

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Javier MARTINEZ CORREA,

Petitioner,

v.

Kevin RAYCRAFT, Field Office Acting
Director of Enforcement and Removal
Operations, Detroit Field Office, Immigration
and Customs Enforcement; Kristi NOEM,
Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; THE GEO
GROUP INC., facility operators; John DOE,
Warden of North Lake Correctional Facility (or
his/her successors),

Respondents.

Case No. 25-1431

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner Javier MARTINEZ CORREA is in the physical custody of
3 Respondents at the North Lake Correctional Facility. He now faces unlawful detention because
4 the Department of Homeland Security (DHS) and the Executive Office of Immigration Review
5 (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. 8 U.S.C. § 1182(a)(6)(A)(i).

8 3. Based on this allegation in Petitioner's removal proceeding, DHS denied
9 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
10 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
11 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
12 inspection—to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore
13 subject to mandatory detention.

14 4. Petitioner seeks a bond redetermination hearing before an Immigration Judge of
15 the Executive Office for Immigration Review. However, following *Matter of Yajure Hurtado*, 29
16 I&N Dec. 216 (BIA 2025), EOIR now declines jurisdiction to consider bond for individuals
17 deemed “applicants for admission” under § 1225(b)(2)(A). As a result, despite Petitioner's
18 nineteen years of continuous residence in the United States, deep family ties, and lack of danger
19 or flight risk, he remains mandatorily detained without any opportunity for individualized
20 review. This categorical denial of bond authority results in indefinite detention without
21 administrative recourse, raising serious constitutional concerns that warrant this Court's
22 intervention under 28 U.S.C. § 2241.

1 5. 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 6. 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 7. Further, on October 7, 2025, the Northern District of Illinois held that ICE's
11 practice of issuing Form I-200 administrative warrants in the field to make arrests (i.e.,
12 "collateral arrests") is unlawful, rendering all of those arrests warrantless. Accordingly, all of
13 those are subject to the requirements of 8 U.S.C. § 1357(a)(2) and the Nava Warrantless Arrest
14 Policy. *See Castanon Nava v. Dep't of Homeland Sec., No. 1:18-cv-03757, 2025 WL 6324179*
15 *(N.D. Ill. Oct. 7, 2025)*.

16 8. *Nava* emphasizes that community ties (e.g., home, family, employment) weigh
17 against a finding of probable cause that the individual is likely to escape before a warrant could
18 be obtained. And a determination of probable cause can be based only on information known or
19 gathered at the time of arrest. The only consideration against release is the existence of
20 a prior removal order which may be sufficient to establish probable cause that a person would be
21 likely to escape before a warrant could be obtained under § 1357(a)(2).

22 9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released
23 unless Respondents provide a bond hearing under § 1226(a) within fourteen (14) days.
24

JURISDICTION

10. Petitioner is a resident of Illinois, in the physical custody of Respondents. Petitioner is detained at the North Lake Correctional Facility, 1805 W. 32nd Street, Baldwin, MI, 49304.

11. 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).

12. 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

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 Western District of Michigan, the Southern Division, 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 Division of the Western District of Michigan.

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 JAVIER MARTINEZ CORREA is a citizen of Mexico who has been in immigration detention since October 20, 2025. After arresting Petitioner in Illinois, ICE did not set bond; to date, an Immigration Judge has not set bond because he was deemed an “applicant for admission.” Petitioner has resided in the United States since he arrived in or around 2006 with his family.

18. Respondent, Kevin Raycraft, is the Director of the Detroit Field Office of ICE's Enforcement and Removal Operations Division. As such, Kevin Raycraft is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

19. 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.

20. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

1 21. Respondent Pamela Bondi is the Attorney General of the United States. She is
2 responsible for the Department of Justice, of which the Executive Office for Immigration Review
3 and the immigration court system it operates is a component agency. She is sued in her official
4 capacity.

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

8 23. Respondent The Geo Group, Inc. is the private entity under contract with ICE
9 operating the North Lake Correctional Facility, where Petitioner is detained. They have
10 immediate physical custody of Petitioner. They are sued in their official capacity.

11 24. Respondent John Doe (or his/her successors) is employed by The Geo Group, Inc.
12 as Warden of the North Lake Correctional Facility, where Petitioner is detained. He has
13 immediate physical custody of Petitioner. He is sued in his official capacity.

14
15 **LEGAL FRAMEWORK**

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

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

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

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

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

7 30. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
8 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
9 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
10 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1,
11 139 Stat. 3 (2025).

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

17 32. Thus, in the decades that followed, most people who entered without inspection
18 and were placed in standard removal proceedings received bond hearings, unless their criminal
19 history rendered them ineligible. That practice was consistent with many more decades of prior
20 practice, in which noncitizens who were not deemed “arriving” were entitled to a custody
21 hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep.
22 No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority
23 previously found at § 1252(a)).
24

1 33. 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 34. 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 35. In a May 22, 2025, unpublished decision from the Board of Immigration Appeals
11 (BIA), EOIR adopts this same position.² That decision holds that all noncitizens who entered the
12 United States without admission or parole are considered applicants for admission and are
13 ineligible for Immigration Judge bond hearings.

14 36. ICE and EOIR have adopted this position even though federal courts have
15 rejected this exact conclusion. For example, after Immigration Judges in the Tacoma,
16 Washington immigration court stopped providing bond hearings for persons who entered the
17 United States without inspection and who have since resided here, the U.S. District Court in the
18 Western District of Washington found that such a reading of the INA is likely unlawful and that
19 § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the
20 United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash.

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

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

1 Apr. 24, 2025); *see also* *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D.
2 Mass. July 7, 2025) (granting habeas petition based on same conclusion).

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

6 38. Section 1226(a) applies by default to all persons “pending a decision on whether
7 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
8 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

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

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

19 41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
20 recently entered the United States. The statute’s entire framework is premised on inspections at
21 the border of people who are “seeking admission” to the United States. 8 U.S.C.
22 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
23 applies “at the Nation’s borders and ports of entry, where the Government must determine
24

1 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
2 U.S. 281, 287 (2018).

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

6 **FACTS**

7 43. Petitioner has resided in the United States since on or about 2006 and lives in
8 Illinois with his wife and two U.S. citizen children.

9 44. On or about October 20, 2025, Petitioner was detained in Illinois while driving.
10 Prior to getting out of his car, ICE broke his car window and dragged him out. He was processed
11 at the ICE processing facility in Broadview, IL before being transferred to the North Lake
12 Correctional Facility in Michigan. He is being held at the ICE Detention center in Wayne
13 County, Baldwin, MI, operated by The Geo Group, Inc.

14 45. DHS has not placed Petitioner in removal proceedings before the Detroit
15 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*,
16 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States
17 without inspection.

18 46. Petitioner is the father of two U.S. citizen children, ages 12 and 18, who depend
19 on him for emotional and financial support. He last entered the United States on or about 2006 at
20 the age of 24 and has lived continuously in this country for about nineteen years. During that
21 time, he has built a stable family and meaningful ties within his community. Petitioner has
22 maintained consistent employment, paid taxes, and contributed positively through his church and
23 his children’s school activities. He has no criminal history, has complied with all prior
24

1 immigration requirements to the best of his ability, and poses neither a flight risk nor any danger
2 to the community.

3 47. Following Petitioner's arrest and transfer to North Lake Correctional Facility, ICE
4 issued a custody determination to continue Petitioner's detention without an opportunity to post
5 bond or be released on other conditions.

6 48. Petitioner has not had any bond redetermination hearing before an Immigration
7 Judge.

8 49. To date, no Immigration Judge has issued a decision that the court lacks
9 jurisdiction to conduct a bond redetermination hearing because Petitioner was an applicant for
10 admission under § 1225(b)(2)(A).

11 50. As a result, Petitioner remains in detention. Without relief from this court, he
12 faces the prospect of months, or even years, in immigration custody, separated from his children,
13 family, and community.

14 51. Any appeal to the BIA is futile. DHS's new policy was issued "in coordination
15 with DOJ," which oversees the immigration courts. Further, as noted, the most recent
16 unpublished BIA decision on this issue held that persons like Petitioner are subject to mandatory
17 detention as applicants for admission. Finally, in the *Rodriguez Vazquez* litigation, where EOIR
18 and the Attorney General are defendants, DOJ has affirmed its position that individuals like
19 Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A). *See* Mot.
20 to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6,
21 2025), Dkt. 49 at 27–31.

22 **CLAIMS FOR RELIEF**

23 **COUNT I**

Violation of the INA

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

53. 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.

54. Petitioner was subject to an unlawful arrest by ICE-DHS per the requirements of 8 U.S.C. § 1357(a)(2) and is in violation of the INA. See *Nava*, 2025 WL 6324179, (N.D. Ill. Oct. 7, 2025).

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

COUNT II

Violation of Due Process

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

57. 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, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

1 58. Petitioner has a fundamental interest in liberty and being free from official
2 restraint.

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

5
6 **PRAYER FOR RELIEF**

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

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

17 Dated: November 12, 2025

Respectfully Submitted by:

18 /s/ Louise T Carhart

19
20 Kempster, Corcoran, Quiceno &
21 Lenz- Calvo, Ltd.
22 332 S. Michigan Avenue, Suite 1428
23 Chicago, IL 60604
24 (312) 341-9730
Atty. Code: 6343214