

Hilary Smith
GIBBS HOUSTON PAUW
1000 Second Avenue, Suite 1600
Seattle, WA 98104-1003
(206) 929-3880
hilary.smith@ghp-law.net

DETAINED

Attorney for Petitioner

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON**

RICARDO TELLEZ GOMEZ,

Petitioner,

v.

PAMELA BONDI, United States Attorney
General;
KRISTI NOEM, Secretary of U.S.
Department of Homeland Security;
TODD LYONS, Acting Director, U.S.
Immigration and Customs Enforcements;
LAURA HERMOSILLO, Seattle Field Office
Director, Immigration and Customs
Enforcement;
BRUCE SCOTT, Warden, Northwest ICE
Processing Center;

Respondents.

Case No.: 2:25-cv-2248

PETITION FOR WRIT OF HABEAS
CORPUS PURSUANT TO
28 U.S.C. § 2241

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Ricardo Tellez Gomez is in the physical custody of Respondents at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington. He is unlawfully detained

1 pursuant mandatory detention policies recently adopted by the Department of Homeland Security
2 (DHS) and the Executive Office for Immigration Review (EOIR).

3 2. Petitioner is charged with having entered the United States without admission or parole.
4 See 8 U.S.C. § 1182(a)(6)(A)(i).¹ Based on this allegation, DHS and EOIR deem Petitioner subject
5 to mandatory detention as an “applicant for admission” who is “seeking admission” under 8
6 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.

7 3. DHS and EOIR each have nationwide policies mandating the detention of all persons who
8 entered without admission or parole, regardless of whether that person was apprehended upon
9 arrival. Most recently, on September 5, 2025, in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
10 (BIA 2025), the Board of Immigration Appeals (BIA) held that all persons who have entered the
11 United States without admission or parole are now subject to mandatory detention under §
12 1225(b)(2)(A).

13 4. Petitioner has sought bond under DHS’s and EOIR’s nationwide policy of denying bond
14 to persons like Petitioner.

15 5. In a certified class action pending before this Court, this Court has already declared
16 Respondents’ bond denial policy likely unlawful. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
17 1239 (W.D. Wash. 2025). A motion for summary judgment is pending in that case. However,
18 because of the limitations on injunctive relief at 8 U.S.C. § 1252(f)(1), Petitioner—who is a
19 member of the Bond Denial Class in *Rodriguez Vazquez*—files this case to seek relief in his
20 individual capacity and to ensure that he receives benefit of any declaratory relief that may be
21

22 ¹ Petitioner is also charged with not having a valid entry document at the time of application for
23 admission under 8 U.S.C. § 1182(a)(7)(A)(i)(I) but has not yet conceded to any charge of
removability.

1 issued in *Rodriguez Vazquez*, should Defendants fail to implement such relief with respect to
2 them.

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

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

11 8. Accordingly, Petitioner seeks a writ of habeas corpus. As Petitioner has already received a
12 bond hearing where the IJ denied bond under § 1225(b)(2) but set a bond amount in the alternative,
13 Petitioner seeks an order requiring DHS to immediately release him once bond is posted.

14 **PARTIES**

15 9. Petitioner Ricardo Tellez Gomez was arrested by ICE and is presently detained at the
16 Northwest ICE Processing Center in Tacoma, Washington. He has resided in the United States
17 since continuously since 2010.

18 10. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S.
19 Department of Homeland Security. She is the cabinet-level secretary responsible for all
20 immigration enforcement in the United States and has ultimate custodial authority over Petitioner.

21 11. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the
22 United States. The Immigration Judges who decide removal cases and applications for relief from
23 removal do so as her designees.

12. Respondent Todd Lyons is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement (“ICE”). He is the head of the federal agency responsible for all immigration enforcement in the United States.

13. Respondent Laura Hermosillo is sued in her official capacity as Acting Field Office Director for the Seattle office of Immigration and Customs Enforcement, an agency of the Department of Homeland Security. She is responsible for overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction, such as Petitioner, including detentions, enforcement, and removal operations. She is the immediate legal custodian of Petitioner for purposes of a federal habeas petition.

14. Respondent, Bruce Scott, is sued in his official capacity as the Warden of the Northwest ICE Processing Center, the privately-operated immigration detention center where the Petitioner is being detained. Mr. Scott has immediate physical custody of Petitioner.

JURISDICTION

15. This Court has jurisdiction over this matter under 18 U.S.C. § 1331 (federal question jurisdiction); 28 U.S.C. § 2241 (habeas corpus); and 28 U.S.C. § 1651 (All Writs Act).

16. Further, this Court has jurisdiction under the Suspension Clause of Article I, § 9, cl. 2, of the U.S. Constitution. *See INS v. St. Cyr*, 533 U.S. 289 (2001).

17. No other petitions, appeals, or motions regarding habeas corpus have been filed with any other court.

VENUE

18. Venue in the Western District of Washington is appropriate under 28 U.S.C. § 1391(e)(1) because the Petitioner is currently detained in this judicial district.

19. Venue is further appropriate under 28 U.S.C. § 1391(e)(1) because the Respondents live, work, or operate within this judicial district and because the actions which gave rise to this Petition took place in Tacoma, Washington, which falls within this judicial district.

REQUIREMENTS OF 28 U.S.C. § 2243

20. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

21. 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). “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); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954) (Habeas corpus is “a speedy remedy, entitled by statute to special, preferential consideration to insure expeditious hearing and determination.”).

LEGAL FRAMEWORK

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

23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a)

1 detention are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§
2 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of
3 certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c).

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

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

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

10 27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal
11 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208,
12 Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226 was
13 most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3
14 (2025).

15 28. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in
16 general, people who entered the country without admission or parole were not considered detained
17 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
18 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
19 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

20 29. Thus, in the decades that followed, most people who entered without admission or parole
21 and were placed in standard removal proceedings received bond hearings, unless their criminal
22 history rendered them ineligible. That practice was consistent with many more decades of prior
23 practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing

1 before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-
2 469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously
3 found at § 1252(a)).

4 30. On July 8, 2025, ICE, “in coordination with” the Department of Justice, announced a new
5 policy that rejected this well-established understanding of the statutory framework and reversed
6 decades of practice.

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

13 32. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure Hurtado*.
14 There, the Board held that all noncitizens who entered the United States without admission or
15 parole are considered applicants for admission who are seeking admission and are ineligible for
16 IJ bond hearings.

17 33. Dozens of federal courts have rejected Respondents’ new interpretation of the INA’s
18 detention authorities.

19 34. Notably, long before ICE or the BIA changed its position nationwide, IJs in the Tacoma,
20 Washington, immigration court stopped providing bond hearings for persons who entered the
21 United States without admission or parole and who have since resided here. This Court held that
22 such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to
23

1 noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v.*
 2 *Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

3 35. Since the *Rodriguez Vazquez* preliminary injunction decision, court after court has adopted
 4 the same reading of the INA's detention authorities and rejected ICE's new policy and EOIR's
 5 new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D.
 6 Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025
 7 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB),
 8 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-
 9 02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*,
 10 No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*,
 11 No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez*
 12 *v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025);
 13 *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v.*
 14 *Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo*
 15 *v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez*
 16 *v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*,
 17 No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*,
 18 No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025)
 19 *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug.
 20 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180- DMS-MM, 2025 WL 2549431 (S.D. Cal.
 21 Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL
 22 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL
 23 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).

36. 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.

37. 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].”

38. 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)).

39. 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.

40. 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,

1 the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s
2 borders and ports of entry, where the Government must determine whether a[] [noncitizen]
3 seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

7 42. Petitioner is a class member of the certified Bond Denial Class in *Rodriguez Vazquez v.*
8 *Bostock*, No. 3:25-cv-05240-TMC (W.D. Wash.). That class is defined as comprising: “All
9 noncitizens without lawful status detained at the Northwest ICE Processing Center who (1) have
10 entered or will enter the United States without inspection, (2) are not apprehended upon arrival,
11 (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231
12 at the time the noncitizen is scheduled for or requests a bond hearing.” *Rodriguez Vazquez v.*
13 *Bostock*, 349 F.R.D. 333, 365 (W.D. Wash. 2025).

14 43. On September 30, 2025, this Court issued a final judgment “declar[ing] that Bond Denial
15 Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention
16 under 8 U.S.C. § 1225(b)(2).” *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240- TMC, --- F.
17 Supp. 3d ----, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30, 2025).

18 44. The Court further declared “that the Tacoma Immigration Court’s practice of denying bond
19 to Bond Denial Class members on the basis of § 1225(b)(2) violates the Immigration and
20 Nationality Act.” *Id.*

21 45. Petitioner therefore seeks individual habeas relief as Respondents are bound by the
22 judgment in *Rodriguez Vazquez*, as it has the full “force and effect of a final judgment.” 28 U.S.C.
23 § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and

1 continue to subject Petitioner to unlawful detention despite their clear entitlement to consideration
2 for release on bond as Bond Denial Class members.

3
4 **FACTUAL BACKGROUND**

5 46. Petitioner is a member of the Bond Denial Class as he:

6 (a) does not have lawful status in the United States and is currently detained at NWIPC
7 after being apprehended by ICE on October 13, 2025, *see* Decl. of Hilary Smith, at 10;

8 (b) entered the United States without inspection over fifteen years ago and was not a
9 apprehended upon arrival; *see id.* at 5, 10; and

10 (c) is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

11 47. After apprehending Petitioner on October 13, the DHS placed him in removal
12 proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being admissible
13 under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States with inspection,
14 and under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as someone who, at the time of application for
admission, was not in possession of a valid entry document. *See* Decl. of Hilary Smith, at 8.

15 48. On November 10, 2025, an immigration judge denied Petitioner's bond request based
16 on lack of jurisdiction, finding that Petitioner is subject to mandatory detention under 8 U.S.C. §
17 1225(b)(2)(A). The immigration judge ruled that, in the alternative, if mandatory detention did
18 not apply, she would have set bond at \$8,000. *See id.* at 3-4.

19 49. This Petition has been verified by Petitioner. *See* Verification of Petitioner.
20
21
22
23

CLAIMS FOR RELIEF

**COUNT I
Violation of the INA**

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

51. 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.

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

**COUNT II
Request for Relief Pursuant to Declaratory Relief in *Rodriguez Vazquez***

53. Petitioner incorporates by reference the allegations of fact set forth above.

54. As members of the Bond Denial Class, Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

55. The judgment in *Rodriguez Vazquez* makes clear that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

56. Respondents are parties to *Rodriguez Vazquez* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

1 57. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to
2 mandatory detention under § 1225(b)(2), Respondents violate Petitioner's right under the INA
3 and this Court's judgment in *Rodriguez Vazquez*.

4
5 **COUNT III**
6 **Violation of Due Process**

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

9 59. The government may not deprive a person of life, liberty, or property without due process
10 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 (2001).

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

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

16
17 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

18 62. Petitioner has exhausted all available administrative remedies that can provide the relief he
19 seeks. He requested a custody redetermination hearing and was denied bond, but given an
20 alternative order.

IRREPARABLE INJURY

63. Petitioner has suffered irreparable injury as a result of his detention. He remains in custody and was denied a bond, despite living in the United States for over fifteen years. His physical liberty continues to be restrained, and no just cause for doing so can be specified. "It is well established that the deprivation of constitutional rights' unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)).

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Issue a writ of habeas corpus and order the immediate release of Petitioner upon payment of his alternative bond order;
- (3) Immediately issue an order preventing Petitioner from being transferred to another facility while this petition is being litigated;
- (4) Enjoin Respondents from placing GPS ankle monitors on Petitioner upon his release, absent clear and convincing evidence that Petitioner is a flight risk or a danger to the community and that no other alternatives would mitigate those risks;
- (5) Issue an order providing for an award of attorney's fees and costs; and
- (6) Grant such other relief as may be just and reasonable.

1 Dated: November 11, 2025.

2
3 /s/ Hilary Smith

4 HILARY SMITH, WSBA #60474

5 Attorney for Petitioner

6 Gibbs Houston Pauw

7 1000 Second Avenue, Suite 1600

8 Seattle, WA 98102

9 (206) 929-3880

10 hilary.smith@ghp-law.net