matter of Yajure Hurtado*. The BIA's decision is binding on all immigration judges, and as a matter of administrative procedure, on itself, unless modified or overruled by the Attorney General (Respondent Bondi) or a federal court.

LEGAL FRAMEWORK

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

33. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. *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).

34. 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).

35. 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).

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

37. 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).

38. Following the enactment of IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection 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 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

39. Thus, in the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an immigration judge, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an immigration judge or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at

229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

40. On July 8, 2025, ICE, "in coordination with" the DOJ, announced a new policy that rejected this well-established understanding of the statutory framework and reversed decades of practice.

41. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without admission or parole shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when and where a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

42. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure Hurtado*. There, the BIA held that all noncitizens who entered the United States without admission or parole are considered applicants for admission who are seeking admission and are thus ineligible for bond and custody redetermination hearings before an immigration judge.

43. Numerous federal district courts all over the United States have rejected DHS' new interpretation of § 1225(b) and/or the BIA's recent decision in *Matter of Yajure Hurtado*. *See, e.g., Orellana Juarez v. Moniz*, 2025 WL 1698600

(D. Mass. June 11, 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Pena v. Hyde*, 2025 WL 2108913 (D. Mass. July 28, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *dos Santos v. Noem*, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *O.E. v. Bondi*, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Lopez-Campos v. Raycroft*, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Carmona-Lorenzo v. Trump*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Hernandez Nieves v. Kaiser*, 2025 WL 2533110 (N.D. Cal. Sept. 3, 2025); *Vasquez Garcia et al. v. Noem*, 25025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Zaragoza Mosqueda et al. v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

44. Furthermore, in a recent case before the Middle District of Florida, *Hernandez Lopez v. Hardin*, 2025 WL 2732717 (M.D. Fla. Sept. 25, 2025), the Honorable Judge Kyle C. Dudeck granted a temporary restraining order in part, holding that it is § 1226(a), not § 1225(b)(2), that authorizes detention of noncitizens not presently seeking admission and who have been in the United States for some time. Two cases out of the Southern District of Florida, *Aguilar Merino v. Ripa*, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025) and *Alvarez Puga v. Assistant Field Office Director*, 2025 WL 2938369 (S.D. Fla. Oct. 15, 2025), have likewise joined the overwhelming consensus on this issue.

45. The district courts have thus uniformly held, and continuously hold, that DHS' and EOIR's interpretation of § 1225(b) does not apply to individuals like Petitioner, who entered the United States approximately thirty years ago.

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

47. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without admission or parole. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As

the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

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

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

50. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who has already entered and was residing in the United States at the time he was apprehended.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

51. Petitioner incorporates by reference the allegations of fact set forth in paragraphs 1-50.

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

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

COUNT II
Violation of Fifth Amendment Due Process Clause
Procedural Due Process

54. Petitioner incorporates by reference the allegations of fact set forth in paragraphs 1-50.

55. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical

restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

56. Petitioner has a fundamental interest in liberty and being free from official restraint.

57. Respondents' detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

COUNT THREE

WRIT OF MANDAMUS

(IN THE ALTERNATIVE - Relief under 28 U.S.C. § 1361)

58. Petitioner incorporates by reference the allegations of fact set forth in paragraphs 1-50.

59. Under the Mandamus Act, 28 U.S.C. § 1361, relief may be granted because Respondents owe the Petitioner a non-discretionary statutory duty to a credible fear interview (CFI), reasonable fear interview (RFI), and to review any negative credible fear determination made against him.

60. Respondents have no discretion as to whether or not to conduct a CFI, RFI, or this negative credible fear determination review, as it is mandated by statute.

61. If the Court does not grant relief under Counts One or Two, then the Petitioner will have no remaining remedies available to him under statute or law.

62. In that circumstance, the Petitioner asks this Court to grant relief to them under 28 U.S.C.§ 1361 and issue a writ or writs of mandamus, ordering the Respondents to provide him with a CFI or RFI, and to complete any negative credible fear review under 8 U.S.C. § 1225(b)(1)(B)(iii)(III) within thirty (30) days.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Declare ICE's July 8 policy and the BIA's *Matter of Yajure Hurtado* decision unlawful;

c. Issue an order to show cause within three days;

d. Issue a writ of habeas corpus clarifying that the statutory basis for all Petitioner's detention is 8 U.S.C. § 1226(a) and that 8 U.S.C. § 1225(b)(2)(A) does not apply to Petitioner;

e. Issue a writ of habeas corpus requiring Respondents to release Petitioner immediately or issue a writ of habeas corpus requiring that Respondents release Petitioner unless Respondents provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

f. Issue a writ of mandamus, ordering Respondents to conduct a CFI or RFI of Petitioner;

g. Award Petitioner attorneys' fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

h. Issue an Order prohibiting Respondents from transferring Petitioner from the District without the Court's approval;

i. Issue an Order directing Respondents' records custodian to release Petitioner's immigration records to the Court; and

j. Grant any other and further relief that this Court deems just and proper.

DATED this 4th day of November, 2025.

Respectfully submitted,

/s/ Alyssa Barberis

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