UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

FRANLLY ALEJANDRO PARRA OCANTO.

Petitioner,

Case No. 1:25-cv-1447

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

ROBERT LYNCH, Acting Field Director for U.S. Immigration and Customs Enforcement, Detroit Field Office, in his official capacity; KRISTI NOEM, Secretary, U.S. Department of Homeland Security; PAMELA BONDI, U.S. Attorney General.

Respondents.

INTRODUCTION

1. This petition arises from the sudden and inexplicable re-detention of Petitioner by ICE agents on September 24, 2025.
2. This petition further arises from the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.
3. Petitioner is a citizen of Venezuela and resident of Chicago, Illinois who was arrested by ICE and is currently detained in Baldwin, Michigan at the privately owned GEO North Lake detention facility.
4. Petitioner was previously detained and paroled into the country in October 2024 when he

arrived in the United States.

5. Petitioner was subsequently re-detained on September 24, 2025, without notice or an opportunity be heard.
6. Petitioner is statutorily entitled to a bond hearing before an Immigration Judge (IJ) but will not receive one or be released on bond because of a new policy and legal interpretation by ICE and the Department of Justice.
7. As a result, Petitioner will remain in mandatory detention. Absent relief from this Court, he faces the prospect of months or years in immigration custody, separated from his family and community, all while being deprived an individualized hearing justifying his detention in violation of the INA and Due Process.
8. Respondents' new legal interpretation, which has caused Respondent to be detained without bond, is plainly contrary to the statutory framework of the INA and contrary to both agency regulations and decades of consistent agency practice applying § 1226(a) to people like Petitioner. It also violates his right to due process by depriving him of his liberty without any consideration of whether such a deprivation is warranted.
9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released from custody and be provided with notice and an opportunity to be heard before being re-detained.
10. Or, in the alternative, that Petitioner be released unless Respondents provide him a bond hearing under § 1226(a) within 3 days.

JURISDICTION

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. Venue is proper in the Western District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained at the direction, and is in the immediate custody, of Respondent Robert Lynch. *See Roman v. Ashcroft*, 340 F.3d 314, 320-21 (6th Cir. 2003).

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 and relevant facts occurred in this District.

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 Franlly Alejandro Parra Ocanto is a citizen of Venezuela and resident of Chicago, Illinois. He was arrested by ICE in Chicago on September 24, 2025, outside of his home.

18. Respondent Robert Lynch is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Director Lynch 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 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 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 (EOIR) and the immigration system it operates is a component agency. She is sued in her official capacity.

FACTS

21. Petitioner Freddy Puerta Marin is a citizen of Venezuela and lives with his wife in Chicago, Illinois. He was arrested by ICE in Chicago on September 24, 2025, outside of his home.

22. Petitioner has work authorization and is the main source of support for his family.

23. Petitioner arrived in the United States on or about October 24, 2024. He was detained and charged as an arriving noncitizen not in possession of proper travel or entry documents under 8 U.S.C. § 1182(a)(7)(A)(i)(I).

24. He was subsequently paroled into the United States under 8 U.S.C. § 1182(d)(5).

25. Petitioner is not flight risk nor a danger to his community.

LEGAL FRAMEWORK

A. Petitioner is Not an Arriving Alien Seeking Admission, so Mandatory Detention Does Not Apply to Him

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

27. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained but are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d).[1] *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings").

28. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1),

[1] Section § 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. § 1226(c). That exception is not relevant here – Petitioner has no criminal record.

and other recent arrivals seeking admission under § 1225(b)(2). *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioner.

29. Third, the INA also provides for detention of noncitizens who have already been ordered removed, *see* 8 U.S.C. § 1231(a)–(b). Section 1231 is not relevant here.

30. This case concerns Respondents' policy as applied towards individuals like Petitioner – namely that he is subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a).

31. 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).

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 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).

34. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States.

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). *See Jennings*, 583 U.S. at 287 (explaining 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.").

36. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people, like Petitioner, who have already entered and were residing in the United States at the time they were apprehended by immigration authorities, even though they initially sought admission prior to their detention.

37. Petitioner is entitled to a bond hearing before an immigration judge where the government bears the burden of proof by clear and convincing evidence that he is a flight risk or danger to the community. *See, e.g., M.T.B. v. Byers*, Civil Action No. 2: 24-028-DCR, 2024 U.S. Dist. LEXIS 148118, at *11 (E.D. Ky. Aug. 20, 2024) (government should bear burden of proof at § 1226(a) bond hearing); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 U.S. Dist. LEXIS 188232, at *35 (W.D. Tex. Sep. 21, 2025) ("vast majority"—an "overwhelming consensus"—of courts have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk.).

B. Petitioner's Re-Detention Violates the Fifth Amendment

38. Individuals who have been conditionally released from detention have a protected interest in their "continued liberty." *Herrera v. Tate*, No. H-25-3364, 2025 U.S. Dist. LEXIS 189999, at *31 (S.D. Tex. Sep. 26, 2025) (quoting *Young v. Harper*, 520 U.S. 143, 147, 117 S. Ct. 1148, 137 L. Ed. 2d 270 (1997).

39. Petitioner's re-detention, almost a year after being paroled into the United States from an initial detention, was without prior notice, a showing of changed circumstances, or a meaningful opportunity to object, and therefore he was not afforded the procedural requirements of the Fifth Amendment. *See, e.g., Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 U.S. Dist. LEXIS 156344, at *36 (D. Ariz. Aug. 11, 2025); *Rosales-Garcia v. Holland*, 322 F.3d 386, 409 (6th Cir. 2003) ("Excludable aliens—like all aliens—are clearly protected by the Due Process Clauses of the Fifth and Fourteenth Amendments."), *citing Yick Wo v. Hopkins*, 118 U.S. 356, 6 S. Ct. 1064, 30 L. Ed. 220 (1886).

40. Due process then "requires a hearing before an immigration judge before re-detention. *Mejia v. Woosley*, Civil Action No. 4:25-cv-82-RGJ, 2025 U.S. Dist. LEXIS 203256, at *11 (W.D. Ky. Oct. 15, 2025) (internal citation and internal quotation marks omitted).

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

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

42. 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.

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

COUNT II
Violation of Due Process

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

45. 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).

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

47. Petitioner's re-detention without a pre-arrest hearing violates his right to due process.

48. The government's detention of Petitioner 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, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents release Petitioner from custody immediately and provide notice and a hearing before an immigration judge prior to re-detaining Petitioner;

c. Or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 3 days where the government bears the burden of proof by clear and convincing evidence that Petitioner is a flight risk or danger to the community;

d. Enjoin Respondents from transferring the Petitioner from the jurisdiction of this District pending these proceedings,

e. Declare that 8 U.S.C. § 1226(a)—and not 8 U.S.C. § 1225(b)(2)(A) — is the appropriate statutory provision that governs Petitioner detention and eligibility for bond because he is not a recent arrival "seeking admission" to the United States, and instead was already residing in the United States when he was apprehended;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

Dated: November 13, 2025

Respectfully submitted,

/s/ Michael Drew

Neighborhood Legal, LLC
20 N. Clark Street #3300
Chicago, IL 60602
Tel. (773) 505-2410
Email: mwd@neighborhood-legal.com

Attorneys for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have either independently confirmed the events described in this Petition and Complaint or discussed the events with Petitioner's wife. On the basis of those discussions and my own investigation, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

/s/ Michael Drew

Attorney for Petitioner