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UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

RICARDO RAMIREZ RIOS,

Case No. 3:25-cv-522

Petitioner,

v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Todd LYONS, in his capacity as Acting
Director, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; Pamela
BONDI, U.S. Attorney General; EXECUTIVE
OFFICE FOR IMMIGRATION REVIEW;
WARDEN, of ERO El Paso Camp East
Montana Facility

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

1 INTRODUCTION

2 1. Petitioner Ricardo Ramirez Rios is in the physical custody of Respondents at the
3 ERO Camp East Montana ICE Facility in El Paso, Texas. He now faces unlawful detention
4 because the Department of Homeland Security (DHS) and the Executive Office of Immigration
5 Review (EOIR) have concluded Petitioner is subject to mandatory detention.

6 2. Petitioner is charged with, inter alia, having entered the United States without
7 inspection, and no travel documents. 8 U.S.C. §§ 1182(a)(6)(A)(i); (a)(7).

8 3. Based on this allegation, Respondents have concluded that they do not have
9 jurisdiction over Petitioner’s bond hearing. On July 8, 2025, DHS, in collaboration with the
10 Executive Office for Immigration Review (Immigration Courts) issued a new policy instructing
11 all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible
12 under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an
13 “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory
14 detention.

15 4. On September 5, 2025, the Board of Immigration Appeals turned this new policy
16 into precedent by issuing a decision that said it did “not have the authority” to hear any bond
17 case for someone who had entered the United States without inspection.

18 5. Because of this new policy and the new BIA decision, Mr. Ramirez Rios cannot
19 request a bond hearing before the Immigration Court. The Immigration Judge has no jurisdiction
20 to hear the case.

21 6. The Respondents have concluded that notwithstanding Petitioner’s approximately
22 20 years of residing in the United States, he is nevertheless an “applicant for admission” who is
23 “seeking admission” and subject to mandatory detention under § 1225(b)(2)(A).
24

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

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

10 9. Accordingly, Petitioner seeks a writ of habeas corpus requiring his immediate
11 release from custody or, in the alternative that he be provided a bond hearing under § 1226(a)
12 within seven days in which DHS bears the burden of establishing the necessity of petitioner's
13 continued detention and considers alternatives to detention that could mitigate flight risk.

JURISDICTION

14 10. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
15 ERO Camp East Montana ICE Facility in El Paso, Texas.

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

19 12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
20 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

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VENUE

13. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of Texas, the judicial district in which Petitioner currently is detained.

14. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of Texas.

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, the 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) (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

17. Petitioner, Ricardo Ramirez Rios, is a citizen of Peru who has been in immigration detention since approximately September 10, 2025. Prior to being detained, he was living in Woodbridge, Virginia with his family. After arresting Petitioner, ICE issued a Notice for

1 him to Appear at the Annandale Immigration Court in Virginia. But then ICE decided not to
2 release him and shipped him to an ICE facility in El Paso, Texas, almost 2,000 miles from his
3 home and family, ICE did not set bond. However because of Respondents' new policies,
4 Petitioner also cannot request a bond hearing before the Immigration Judge. Petitioner has
5 resided in the United States since approximately the year 2003. While the Notice to Appear does
6 not list a date of entry, the birth certificates for his children and his Peruvian passport, issued in
7 Washington D.C., all establish that he has been in the United States for over ten years. *See Exs.*
8 1, 2, 4

9 18. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs
10 Enforcement. As such, Acting Director Todd Lyons is Petitioner's immediate custodian and is
11 responsible for Petitioner's detention and removal. He is named in his official capacity.

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

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

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

1 22. Respondent Warden is employed as the Jail Administrator of the ERO Camp East
2 Montana ICE Facility in El Paso, Texas, where Petitioner is detained. He has immediate physical
3 custody of Petitioner. He is sued in his official capacity.

4 LEGAL FRAMEWORK

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

7 24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
8 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
9 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
0 while noncitizens who have been arrested, charged with, or convicted of certain crimes are
1 subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

2 25. Second, the INA provides for mandatory detention of noncitizens subject to
3 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
4 referred to under § 1225(b)(2).

5 26. Last, the INA also provides for detention of noncitizens who have been ordered
6 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

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

8 28. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
9 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
0 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
1 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1,
2 139 Stat. 3 (2025).

1 29. 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;
Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

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

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

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

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

1 33. On September 5, 2025, the BIA published a decision that adopts this same
2 position and binds it on all Immigration Courts. *Matter of Yajure Hurtado*, 29 I&N Dec. 216
3 (BIA 2025). In *Matter of Yajure-Hurado*, the BIA explicitly held that “Immigration Judges lack
4 authority to hear bond requests or to grant bond to aliens who are present in the United States
5 without admission.” *Id.* In complete contradiction of decades of judicial precedence, the Board
6 stripped Immigration Judges of jurisdiction over bond for anyone who has entered the United
7 States without inspection.

8 34. ICE and EOIR have adopted this position even though federal courts have
9 rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration
10 court stopped providing bond hearings for persons who entered the United States without
11 inspection and who have since resided here, the U.S. District Court in the Western District of
12 Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not §
13 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States.
14 *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025);
15 *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7,
16 2025) (granting habeas petition based on same conclusion).

17 35. Since then, federal courts throughout the United States have agreed with the
18 Western District of Washington and granted preliminary injunctive relief for petitioners who
19 entered the United States without inspections years ago. *Lopez Santos v. Noem et al*,
20 3:25-cv-01193-TAD-KDM (W.D. La. Sept. 11, 2025); *Hernandez Marcelo v. Trump*,
21 3:25-cv-00094, (S.D. Iowa September 10, 2025); *Jose J.O.E. v. Bondi, et al*, 25-cv-3051 (D.
22 Minn August 27, 2025); *Mayo Anicasio v Kramer et. al.*, 4:25-cv-3158, (D. Neb. August 14,
23 2025).

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

4 37. Section 1226(a) applies by default to all persons "pending a decision on whether
5 the [noncitizen] is to be removed from the United States." These removal hearings are held under
6 § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

7 38. The text of § 1226 also explicitly applies to people charged as being inadmissible,
8 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
9 (E)'s reference to such people makes clear that, by default, such people are afforded a bond
10 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress
11 creates "specific exceptions" to a statute's applicability, it "proves" that absent those exceptions,
12 the statute generally applies. *Rodriguez Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove*
13 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

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

17 40. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
18 recently entered the United States. The statute's entire framework is premised on inspections at
19 the border of people who are "seeking admission" to the United States. 8 U.S.C.
20 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
21 applies "at the Nation's borders and ports of entry, where the Government must determine
22 whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583
23 U.S. 281, 287 (2018).

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

4 FACTS

4 42. Petitioner has resided in the United States since approximately 2003 and lives in
5 Woodbridge, Virginia.

6 43. On or about September 10, 2025, Petitioner was arrested by ICE when he was on
7 his way to work. Petitioner was transferred almost 2,000 miles from his family and children, and
8 he is now detained at ERO Camp East Montana ICE Facility in El Paso, Texas. Exs. 2, 3.

9 44. DHS placed Petitioner in removal proceedings before the El Paso Immigration
10 Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being
11 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States
12 without inspection. Ex. 2.

13 45. Mr. Ramirez Rios has four U.S. citizen children, ages 18, 16, 9, and 7 years old.
14 His children depend on him for financial and emotional support. He submits photos showing
15 happier times with his children spent celebrating birthdays, graduation, vacations, and holidays
16 together as a family. Ex. 5.

17 46. Respondents initially issued a Notice to Appear for Petitioner to appear at the
18 Annandale Immigration Court. Ex. 2. However, after issuing that document, Respondents
19 transferred Petitioner to an ICE facility in El Paso, Texas, and also transferred his court
20 proceedings to El Paso. Ex. 3. While Petitioner did request parole from El Paso ICE on October
21 28th, he has not received a response. Ex. 6. However, the transfer of his court proceedings
22 indicate Respondents' intention to detain him for the duration of his proceedings. Because of
23
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1 Respondents' policy, Petitioner cannot request a bond hearing before the Immigration Judge,
2 since the BIA has stripped Immigration Courts of their jurisdiction. *Yajure-Hurtado*, 29 I&N
3 Dec. 216.

4 47. As a result, Petitioner remains in detention. Without relief from this court, he
5 faces the prospect of months, or even years, in immigration custody, separated from his family
6 and community, including his U.S. citizen children.

7 48. Any request for bond from the Immigration Judge is futile because the Board has
8 stripped it of jurisdiction. *Yajure-Hurtado*, 29 I&N Dec. 216. The Immigration Judge is not
9 allowed to hear the case. *Id.* Finally, in the *Rodriguez Vazquez* litigation, where EOIR and the
10 Attorney General are defendants, DOJ has affirmed its position that individuals like Petitioner
11 are applicants for admission and subject to detention under § 1225(b)(2)(A). *See* Mot. to
12 Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6, 2025),
13 Dkt. 49 at 27–31.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

3 50. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
4 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
5 relevant here, it does not apply to those who previously entered the country and have been
6 residing in the United States prior to being apprehended and placed in removal proceedings by
7

1 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
2 § 1225(b)(1), § 1226(c), or § 1231.

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

5 **COUNT II**

6 **Violation of Due Process**

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

9 53. The government may not deprive a person of life, liberty, or property without due
10 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody,
11 detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause
12 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

13 54. Petitioner has a fundamental interest in liberty and being free from official
14 restraint.

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

17 **PRAYER FOR RELIEF**

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

- 19 a. Assume jurisdiction over this matter;
- 20 b. Declare that the actions of Respondents as set forth in Mr. Ramirez Rios’
21 Petition and Motion violate the Fifth Amendment of the United States
22 Constitution, 28 U.S.C. § 2241, the APA, and the INA;

- 1 c. Issue a writ of habeas corpus requiring that Respondents release Petitioner
2 or provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a)
3 within 7 days;
- 4 d. Enjoin Respondents from denying Petitioner’s bond under U.S.C. § 1225(b)(2);
- 5 e. Should the Immigration Judge grant a bond, enjoin Respondents from invoking
6 the auto-stay provision found at 8 C.F.R. § 1003.19(i)(2) during the pendency of
7 any bond appeal; and
- 8 f. Grant any other and further relief that this Court deems just and proper.

7 DATED this 4th of November 2025.

8 /s/ Jennifer Scarborough

9 Law Firm of Jennifer Scarborough
10 P.O. Box 18460
11 Minneapolis, MN 55418
12 Texas State Bar No. 24106401
13 *Attorney for Petitioner*

14 **Verification Pursuant to 28 U.S.C. § 2242**

15 The undersigned counsel submits this verification on behalf of the Petitioner. Undersigned
16 Counsel has discussed with Petitioner the events described in this Petition for Motion for
17 Preliminary Injunction and Temporary Restraining Order and, on the basis of those discussions,
18 verify that the statements in the Petition are true and correct to the best of her knowledge and
19 belief.

20 Date: 4 Nov. 2025

21 /s/ Jennifer Scarborough

1 I certify that I caused a copy of the foregoing

2 **PETITION FOR WRIT OF**
3 **HABEAS CORPUS**

4 to be served on all counsel of record via ECF.

5 Dated this 4th day of November 2025,

6
7 /s/ Jennifer Scarborough

8 Jennifer Scarborough

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