

FILED
JAMES J. VILT JR., CLERK
U.S. DISTRICT COURT
W/D OF KENTUCKY
Date: Nov 13, 2025

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF KENTUCKY
OWENSBORO DIVISION

GREGORIO MONTES RAMIREZ,

Petitioner,

v.

CAUSE NO. 4:25CV-143-RGJ

MIKE LEWIS, Jailer, Hopkins County Jail
TODD M. LYONS, Acting Director, U.S.
Immigration and Customs Enforcement;
SANUEL OLSON Chicago Field Office
Director for Detention and Removal
Operations, Immigration & Customs
Enforcement,
KRISTI NOEM, Secretary, U.S. Department
of Homeland Security; and
PAMELA BONDI, Attorney General of the
United States,

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 USC § 2241

Petitioner Gregorio Montes Ramirez, by counsel, Kristin Hoffman, petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. He is currently detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Hopkins County Jail in Madisonville, KY. Petitioner challenges the legality of his detention on statutory and constitutional grounds and seeks immediate release, or in the alternative, an order instructing the Immigration Judge to hold a bond hearing in his case.

INTRODUCTION

Petitioner, Gregorio Montes Ramirez, is a thirty-seven (37) year-old citizen and national of Mexico. He has three (3) U.S. citizen children and has continuously resided in the U.S. since

he entered the U.S. without inspection in May 2005, at the age of 17. Mr. Montes Ramirez applied for adjustment of status with the U.S. Citizenship and Immigration Services (USCIS) in February 2025. In August, he was arrested during a traffic stop in Indianapolis, IN. No charges were filed against Mr. Montes Ramirez; however, ICE took him into custody and detained him, initially in Clay County, Indiana. He has been detained for approximately 3 months and is currently being held without bond at the Hopkins County Jail in Madisonville, KY.

Mr. Montes Ramirez has primary legal custody of his 3 U.S. citizen children and a valid work permit issued by the Department of Homeland Security (DHS). His detention is resulting in extreme psychological hardship for Mr. Montes Ramirez, and emotional, physical and financial hardship on his children. Mr. Montes Ramirez suffers lost wages and time away from his children every day he is detained. Legal fees that should be used to present his case to the immigration court are being diverted to his release from detention which is frustrating his ability to meet with counsel.

DHS and the immigration judge's refusal to grant a bond for Mr. Montes Ramirez is contrary to the statutory framework of the Immigration and Nationality Act (INA), controlling precedent, and the requirements of the Due Process Clause. District courts across the country, including the Western District of Kentucky, have rejected DHS's attempt to treat noncitizens arrested inside the United States as 'arriving aliens' subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *See, e.g. Alonso v. Tindall*, No. 3:25-cv-652, 2025 U.S. Dist. LEXIS 217084 (W.D. Ky. Nov. 4, 2025); *Patel v. Tindall*, No. 3:25-cv-373-RGJ 2025 U.S. Dist. LEXIS 196325, 2025 WL 2823607 (W.D. Ky. Oct. 3, 2025); *Ballestros v. Noem*, No. 3:35-cv-594-RGJ, 2025 U.S. Dist. LEXIS 200246 (W.D. Ky. Oct. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 U.S. Dist. LEXIS 175767 (E.D. Mich. Sep. 9, 2025); *Sampiao v. Hyde*, No. No. 1:25-cv-

11981-JEK, 2025 U.S. Dist. LEXIS 175513 (D. Mass. Sept. 9, 2025) (First Circuit district court); *Zumba v. Bondi*, No. 25-cv-14626 (KSH), 2025 U.S. Dis. LEXIS 167666 (D.N.J. Aug. 28, 2025) (Third Circuit district court); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428, 2025 U.S. Dist. LEXIS 165015 (D. Md. Aug. 24, 2025) (Fourth Circuit district court); *Maldonado v. Olson*, No. 25-cv-3142 (SRN/SGE), 2025 U.S. Dist. LEXIS 158321, (D. Minn. Aug. 15, 2025) (Eighth Circuit district court); *Zaragoza Mosqueda v. Noem*, No. 5:25-cv-02304 CAS (BFM), 2025 U.S. Dist. LEXIS 174828 (C.D. Cal. Sept. 8, 2025) (Ninth Circuit district court); *Gamez Lira v. Noem*, No. 1:25-cv-00855-WJ-KK, 2025 U.S. Dist. LEXIS 173818 (D.N.M. Sept. 5, 2025) (Tenth Circuit district court). Mr. Montes Ramirez's detention is unlawful and immediate habeas relief is required.

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. §§ 2241 and 1331.
2. Venue is proper in the Western District of Kentucky because Petitioner is detained at the Hopkins County Jail in Madisonville, KY, which lies within this District.

PARTIES

3. Petitioner: Gregorio Montes Ramirez, a native and citizen of Mexico, detained at Hopkins County Jail in Kentucky.
4. Respondents:
 - a. Mike Lewis as the Jailer for the Hopkins County Jail is the immediate custodian of Petitioner. He is named in his official capacity.

- b. Todd M. Lyons is the Acting Director, Immigration and Customs Enforcement (“ICE”). As such, he is a legal custodian of Petitioner. He is named in his official capacity.
- c. Samuel Olson is the Acting Director, Chicago Field Office, Enforcement and Removal Operations, ICE. As such, he is a legal custodian of Petitioner. He is named in his official capacity.
- d. Kristi Noem, Secretary of the U.S. Department of Homeland Security (“DHS”), is responsible for the enforcement of federal immigration laws codified in Title 8 of the United States Code. She is a legal custodian of Petitioner. She is named in her official capacity.
- e. Pamela Bondi, Attorney General of the United States, is responsible for the administration of immigration courts and the Board of Immigration Appeals (BIA) and thus exercises statutory authority over custody determinations under 8 U.S.C. § 1226(a) and related provisions. She is named in her official capacity.

FACTUAL ALLEGATIONS

- 5. Petitioner, Gregorio Montes Ramirez, a citizen of Mexico, entered the U.S. without inspection in May 2005 at the age of 17 and has lived continuously in Indiana for two decades. Ex. A.
- 6. Mr. Montes Ramirez was in an abusive relationship. His ex-wife, a U.S. citizen, has a domestic violence conviction against him that occurred in the presence of their children. Mr. Montes Ramirez has primary physical custody of his 3 U.S. citizen children ages 18, 10 and 7. *Id.* at 22-35.

7. Mr. Montes Ramirez submitted a “VAWA self-petition” as an abused spouse of a U.S. citizen pursuant to INA 204(a)(1)(A)(iii); 8 C.F.R. 204.2(i)(1)(iv) and an application for adjustment of status with USCIS in February 2025. The USCIS has since issued him a prima facie eligibility determination and a work authorization document. *Id.* at 12-13.
8. Mr. Montes Ramirez was placed in ICE custody on August 11, 2025, after he was arrested during a traffic stop in Indianapolis, IN. No state criminal charges were filed against Mr. Montes Ramirez. He is currently detained at the Hopkins County Jail in Madisonville, KY where he has been held since August 28, 2025, after being transferred from Clay County, Indiana. *Id.* at 83; 77-78.
9. Upon his release from Indianapolis police, ICE arrested Mr. Montes Ramirez and served him with Form I-200, a Warrant for Arrest of Alien citing authority under sections 236 and 287 of the INA. *Id.* at 83.
10. When ICE apprehended Mr. Montes Ramirez, he was inside the United States, not at a port of entry. *Id.*
11. ICE initiated removal proceedings against Mr. Montes Ramirez by filing a Form I-862, Notice to Appear (NTA) and he was placed into removal proceedings under 8 U.S.C. § 1229a. *Id.* 79 – 82.
12. The NTA charged Mr. Montes Ramirez as “an alien present in the United States who has not been admitted or paroled” and subject to removal pursuant to INA § 212(a)(6)(A)(i) (an alien present in the U.S. without being admitted or paroled) and INA § 212(a)(7)(i)(I) (an immigrant who, at the time of application for admission, is not in possession of a valid unexpired visa or other entry document). *Id.*

13. DHS then denied Mr. Montes Ramirez's release on bond based on his status as an alien who has not been admitted or paroled into the U.S.
14. An IJ denied Mr. Montes Ramirez's request for bond redetermination on September 25, 2025, stating that he lacked jurisdiction to grant bond under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (holding that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are present in the United States without admission.") *Id.* at 1-4.
15. It is DHS's novel position that due to the manner with which Mr. Montes Ramirez entered the U.S. approximately 20 years ago, he should be detained without bond while his VAWA petition is pending. ICE's new position is an abrupt departure from decades of legal precedent; it ignores due process requirements and extreme USCIS processing delays, and it completely disregards the extreme hardship on Mr. Montes Ramirez's U.S. citizen children, the financial hardship imposed on Mr. Montes Ramirez, and the negative impact detention has had and will continue to have on his ability to present his claims for relief to the Immigration Judge.
16. Although VAWA self-petitioners are immediately eligible to adjust their status and obtain a "Green Card," Mr. Montes Ramirez's I-360 self-petition is subject to a 44-month processing period due to a backlog of cases caused by staffing shortages within the agency-- not congressional limits on visa availability. *Id.* at 84.
17. DHS argues that Mr. Montes Ramirez is detained under § 1225(b)(2)(A) and is therefore subject to mandatory detention as an "arriving alien."
18. DHS's position has been repeatedly rejected by courts across the country. Decisions in multiple jurisdictions have held that when a noncitizen who entered without inspection is

arrested inside the United States and placed into removal proceedings under 8 U.S.C. § 1229a, custody authority lies under 8 U.S.C. § 1226(a), not § 1225(b)(2). *See, e.g., Barrera v. Tindall*, No. 3:25-cv-541-RGJ, 2025 2025 LX 435572 (W.D. Ky. Sep. 19, 2025); *Pizarro Reyes v. Raycraft*, 2025 U.S. Dist. LEXIS 175767, 2025 WL 2609425 (E.D. Mich. Sep. 9, 2025); *Lopez-Campos v. Raycraft*, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379 (E.D. Mich. Aug 29, 2025); *Maldonado v. Olson*, 2025 U.S. Dist. LEXIS 158321, 2025 WL 2374411 (D. Minn. Aug. 15, 2025).

19. Title 8 of the United States Code establishes three distinct detention provisions:

- a. § 1225 – governs inspection and admission at the border.
- b. § 1226 – governs detention of individuals arrested in the interior pending § 1229a proceedings.
- c. § 1231 – governs post-final order detention.

LEGAL FRAMEWORK

20. The Supreme Court has repeatedly recognized the distinct statutory schemes governing immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226 governs ‘certain aliens already in the country,’ while § 1225 applies to applicants for admission at the border); *Johnson v. Guzman Chavez*, 594 U.S. 523, 532–33 (2021) (distinguishing detention authority under §§ 1226 and 1231).

21. Applying § 1225(b)(2) to Petitioner would collapse the distinct statutory schemes Congress enacted and render § 1226(a) superfluous. Courts have rejected DHS’s attempt to erase these statutory distinctions. *See Barrera v. Tindall*, No. 3:25-cv-541-RGJ, 2025 2025 LX 435572 (W.D. Ky. Sep. 19, 2025) (holding that an application of § 1225(b)(2) to

interior arrests would not only disregard the statutory scheme and ignore the titles to each section, but it would also render § 1226(c)(1)(E)'s criminal-conduct criterion superfluous). See also *Maldonado v. Olson*, No. 25-cv-3142 (SRN/SGE), 2025 LX 349096, at 33 (D. Minn. Aug. 15, 2025) (rejecting DHS's one-size-fits-all reading of § 1225(b)(2) as contrary to canons of construction and concluding it would render § 1226 superfluous).

CLAIMS FOR RELIEF

Count I – Statutory Violation (8 U.S.C. § 1226(a))

22. Petitioner restates and realleges all paragraphs as if fully set forth herein.
23. The statutory scheme governing immigration detention is clear. Congress created three distinct detention authorities:
 - a. 8 U.S.C. § 1225 governs noncitizens seeking admission at the border and provides for mandatory detention during inspection.
 - b. 8 U.S.C. § 1226 governs detention of noncitizens arrested within the United States and placed in removal proceedings under 8 U.S.C. § 1229a.
 - c. 8 U.S.C. § 1231 governs detention following the entry of a final order of removal. See *Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (distinguishing detention statutes and clarifying that § 1226 governs “certain aliens already in the country,” while § 1225 applies to those seeking initial admission); *Johnson v. Guzman Chavez*, 594 U.S. 523, 532–33 (2021).
24. Petitioner was arrested inside the United States, issued a Notice to Appear charging him as an alien present in the United States who has not been admitted or paroled, and placed

him into removal proceedings under 8 U.S.C. § 1229a. By statute, his detention is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2).

25. Courts have found DHS's effort to apply 8 U.S.C. § 1225(b)(2)(A) to individuals apprehended inside the United States and placed in removal proceedings to be a novel theory that finds little support in the statute. In *Jimenez v. Kramer*, the court observed that DHS charged the petitioner as "an alien present in the United States who has not been admitted or paroled," not as an "arriving alien," and that the Notice to Appear itself advised her she could seek immigration judge custody review; a procedure available under § 1226, but not under § 1225(b)(2). No. 4:25CV3162, 2025 LX 377715, at 6-7 (D. Neb. Aug. 14, 2025). Other courts have explained that the plain text of § 1226(a) sets out the default detention rule for noncitizens already present, while § 1225(b)(2) applies to those seeking admission at the time of inspection. *See, e.g., Maldonado v. Olson*, No. 25-cv-2674, 2025 U.S. Dist. LEXIS 158321, at 28–32 (D. Minn. Aug. 15, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486, 2025 U.S. Dist. LEXIS 169423, at 17-21 (E.D. Mich. Aug. 29, 2025). These decisions recognize that while DHS's reading has been advanced in recent litigation, it stretches § 1225(b)(2) beyond the limits Congress intended.
26. Applying § 1225(b)(2) to Petitioner renders § 1226(a) superfluous, a result inconsistent with basic rules of statutory construction. *Maldonado*, 2025 U.S. Dist. LEXIS 349096, at 33; *Sampiao*, 2025 U.S. Dist. LEXIS 175513, at 14–18.
27. Because Petitioner's detention arises under § 1226(a), he is entitled to release on bond absent a finding he is a danger or flight risk.

Count II – Fifth Amendment Due Process

28. Petitioner restates and realleges all paragraphs as if fully set forth herein.
29. The Due Process Clause of the Fifth Amendment provides that “[n]o person shall ... be deprived of life, liberty, or property, without due process of law.” U.S. Const. amend. V. The Supreme Court has long recognized that “[f]reedom from imprisonment -- from government custody, detention, or other forms of physical restraint -- lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This protection extends to all noncitizens, including those present without authorization. *Id.* at 693.
30. Even where detention is statutorily authorized, it must bear a reasonable relation to its purpose. See *Demore v. Kim*, 538 U.S. 510, 527 (2003) (upholding mandatory detention of certain criminal noncitizens only because it was closely tied to removal proceedings and generally brief); *Zadvydas*, 533 U.S. at 690 (detention must not be arbitrary or indefinite).
31. Petitioner’s ongoing detention, without a determination of whether he is a danger or flight risk, is arbitrary and unconstitutional. The government has not provided any individualized justification for Mr. Montes Ramirez’s continued detention other than the determination that he is an arriving alien subject to mandatory detention.
32. Courts in this and other circuits have recognized that prolonged or unjustified detention under § 1226(a) without meaningful review is unconstitutional. See, e.g., *Hulke v. Schmidt*, 572 F. Supp. 3d 593, 601–02 (E.D. Wis. 2021) (joining the “growing chorus of district courts” granting habeas where government failed to justify continued detention); *Ruderman v. Kolutwenzew*, 459 F. Supp. 3d 1123, 1136–37 (C.D. Ill. 2020) (holding prolonged detention under § 1225(b) without individualized review unconstitutional);

Gamez Lira v. Noem, 1:25-cv-00855-WJ-KK, 2025 U.S. Dist. LEXIS 173818, at 7–8 (D.N.M. Sept. 5, 2025) (granting TRO; holding that DACA recipient’s detention violated substantive and procedural due process).

33. Because Petitioner has been denied an individualized bond determination and remains detained without lawful justification, his detention violates his substantive and procedural due process rights under the Fifth Amendment.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court:

- A. Issue a writ of habeas corpus ordering his immediate release from custody; or, in the alternative,
- B. Order Respondents to show cause why the writ should not be granted within three days and set a hearing on this petition within five days of the return, as required by 28 U.S.C. § 2243;
- C. Order the IJ to hold a bond hearing within the next five calendar days;
- D. Declare that Petitioner’s detention is governed by 8 U.S.C. § 1226(a) and that DHS’s reliance on § 1225(b)(2)(A) is unlawful;
- E. Declare that Petitioner’s detention violates the Due Process Clause of the Fifth Amendment;
- F. Award attorney’s fees and costs under the Equal Access to Justice Act; and
- G. Grant any further relief the Court deems just and proper.

Dated: November 13, 2025



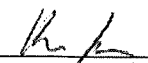
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Attorney for Petitioner

Verification by Someone Acting on Petitioner's Behalf Pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I and others working under my supervision have discussed with Petitioner the events described in this Petition. I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus, including the statements regarding Petitioner's pending VAWA self-petition, are true and correct to the best of my knowledge.



Kristin Hoffman

Date: Nov. 13, 2025