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IN THE UNITED STATES DISTRICT COURT

IN AND FOR WESTERN DISTRICT COURT OF WASHINGTON

M.S.G.,	)	File No. 2:25-cv-2308
	)	
Petitioner,	)	
	)	Agency No.
vs.	)	
	)	
LAURA HERMISILLO, Seattle Field Office	)	
Acting Director, U.S. Immigration and Customs	)	PETITION FOR HABEAS
Enforcement and Removal Operations, KRISTI	)	CORPUS
NOEM, Secretary of Homeland Security,	)	
PAMELA BONDI, Attorney General, TODD	)	ORAL ARGUMENT
LYONS, Acting Director of Immigration and	)	REQUESTED
Customs Enforcement, U.S. DEPARTMENT	)	
OF HOMELAND SECURITY, U.S.	)	Expedited hearing requested
IMMIGRATION AND CUSTOMS	)	
ENFORCEMENT, and U.S. DEPARTMENT	)	
OF JUSTICE	)	
	)	
Respondents.	)	

For his complaint against respondents, petitioner alleges as follows.

JURISDICTION AND VENUE

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

2. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

3. In addition, "a federal court always has jurisdiction to determine its own jurisdiction," including its own subject-matter jurisdiction. *Brownback v. King*, 592 U.S. 209, 218-19 (2021) (quoting *United States v. Ruiz*, 536 U.S. 622, 628 (2002)).

4. To give a court a reasonable opportunity to determine whether it has subject-matter jurisdiction and whether venue is proper in a district, and if so to consider the validity of a habeas petition, a court may order the preservation of the status quo. See *United States v. United Mine Workers of Am.*, 330 U.S. 258, 293 (1947) ("[T]he District Court ha[s] the power to preserve existing conditions while it ... determine[s] its own authority to grant injunctive relief," unless the assertion of jurisdiction is frivolous.).

5. Venue is proper because petitioner is now in custody in Tacoma, Washington and because a substantial part of the events giving rise to his claims occurred in this district. 28 U.S.C. § 1391(e). For these same reasons, divisional venue is proper under Local Rule 3(d) and 3(e) as well as Local Rule 100.

THE PETITIONER

6. Petitioner is a resident of the state of Oregon, but is being detained in Tacoma, WA at the immigration detention center located at 1623 E J St, Tacoma, WA 98421. Petitioner is a citizen of Mexico.

7. Petitioner is aware that the Court prefers the use of Form AO-242 for the filing of a Petition for Habeas Corpus. However, that form did not have sufficient space to detail Petitioner's claim. Petitioner, as required by LCR 100, is following the format of the standardized form and providing all relevant information requested on Form AO-242.

CUSTODY

8. Petitioner was arrested by agents of the respondents on Sunday, November 16, 2025, at about 10:00a.m. and is in Respondent's actual physical custody at the time of the filing of this petition.

PROCEEDING ANONYMOUSLY

9. Petitioner seeks leave to proceed anonymously because public identification creates a risk of retaliatory physical harm due to his status as a detained immigrant in the United States, and the nature of his claim is sensitive and highly personal. See *Does I thru XXIII v. Advanced Textile Corp.*, 214 F.3d 1058, 1068 (9th Cir. 2000).

10. Petitioner will provide his name to respondents under seal or other appropriate means of communication under the circumstances of this case.

RESPONDENTS

11. Respondent LAURA HERMISILLO is the Field Office Director for the Seattle

Field Office, Immigration and Customs Enforcement and Removal Operations ("ICE"). The Seattle Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens.

12. The Seattle Field Office's area of responsibility includes Alaska, Oregon, and Washington. Consequently, respondent LAURA HERMISILLO is the immediate legal custodian of petitioner.

13. Respondent KRISTI NOEM is the Secretary of Homeland Security and is responsible for the actions of that department, its subagencies, officers and personnel.

14. Respondent PAMELA BONDI is the Attorney General of the United States and has responsibility for the conduct and operations of the Department of Justice and all of its officers and personnel, including the Executive Office for Immigration Review.

15. Respondent TODD LYONS is the Acting Director of ICE, and responsible for the means by which the immigration laws of the United States are enforced.

16. Respondent U.S. DEPARTMENT OF HOMELAND SECURITY is an agency of the United States with responsibility for the enforcement of the nation's immigration laws. It is under the direction of respondent KRISTI NOEM.

17. Respondent U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT is an agency of respondent U.S. DEPARTMENT OF HOMELAND SECURITY and is under the direction of respondent TODD LYONS.

18. Respondent U.S. DEPARTMENT OF JUSTICE is an agency of the United States and is under the direction of respondent PAMELA BONDI.

19. All individual defendants are sued in their official capacities.

FIRST CLAIM FOR RELIEF (PETITION FOR WRIT OF HABEAS CORPUS)

20. Petitioner is a citizen of Mexico who entered the U.S. on or around May 23, 2003. Petitioner was previously granted Deferred Action for Childhood Arrivals (“DACA”). However, that status has lapsed. Petitioner has only one entry into the United States. Petitioner is married to a U.S. citizen and the marriage occurred on September 25, 2025. Petitioner and his spouse also care for Petitioner’s spouse’s young sister who is nine-years old. Petitioner and his spouse have cared for this little girl for almost her entire life. Petitioner works in the roofing and construction industry to support his family. He is employed with Sankoz Corporation and has worked there for approximately ten years. s.

21. On the morning of the arrest, Petitioner went to pick up breakfast for his family. Petitioner was detained by multiple immigration agents in or around Gresham, Oregon. Petitioner was briefly transferred to the I.C.E. location in Portland, Oregon before being transferred to the Northwest Detention Center (NWDC) in Tacoma, WA. While at the Portland ICE location, Petitioner was told he could either sign a form allowing him to be removed voluntarily or he would be detained in immigration custody. Petitioner is currently being detained at the NWDC in Tacoma, WA.

22. As of the date of this filing, no hearing has been scheduled in Petitioner's case.

23. Respondents will allege that Petitioner is not eligible for a bond hearing before the Immigration Court under 8 U.S.C. 1225(b)(2). Respondents will assert this even though detention should be and is governed by 8 U.S.C. 1226(a). This is currently the practice at the Immigration Court in Tacoma, WA. Therefore, as the Immigration Court in Tacoma, WA is finding nearly all detainees subject to mandatory detention, filing a request for a bond hearing without a federal court order would be futile. Petitioner, through counsel, will further brief this distinction, as ordered by the Court.

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

25. In the multiple decades that followed, most people who entered without admission or parole and were placed in standard removal proceedings received bond hearings in the normal course of proceedings, unless their criminal history rendered them ineligible under another provision of the INA. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8

U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

26. On July 8, 2025, ICE, “in coordination with” the Department of Justice, announced a new policy that rejected this well-established implementation of the clear statutory framework and reversed decades of practice for detained cases.

27. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without admission or parole shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and are subject to mandatory detention under § 1225(b)(2)(A). The policy applies without regard to when or where a person is apprehended, and affects those who have resided in the United States for months, years, and even decades. In the instant case, it is being applied to the Petitioner who was brought to the U.S. as a child.

28. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There, the Board held that all noncitizens who entered the United States without admission or parole are considered applicants for admission who are seeking admission and are ineligible for IJ bond hearings regardless of when or where the noncitizen actually entered the U.S.

29. Dozens of federal courts have rejected Respondents’ new interpretation of the INA’s detention policies and authorities. Further, before ICE or the BIA changed its position nationwide, Immigration Judges in the Tacoma, Washington Immigration Court

stopped providing bond hearings for persons who entered the United States without admission or parole and who have since resided in the U.S. This Court held that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

30. Since the *Rodriguez Vazquez* preliminary injunction decision, multiple courts in multiple jurisdictions have adopted the same reading of the INA's detention authorities and rejected ICE's new policy and EOIR's new interpretation. See, e.g., *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v.*

Noem, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 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).

31. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it blatantly defies the INA and decades of the INA’s application and interpretation. It shows a wholesale disregard for established precedent. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions dictates that § 1226(a), not § 1225(b), applies to people like Petitioner. *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 “decide the inadmissibility or deportability of a [noncitizen].”

32. 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 entitled to 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)). Section 1226, therefore, leaves no room for interpretation and applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

33. In contrast to the above cited provisions, § 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States and are apprehended near the border. 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). The Supreme Court has explained 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.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Therefore, the mandatory detention provision of § 1225(b)(2) does not

apply to Petitioner, who has already entered the U.S. and was residing in the United States for decades before immigration authorities detained him.

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

35. Further, Respondents DHS and ICE have a pattern and practice transferring detained immigrants out of the NWDC and to states, such as Louisiana and Georgia unless a federal court intervenes in advance of the transfer.

36. Consequently, petitioner's detention is unlawful, and a writ of habeas corpus should be issued.

37. Petitioner is detained and submitting this petition through counsel. Undersigned counsel confirms that Petitioner is aware of the contents of this Petition.

38. Wherefore petitioner prays for relief as follows in that this court:

- a. Assume jurisdiction over this matter.
- b. Order Respondents to show cause within three days why this petition should

not be granted.

c. Immediately bar respondents from removing petitioner from the District of Western Washington absent further order of this court. In addition to serving the named Respondents, Petitioner, through counsel, will contact the Attorney General's office via email to notify of this petition.

d. Issue a Writ of Habeas Corpus ordering Petitioner's release from custody.

e. Award Petitioner his attorney's fees and costs; and

f. Grant any other relief that the Court deems just and proper.

Dated this _____ day of _____ 2025.

/s/ Shara Svendsen

Shara Svendsen
WSBA #38151
Attorney for petitioner