

Alex Mintz, Esq.
American Friends Service Committee
570 Broad St., Ste. 1001
Newark, NJ 07102

Priscila Abraham, Esq.
American Friends Service Committee
570 Broad St., Ste. 1001
Newark, NJ 07102

Pro Bono Counsel for Petitioner

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW JERSEY**

ALEX YOVANYS PEREZ,

Petitioner,

v.

TODD LYONS, in his official capacity as
Acting Director of the Immigration and
Customs Enforcement;

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

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

LUIS SOTO, in his official capacity as
Director of Delaney Hall;

Respondents.

Case No. 25-17186

**VERIFIED PETITION FOR A WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Alex Yovanys Perez, (“Mr. Perez” or “Petitioner”) is in the physical custody of Respondents at the Delaney Hall Detention Facility in Newark, New Jersey. *See* Exh. A, ICE Detainee Locator dated November 4, 2025, at 12:15pm. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded he is subject to mandatory detention.

2. Mr. Perez is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Mr. Perez’s removal proceedings, DHS will not grant Mr. Perez release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedential decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Mr. Perez’s detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Mr. Perez who previously entered and are now residing in the United States. Instead, such individuals are subject to detention under a different statute, § 1226(a), that allows for release on conditional parole or

bond. That statute expressly applies to people who, like Mr. Perez, are charged as inadmissible for having entered the United States without inspection.

6. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Mr. Perez. It also violates the implementing regulations and Mr. Perez's right to due process.

7. Accordingly, Mr. Perez seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

8. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art. I § 9, cl. 2 of the U.S. Constitution ("Suspension Clause"); 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. §§ 2201, 2202 (Declaratory Judgment Act).

9. District courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of their civil immigration detention. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 839–42 (2018); *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). The Court has jurisdiction to order Petitioner's immediate release from unlawful custody. *Munaf v. Geren*, 553 U.S. 674, 693 (2008) ("The typical remedy [for unlawful detention] is, of course, release.") (citation omitted). *See also, Leslie v. Holder*, 865 F. Supp. 2d 627, 641 (M.D. Pa. 2012) (district court ordering release of non-citizen).

10. Further, as explained below, the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), renders requiring prudential exhaustion futile. *See e.g., Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *10 (C.D. Cal. Sept. 8, 2025).

VENUE

11. Venue is proper in the District of New Jersey pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because at least one of the Respondents is a resident of this District, and a substantial part of the events giving rise to the claims in this action took place within this district. 28 U.S.C. § 1391. *See Braden v. 30th Judicial Circuit*, 410 U.S. 484, 493–94 (1973) (laying out traditional venue factors) (holding that venue lies where it is most convenient, where “material events took place,” and where “records and witnesses pertinent to petitioner’s claim are likely to be found.”). Mr. Perez is physically detained in Newark, New Jersey, which is located in this district and events or omissions giving rise to this action continue to occur in this district.

PARTIES

12. Mr. Perez is alleged to be a citizen of Honduras who has been in immigration detention since October 27, 2025. After arresting Petitioner in Newark, New Jersey, ICE did not set bond, and Petitioner is unable to obtain review of his custody by an IJ pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

13. Respondent Todd Lyons is the Acting Director of ICE. As such, Todd Lyons is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his 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. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

15. 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. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

16. Respondent Luis Soto is employed as Director of the Delaney Hall Detention Facility where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

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

18. 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).

19. 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).

20. 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).

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

22. 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).

23. Following the enactment of the 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).

24. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *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)).

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

26. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ claims that all persons who entered the United States without

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

inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

27. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

28. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

29. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

30. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Rivera Zumba v. Bondi*, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH),

2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (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*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

31. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

32. Section 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].”

33. The text of § 1226(c) also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *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)); *see also* *Gomes*, 2025 WL 1869299, at *7.

34. 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.

35. 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 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).

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

FACTS

37. Mr. Perez has resided in the United States since about June 11, 2005, and lives in Newark, New Jersey.

38. On October 27, 2025, Mr. Perez was arrested during a traffic stop outside of a Home Depot in Maplewood, New Jersey. During the traffic stop, Customs and Border Protection (“CBP”) officers ran facial recognition on Mr. Perez, without his consent, and arrested him, despite not finding any information about his nationality or immigration status. After CBP officers placed Mr. Perez in their custody, Mr. Perez was asked about his immigration status. Mr. Perez stated that he had been living in the United States for over twenty years and was a citizen of Honduras. Mr. Perez is now detained at Delaney Hall.

39. DHS placed Mr. Perez in removal proceedings before the Elizabeth Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Mr. Perez with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

40. Mr. Perez has lived peacefully in the United States since about June 11, 2005. Mr. Perez fled Honduras after enduring extensive persecution due to his sexual orientation. Upon arriving in the United States, he initially lived with his older brother in Newark, New Jersey, then branched out on his own. Mr. Perez has worked as a painter, landscaper, and construction worker over the last twenty years – all with the hope of providing a better life for his family. Through his hard work in the United States, he supported his three younger sisters, all of whom now live with their families in Virginia. Mr. Perez is a dedicated congregant of the St. Joseph’s Roman Catholic

Church in East Orange New Jersey. For the last ten years, he has been a prayer leader in his church and served communion to his fellow congregants for the last eight years. Not once in his twenty years living in the United States, has Mr. Perez been arrested by law enforcement.

41. Following Mr. Perez's arrest and transfer to Delaney Hall, ICE issued a custody determination to continue Mr. Perez's detention without an opportunity to post bond or be released on other conditions.

42. Pursuant to *Matter of Yajure Hurtado*, the immigration judge will be foreclosed from considering Mr. Perez's bond request. Therefore, administrative exhaustion via a bond hearing is not required, as it would be futile.

43. As a result, Mr. Perez 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.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

44. Mr. Perez incorporates by reference the allegations of fact set forth in the preceding paragraphs.

45. 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.

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

COUNT II

Violation of the Bond Regulations

47. Mr. Perez incorporates by reference the allegations of fact set forth in preceding paragraphs.

48. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

49. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Mr. Perez.

50. The application of § 1225(b)(2) to Mr. Perez unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III

Violation of Due Process

51. Mr. Perez repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

52. 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).

53. Mr. Perez has a fundamental interest in liberty and being free from official restraint.

54. The government’s detention of Mr. Perez without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

WHEREFORE, Mr. Perez prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Order that Mr. Perez shall not be transferred outside the District of New Jersey while this habeas petition is pending;
- c. Issue a Writ of Habeas Corpus requiring that Respondents release Mr. Perez or, in the alternative, provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- d. Declare that Mr. Perez’s detention is unlawful;
- e. Grant any other and further relief that this Court deems just and proper.

DATED this 4th day of November 2025.

/s/ Alex Mintz
Alex Mintz, Esq.
American Friends Service Committee
570 Broad St., Ste 1001
Newark, NJ 07102

/s/ Priscila Abraham
Priscila Abraham, Esq.
American Friends Service Committee
570 Broad St., Ste. 1001
Newark, NJ 07102
Pro Bono Counsel for Petitioner

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I or my co-counsel have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: November 4, 2025

Respectfully submitted,

/s/ Alex Mintz

Alex Mintz, Esq.

Pro Bono Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system. I will furthermore mail a copy by USPS Certified Priority Mail to each of the following individuals:

Todd Lyons
Acting Director, Immigration and Customs Enforcement
500 12th St. SW
Washington, DC 20536

Kristi Noem
Secretary of the U.S. Department of Homeland Security
c/o Office of the General Counsel
2707 Martin Luther King Jr. Ave., SE
Washington, DC 20528-0485

Pamela Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530-0001

Luis Soto
Director of Delaney Hall
451 Doremus Ave
Newark, New Jersey 07105

Dated: November 4, 2025

s/ Alex Mintz
Alex Mintz, Esq.
Pro Bono Counsel for Petitioner