

IN THE UNITED STATES DISTRICT COURT  
FOR THE NORTHERN DISTRICT OF TEXAS  
DALLAS DIVISION

Efrain Abiu MIJANGO RIVAS, )  
 )  
 Petitioner, )  
 )  
 v. )  
 )  
 WARDEN of Prairieland Detention Center in his )  
 official capacity; Josh JOHNSON in his official )  
 capacity as ICE Dallas Field Office Acting Director; )  
 Todd LYONS, in his official capacity as Acting )  
 Director of Immigration and Customs Enforcement; )  
 Kristi NOEM in her official capacity as Secretary )  
 of the U.S. Department of Homeland Security; and )  
 Pam BONDI, in her official capacity as Attorney )  
 General of the United States; )  
 )  
 Respondents. )  
 )  
 \_\_\_\_\_ )

Case No. \_\_\_\_\_

PETITION FOR WRIT OF  
HABEAS CORPUS

INTRODUCTION

1. Petitioner Efrain Abiu Mijango Rivas is in the physical custody of Respondents at the Prairieland Detention Center in Alvarado, Texas. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Department of Justice (DOJ) have concluded Petitioner is subject to mandatory detention.
2. Petitioner is charged with, inter alia, having entered the United States without inspection (i.e. without being admitted or paroled). 8 U.S.C. § 1182(a)(6)(A)(i). Based on this allegation, Respondents have concluded that they do not have jurisdiction to provide Petitioner a bond hearing.
3. On July 8, 2025, the DHS, in collaboration with the DOJ, issued a new policy instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone

inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without inspection—to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.

4. Before this new policy was announced, the Executive Office for Immigration Review (EOIR), which administers the Immigration Courts, through the Board of Immigration Appeals (BIA), components of the DOJ, had already started laying the groundwork for this abrupt policy change. On May 15, 2025, the BIA issued a decision in which it held that a person who enters without inspection and is arrested and detained without a warrant while arriving in the United States and subsequently placed in removal proceedings is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and is ineligible for any subsequent release on bond.
5. On September 5, 2025, the BIA finished building the edifice of Respondents’ unprecedented and illegal mandatory detention scheme by turning the DHS policy into binding precedent by issuing a decision which ruled that the Immigration Judges of the EOIR did “not have the authority” to hear any bond case for anyone who had entered the United States without inspection.
6. Because of these BIA decisions and the DHS policy, Petitioner cannot request a bond hearing before the Immigration Court of the EOIR. An Immigration Judge has no jurisdiction to hear the case.
7. The Respondents have concluded that despite Respondents allowing Petitioner to enter the United States in January 2019, not opposing dismissal or removal proceedings in August 2024 under prosecutorial discretion, and issuing an I-200 Warrant for Arrest of Alien on

November 4, 2025, he is nevertheless an “applicant for admission” who is “seeking admission” and subject to mandatory detention under § 1225(b)(2)(A).

8. Petitioner’s detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.
9. Respondents’ new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice which applied § 1226(a) to people like Petitioner.
10. Accordingly, Petitioner seeks a writ of habeas corpus requiring his immediate release from custody or, in the alternative that he be provided a bond hearing under § 1226(a) within seven days in which DHS bears the burden of establishing the necessity of Petitioner’s continued detention.

### **JURISDICTION**

11. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
12. This Court has subject matter 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).
13. This Court may grant relief pursuant to 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, and the All Writs Act, 28 U.S.C. § 1651.

### **VENUE**

1. Venue is proper because Petitioner is detained at the Prairieland Detention Center in Alvarado, Texas.
2. 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 Northern District of Texas, the judicial district in which Petitioner currently is detained.
3. 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 Northern District of Texas.

#### **REQUIREMENTS OF 28 U.S.C. § 2243**

4. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause 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.* (emphasis added).
5. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

#### **PARTIES**

6. Petitioner, Efrain Abiu Mijango Rivas, is a citizen of El Salvador who has been in immigration detention since November 4, 2025. Prior to being detained, he was living in

Royse City, Texas. After arresting Petitioner, ICE did not set a bond. However, because of Respondents' new policies and case decisions, Petitioner also cannot request a bond hearing before an Immigration Judge. Petitioner has resided in the United States since January 2019.

7. **Respondent Warden** in their official capacity as Warden of Prairieland Detention Center. In this capacity, they oversee the daily operations of the detention center where Mr. Mijango is in custody. As such, they are the immediate custodian of Mr. Mijango.
8. **Respondent John Johnson** is named in his official capacity as the Acting Director of the Dallas Field Office of the Enforcement and Removal Operations of the U.S. Immigration and Customs Enforcement. In this capacity, he is responsible for the execution of immigration confinement and the institution of removal proceedings within North Texas, in which Mr. Mijango is confined. Respondent Johnson is a legal custodian of Petitioner and has authority to release him.
9. **Respondent Todd Lyons** is named in the official capacity as Acting Director of U.S. Immigration and Customs Enforcement. As the senior official performing the duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws and is legally responsible for pursuing any effort to remove Mr. Mijango and to confine him pending removal. As such, he is a custodian of Mr. Mijango.
10. **Respondent Kristi Noem** is named in her official capacity as the Secretary of the U.S. Department of Homeland Security. In this capacity, she is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(a); is legally responsible for pursuing any effort to confine and remove Mr. Mijango; and as such is a custodian of Petitioner.

11. **Respondent Pam Bondi** is named in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice. In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review, which administers the Immigration Courts and the Board of Immigration Appeals pursuant to 8 U.S.C. § 1103(g). Respondent Bondi is a legal custodian of Petitioner.

### LEGAL FRAMEWORK

12. The Immigration and Nationality Act (“INA”) prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.
13. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).
14. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).
15. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).
16. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
17. 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).

18. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection 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).
19. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible. 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 immigration judge 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)).
20. On May 15, 2025, the BIA issued a decision in which it held that a person who enters without inspection and is arrested and detained without a warrant while arriving in the United States and subsequently placed in removal proceedings is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and is ineligible for any subsequent release on bond. *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025).
21. Then on July 8, 2025, ICE, “in coordination with” the DOJ, announced a new policy that rejected the well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United

States without inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended (i.e. at the border or in the interior of the United States), and affects those who have resided in the United States for months, years, and even decades.

22. On September 5, 2025, the BIA published a decision that adopts this same position and binds it on all Immigration Courts. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In *Matter of Yajure-Hurado*, the BIA explicitly held that “Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.” *Id.* In complete contradiction of decades of precedent, the Board stripped Immigration Judges of jurisdiction over bond for anyone who has entered the United States without inspection.

23. ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after Immigration Judges in Tacoma, Washington, stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found 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*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025).

24. Since then, federal courts throughout the United States have agreed with the Western District of Washington and granted preliminary injunctive relief for petitioners who entered the United States without inspections. *See Padron Covarrubias v. Vergara*, 5:25-CV-112

(S.D. Tex. Oct. 8, 2025) (citing an extensive list of federal courts coming to the same conclusion as the Western District of Washington).

25. DHS's and DOJ's interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to individuals who entered the United States without inspection and were released into the interior to complete removal proceedings.
26. 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]."
27. 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). 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*, 2025 WL 1193850, at \*12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).
28. 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.
29. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or at the U.S. border. The framework of § 1225(b)(2) is premised on inspections at the border of "applicant[s] for admission" who are "seeking admission" to the United States. 8 U.S.C. §

1225(b)(2)(A). Indeed, 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). Furthermore, the INA defines “admission,” to mean “the lawful entry... into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A). As courts have reasoned, even though an applicant for admission has not been “admitted” to the United States, it does not mean that they always continue to be actively seeking a lawful entry (i.e. seeking admission). *Jimenez v. FCI Berlin, Warden*, 2025 WL 2639390, at \*21 (D.N.H. Sept. 8, 2025). An applicant for admission can enter the country, and therefore no longer seek entry, lawfully or otherwise, but rather seek “a lawful means to remain here.” *Id.* at \*22. Therefore, § 1225(b)(2)(A) cannot apply to someone who has already entered the United States and has been residing here for a period of time.

30. That an applicant for admission can be allowed to enter the country and not seek admission is supported by the practice of DHS to release individuals on their own recognizance after a detention at the border. The Form I-220A, which is used by DHS to release an individual on their recognizance, explicitly states: “In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance...” Indeed, when a person is released on recognizance, even at the border, DHS necessarily makes a determination that the person falls under the INA detention and release scheme of § 1226(a), not § 1225(b). Many courts have agreed with this reasoning. *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025) (concluding that a noncitizen originally detained under § 1225(b)

but released on conditional parole under § 1226 and later rearrested on a § 1226 warrant was entitled to bond hearing under § 1226 and its implementing regulations); *see also Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025).

31. Lastly, the BIA decision of *Matter of Q. Li* is also limited to individuals arriving at the border and seeking admission, and therefore cannot apply to a person who has entered the United States after DHS releases them on their own recognizance. Indeed, this BIA decision was premised on the fact that the noncitizen in the case was released on humanitarian parole under INA § 212(d)(5), not with a Form I-220A release. This type of parole is a legal fiction where the noncitizen is physically permitted to enter the country but is “treated,” for legal purposes, “as if stopped at the border.” *See Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139, 140 S. Ct. 1959, 207 L. Ed. 2d 427 (2020). Because she was legally still at the border (and, for the sake of argument but without conceding, still arriving and seeking admission) when her parole was terminated, she was returned to the custody from which she was paroled which was detention under § 1225(b)(2). § 1182(d)(5)(A); *Q. Li*, 29 I. & N. Dec. at 70-71.

32. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who have already entered the United States after release by DHS and were residing in the United States for a period of time.

#### **STATEMENT OF FACTS**

33. Petitioner is a 24-year-old citizen of El Salvador. Petitioner entered the United States on January 22, 2019, when he was 17-years-old.

34. Upon his entry into the United States, Petitioner was placed into the custody of The Office of Refugee Resettlement (“ORR”) and assigned an Alien (File) Number  DHS allowed Petitioner to enter the country by releasing him with a Form I-770, Notice of Rights and Disposition. He has resided in the United States since then and was living in Royce City, Texas before his detention with his U.S. Citizen wife, Britney Katherine Portillo (“Ms. Portillo” or “Britney”).
35. On June 9, 2022, Ms. Portillo filed an I-130 Petition for Alien Relative on behalf of Petitioner.
36. On August 29, 2024, Immigration Judge Cait Irwin granted an unopposed motion to dismiss removal proceedings against Petitioner under prosecutorial discretion. Ex. A.
37. On November 4, 2025, Petitioner was arrested by ICE at the U.S. Citizenship and Immigration Services-Dallas Field Office in Irving, Texas while attending an I-130 interview with Ms. Portillo. Ex. B. Petitioner is now detained at the Prairieland Detention Center in Alvarado, Texas. DHS has placed Petitioner in removal proceedings before the Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, inter alia, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection (i.e. without being admitted or paroled). Ex. C.
38. Since living here in the United States, he has established community ties and has never been arrested for any crimes. He has been married to his U.S. Citizen wife for over three (3) years and has built a life with her in Royce City, Texas.
39. Following Petitioner’s arrest and transfer to Prairieland Detention Center, ICE issued a custody determination to continue Petitioner’s detention without an opportunity to post bond or be released on other conditions. However, because of Respondents’ policies,

Petitioner cannot request a bond hearing before the Immigration Judge, because the BIA has stripped Immigration Courts of their jurisdiction, and his unlawful detention cannot be litigated before that body.

40. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody as he fights his removal proceedings.

### **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 without inspection and have been residing in the United States after being released 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 his continued detention and violates the INA.

#### **COUNT II**

##### **Fifth Amendment 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 (2001).
46. Petitioner has a fundamental interest in liberty and being free from official restraint.
47. 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**

48. WHEREFORE, Petitioner prays that this Court grant the following relief:
- a. Assume jurisdiction over this matter;
  - b. Declare that the actions of Respondents as set forth in this Petition violate the Fifth Amendment, of the United States Constitution, 28 U.S.C. § 2241, the APA, and the INA;
  - c. Issue a writ of habeas corpus requiring that Respondents release Petitioner or provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7 days in which DHS bears the burden of establishing the necessity of Petitioner’s continued detention and considers alternatives to detention that could mitigate flight risk;
  - d. Enjoin Respondents from denying Petitioner’s bond under U.S.C. § 1225(b)(2);
  - e. Enjoin the Respondents from transferring Petitioner to another detention facility;
  - 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 this 18<sup>th</sup> of November 2025.

Respectfully submitted,

*/s/ Felix L. Galvez*

Felix L. Galvez

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Attorney for Petitioner

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Efrain Abiu Mijango Rivas, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 18<sup>th</sup> of November 2025.

*/s/ Felix L. Galvez*

Felix L. Galvez

Attorney for Petitioner Efrain Abiu Mijango

Rivas