

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

Carlos Alberto Garcia-Miranda,

Petitioner,

v.

Kristi Noem, Secretary of the Department
of Homeland Security; Todd M. Lyons,
Acting Director of Immigration and
Customs Enforcement; Bret Bradford,
Field Office Director of Houston
Enforcement and Removal Operations;
and Raymond Thompson, Warden of Joe
Corley Processing Center,

Respondents.

Case No. 4:25-cv-05558

AMENDED PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION AND FACTUAL SUMMARY

1. Petitioner Carlos Alberto Garcia-Miranda is in the physical custody of Respondents¹ at the Joe Corley Processing Center. *See* Ex. 1, “Proof of Current Detention.” He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Petitioner is charged with, *inter alia*, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i). *See* Ex. 2, “Notice to Appear.”

3. Based on this allegation in Petitioner’s removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on or about July 8, 2025, 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 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. *See* Ex. 3, “DHS Policy Memorandum (Jul. 10, 2025).”²

¹ Petitioner is amending her petition to include the warden of the Joe Corley Processing Center—Raymond Thompson—as a new Respondent and to remove current Respondent Joe M. Smith from the petition. Petitioner is doing so through the filing of this amended petition and is also requesting that the Court remove Joe M. Smith as a Respondent in this case.

² The Department of Homeland Security issued two versions of this policy: an internal memorandum dated July 8, 2025, and a substantively identical version dated July 10, 2025. The July 10 memorandum is used here because, unlike the July 8 memorandum, it is available for direct download and public inspection.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Petitioner has lived in the United States since 2016 and has deep, longstanding ties to the Houston community. Over the past eight years, he has built a stable life. He operates a successful business, maintains a valid Texas driver's license, consistently pays his taxes, and has never been arrested or convicted of any crime. In December 2019, after DHS arrested him on a Form I-200 Warrant for Arrest of Alien issued under 8 U.S.C. § 1226 (INA § 236) and placed him in removal proceedings under 8 U.S.C. § 1229a, an Immigration Judge ordered his release on bond under § 1226(a). *See* Ex. 4, "Immigration Judge Order"; *see also* Ex. 5, "Form I-200." Petitioner fully complied with every condition of release: he attended all scheduled immigration court hearings, remained in contact with ICE when required, and committed no new criminal or immigration violations.

6. Petitioner also demonstrated cooperation with law enforcement and eligibility for humanitarian relief. He received a bona fide determination³ from USCIS on his pending petition for U nonimmigrant status, reflecting both his assistance to law enforcement and the agency's preliminary finding of statutory eligibility. *See* Ex. 6, "Bona Fide Determination." Throughout the past eight years, DHS consistently treated Petitioner as a non-dangerous, non-flight-risk individual properly detained, and released, under § 1226(a).

7. Despite the bona fide determination, Respondents now assert that Petitioner should be denied an opportunity for release. USCIS and ICE are both components of the Department of Homeland Security, and USCIS's issuance of a bona fide determination on May 20, 2025 reflects a formal agency conclusion that Petitioner merits humanitarian consideration, satisfied the statutory eligibility criteria for U nonimmigrant status. A Bona Fide Determination is, by design, a signal that DHS has decided removal is not an enforcement priority. *See* Ex. 6. It is therefore arbitrary and internally inconsistent for Respondents to recognize Petitioner as a cooperating victim deserving of humanitarian protection while

³ The Bona Fide Determination process, implemented pursuant to 8 U.S.C. § 1184(p)(6), includes the grant of deferred action, which is itself an exercise of prosecutorial discretion signaling that DHS has affirmatively decided not to pursue removal of the applicant during the pendency of the U-visa petition. *See* USCIS Policy Manual, Vol. 3, Pt. C, Ch. 5 ("Likewise, deferred action can only be accorded to petitioners in the United States since those outside the United States have no potential removal to be deferred."). Deferred action, by definition, reflects a DHS judgment that the recipient is not an enforcement priority and should not be subject to removal absent exceptional circumstances. DHS's current position—insisting that Petitioner must be mandatorily detained without access to custody review—directly contradicts this prior, formal exercise of discretion.

simultaneously asserting—through a different component of the same Department—that he must now be mandatorily detained without any individualized custody review. Such contradictory agency positions weigh heavily against DHS’s claim of statutory authority and further support the need for immediate judicial intervention.

8. Therefore, throughout the past eight years, DHS consistently treated Petitioner as a non-dangerous, non-flight-risk individual properly detained, and released, under 8 U.S.C. § 1226(a). Nothing about Petitioner’s conduct, circumstances, or immigration posture has changed since then. Yet on October 23, 2025, ICE detained Petitioner and transferred him to ICE custody. He is now in removal proceedings while detained. *See* Ex. 7, “Case Information Printout.”

9. The only change since Respondent’s original bond has been DHS’s July 2025 reinterpretation of the detention statutes and the BIA’s decision in *Matter of Yajure Hurtado*, which categorically bars individuals who entered without inspection from seeking bond. As a direct result of these newly adopted policies, Petitioner is now detained without any avenue to obtain individualized custody review, despite his impeccable record of compliance with immigration authorities and the statutory framework that governs his case. His abrupt detention was not based on conduct, evidence, or an individualized assessment.

10. Petitioner’s detention is unlawful. DHS and EOIR now assert that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). That interpretation

is contrary to the plain text of the Immigration and Nationality Act, decades of agency practice, and even with Supreme Court precedent that addresses this question. Individuals like Petitioner—who previously entered and are now residing in the United States—are detained under § 1226(a), not § 1225(b)(2)(A). Section 1226(a) authorizes release on bond or conditional parole, and Petitioner previously received such release without incident.

11. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

II. JURISDICTION

12. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Joe Corley Processing Center in Conroe, TX.

13. 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).

14. 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.

III. VENUE

15. 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 Southern District, the judicial district in which Petitioner currently is detained.

16. 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 District.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

17. 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, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

18. 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).

V. PARTIES

19. Petitioner Carlos Alberto Garcia-Miranda is alleged a citizen of Nicaragua who has been in immigration detention since October 23, 2025. *See* Ex. 2. After arresting Petitioner in Houston, TX, ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

20. Respondent Bret Bradford is the Director of the Houston Field Office of ICE’s Enforcement and Removal Operations division. As such, Bret Bradford is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

21. 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.

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

23. 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 and the immigration court system it operates is a component agency. She is sued in her official capacity.

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

25. Respondent, Raymond Thompson, is the Warden of Joe Corley Processing Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

VI. LEGAL FRAMEWORK

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 standard removal proceedings before an IJ. *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).

28. 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).

29. 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).

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

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. 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).

33. 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 pursuant to 8 U.S.C. § 1226(c). 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)).

34. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

35. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”⁴ claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

⁴ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

36. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

37. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

38. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, 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*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

39. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE 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)(rejecting ICE's interpretation and holding that § 1226(a), not § 1225(b)(2), governs detention of a noncitizen arrested on a § 1226 warrant, OR § 236 under the

INA, and ordering a bond hearing); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025)(holding that a noncitizen previously released on recognizance under § 1226 and later re-detained after appearing in § 1229a proceedings was not subject to mandatory detention under § 1225(b)(2)(A); concluding that her detention was unlawful where the record showed she was “present in the United States”); *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)(same); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025)(same); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025)(same); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025)(same); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025)(same); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025)(same); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025)(same); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025)(same); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025)(same); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025)(same); *Lopez-*

Campos v. Raycraft, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025)(same); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025)(same); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025)(same); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025)(same); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025)(same); *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).

40. The vast majority of courts have rejected DHS’s and EOIR’s new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

41. 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].”

42. 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*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025 WL 1869299, at *7.

43. 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.

44. 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). 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).

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

VII. CLAIMS FOR RELIEF

COUNT I Violation of the INA

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

47. 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.

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

COUNT II
Violation of the Bond Regulations

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

50. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

51. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

52. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of Due Process

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

54. 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).

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

56. 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.

VIII. PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Southern District while this habeas petition is pending;

- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- e. Declare that Petitioner's detention is unlawful;
- 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 20 of November, 2025.

Respectfully Submitted,

/s/ Debbie Hernandez
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LIST OF EXHIBITS

Exhibit 1—Proof of Current Detention (I-830)

Exhibit 2—Notice to Appear

Exhibit 3—DHS Policy Memorandum (Jul. 10, 2025)

Exhibit 4—IJ Order

Exhibit 5—Form I-200

Exhibit 6—Bona Fide Determination

Exhibit 7—Case Information Printout

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

I represent Petitioner, Carlos Alberto Garcia-Miranda, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Amended Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this November day of 20, 2025.

/s/ Debbie Hernandez
Debbie Hernandez