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UNITED STATES DISTRICT COURT

FOR THE EASTERN DISTRICT OF MICHIGAN

SOUTHERN DIVISION

Ignacio Borjas Rios

Petitioner,

v.

Kevin Raycraft, Director, Detroit Enforcement and Removal Operations Field Office at Immigration and Customs Enforcement; Todd M. Lyons, Acting Director, Immigration and Customs Enforcement; Kristi Noem, Secretary, U.S. Department of Homeland Security; Sirce Owen, Acting Director, Executive Office for Immigration Review; Pam Bondi, Attorney General of the United States.

Respondents.

No: 2:25-cv-13726

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

The Petitioner, Mr. Ignacio Borjas Rios, by and through his attorney, Esma R. Tedik, petitions this Honorable Court to issue a writ of habeas corpus to review his unlawful detention during his pending removal proceedings, in violation of his constitutional and statutory rights.

INTRODUCTION

1. Petitioner is a citizen of Mexico who entered the United States around October 1995 at or near El Paso, Texas without inspection. He has lived in the United States for thirty years since his entry. **Exh. A.**
2. On October 30, 2025, Petitioner was arrested by Immigration and Customs Enforcement (ICE) officials in River Grove, Illinois, without an arrest warrant. He was subsequently transported to the North Lake Correctional Facility located in Baldwin, Michigan, where he is currently held. **Exh. B.**
3. The Department of Homeland Security (DHS) has not officially commenced removal proceedings against Petitioner. Removal proceedings begin when DHS files a Notice to Appear (NTA) with the Immigration Court after it is served on the noncitizen. 8 C.F.R. §§ 1003.13, 1003.14. Petitioner has not yet been served with a NTA. **Exh. C.**
4. Petitioner is preparing to submit a motion to the Detroit Immigration Court, requesting bond determination before an Immigration Judge. The current position of the Executive Office for Immigration Review (EOIR), which houses both the Board of Immigration Appeals (BIA) and immigration judges, on detention of noncitizens and bond requests culminated in a BIA decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
5. In the *Matter of Yajure Hurtado*, BIA held that noncitizens who are present in the United States without admission are applicants for admission as defined under 8 U.S.C. § 1225(b)(2)(A) (section 235(b)(2)(A) of the Immigration and Nationality Act (INA)) and must be detained for the duration of their removal proceedings. *Id.* at 225-228. BIA further held that because the plain reading of 8 U.S.C. § 1225(b)(2)(A) provides for mandatory detention, immigration judges lack authority to hear bond requests or to grant bond to noncitizens who entered the United States without admission. *Id.* at 228.
6. The BIA's holding in *Yajure Hurtado* has been widely rejected by district court cases within the Sixth Circuit and across the United States. However, Respondents continue to maintain that noncitizens who entered without inspection are not eligible for bond determination hearings and a grant of bond because they are applicants for admission within the meaning of 8 U.S.C. § 1225(b)(2)(A).
7. Petitioner faces unlawful detention because Respondents have taken the position that a noncitizen like Petitioner, who entered without inspection, is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
8. Petitioner is not required to exhaust his administrative remedies before an Immigration Judge or the BIA before addressing his claim to the District Court because the

determination of Petitioner's claim relies upon a purely legal question of statutory interpretation and does not require the agency to develop a record. *See Contreras-Cervantes v. Raycraft*, 2025 WL 2952796, at *5 (E.D. Mich. Oct. 17, 2025); *Casio-Mejia v. Raycraft*, 2025 WL 2976737, at *5 (E.D. Mich. Oct. 21, 2025) (collecting cases). Furthermore, it would be futile for Petitioner to file a motion for bond with the Immigration Court or seek further relief before the EOIR because the BIA has predetermined the statutory issue surrounding Petitioner's detention in *Yajure Hurtado*, which decision is binding on immigration courts. *Casio-Mejia*, 2025 WL 2976737, at *4. *See also Shearson v. Holder*, 725 F.3d 588, 594 (6th Cir. 2013).

9. Petitioner respectfully asserts that Respondents' policy and statutory interpretation is in violation of the statute and due process. As such, Petitioner asks that the Court issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241 ordering Respondents to immediately release him or, in the alternative, promptly schedule a bond hearing for Petitioner and to accept jurisdiction to issue a bond order.

JURISDICTION AND VENUE

10. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); United States Constitution Article I, Section 9 (Suspension Clause).
11. Venue properly lies within the Eastern District of Michigan under 28 U.S.C. §1391(e), which states, in pertinent part, that "a civil action in which a defendant is an officer . . . of the United States . . . acting in his official capacity or under color of legal authority, or an agency of the United States, or the United States, may . . . be brought in any judicial district in which ... a defendant in the action resides, [or] ... a substantial part of the events or omissions giving rise to the claim occurred." *Id.*
12. Venue is proper in this District because this is a civil action in which Respondents are agencies of the United States, the Petitioner's detention falls under the jurisdiction of Detroit ICE Enforcement and Removal Operations (ERO) Field Office, which is a named Respondent in this case, and a substantial part of the events or omissions giving rise to this action occurred in the District.
13. Respondents may argue that venue is improper under the immediate custodian rule. A writ of habeas corpus is directed to the person having custody of the person detained. 28 U.S.C. § 2243. Although some courts interpret a detained noncitizen's immediate custodian as the warden of the facility where the noncitizen is detained, other courts have abandoned the immediate custodian and district of the confinement rule.
14. The Sixth Circuit held that although the warden technically has day-to-day control over noncitizen detainees, the "INS District Director" for the district where the detention facility is located has power over the noncitizen habeas corpus petitioners because District Directors oversee the confinement of noncitizens. *Roman v. Ashcroft*, 340 F.3d 314, 320-321 (6th Cir. 2003). Wardens are considered agents of the District Director as

their control is limited to the direction of DHS. *Id.* at 321. This Court has previously found Detroit ERO Field Office Director Kevin Raycraft a proper respondent in a habeas corpus case filed by a noncitizen detained petitioner. *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *8 (E.D. Mich. Sept. 9, 2025).

15. In the present case, because the Detroit ERO Field Office exercises primary control over Petitioner and his continued detention, Kevin Raycraft (who is named in his official capacity) is a proper Respondent. Because Kevin Raycraft is properly named as a Respondent in this action and because the Detroit ERO Field Office is located in the Eastern District of Michigan, venue is properly laid in this District.

PARTIES

16. Petitioner resides in Melrose Park, Illinois, and is currently detained at the North Lake Correctional Facility in Baldwin, Michigan.
17. Respondent Kevin Raycraft is the Director of the Detroit Enforcement and Removal Operations (ERO) Field Office at the U.S. Immigration and Customs Enforcement (ICE). He is sued in his official capacity. He is the immediate custodian of Petitioner and has direct control over Petitioner's detention.
18. Respondent Todd M. Lyons is the Acting Director of ICE and is sued in his official capacity. ICE is vested with power and enforcement authority over Petitioner.
19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and is sued in her official capacity. The Secretary of Homeland Security is charged with the administration and enforcement of immigration laws. 8 U.S.C. § 1103(a). Further, DHS is the parent department that oversees ICE.
20. Respondent Sirce Owen is the Acting Director of the Executive Office for Immigration Review (EOIR). EOIR is a component agency of the Department of Justice that conducts removal and bond hearings for noncitizens. EOIR is comprised of a lower adjudicatory body administered by immigration judges and an appellate body known as the Board of Immigration Appeals (BIA).
21. Respondent Pam Bondi is the Attorney General of the United States and is sued in her official capacity as the head of the Department of Justice. The Attorney General is responsible for the fair administration of the laws of the United States.

LEGAL BACKGROUND

22. There are two principal statutory provisions governing immigration detention of noncitizens pending removal proceedings: 8 U.S.C. § 1225 and 1226 (INA § 235 and 236).
23. 8 U.S.C. § 1225(b)(2)(A) is a mandatory detention provision which states that "in the case of an alien who is an *applicant for admission*, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to

be admitted, the alien shall be detained for a proceedings under section 1229a of this title." *See* 8 U.S.C. § 1225(b)(2)(a) (emphasis added).

24. § 1225(b)(2)(A) has been interpreted to authorize the detention of noncitizens seeking admission throughout inspection and completion of removal proceedings without access to a bond hearing. See *Jennings v. Rodriguez*, 583 U.S. 281, 297–303 (2018).
25. 8 U.S.C. § 1226 (a), on the other hand, states that "[o]n a warrant issued by the Attorney General, an alien may be arrested and detained" pending removal proceedings. § 1226(a). Individuals in § 1226(a) detention are entitled to a bond hearing, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d).
26. At the crux of this action is whether the terms "applicant for admission" and "seeking admission" in § 1225(b)(2)(a) cover Petitioner.
27. The text of § 1225(a)(1) defines "applicant for admission" as a noncitizen "present in the United States who has not been admitted or who arrives in the United States." In turn, § 1101(a)(13) defines "admission" to refer to the "lawful entry of the alien into the United States after inspection and authorization by an immigration officer." § 1101(a)(13)
28. As recognized by the Supreme Court in *Jennings*, § 1225(b) is concerned primarily with those seeking entry and is generally imposed "at the Nation's borders and ports of entry" when immigration authorities must determine whether a noncitizen seeking to enter is admissible. *Jennings*, 583 U.S. at 287, 297.
29. Several courts, including this Honorable Court, have held that inspection connotes an examination upon or soon after physical entry. *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025) (holding that the use of "arriving" to describe noncitizens strongly indicates that the statute governs the *entrance* of noncitizens to the United States, which reading is bolstered by the fact that § 1225 establishes an inspection scheme for when noncitizens are seeking entry into the country); *Casio-Mejia, v. Raycraft, et al.*, No. 2:25-CV-13032, 2025 WL 2976737, at *6 (E.D. Mich. Oct. 21, 2025) (finding that 1225(b)(2)(A) applies when people are being inspected, which usually occurs at the border at the time of entry); *Sanchez Alvarez v. Noem, et al.*, No. 1:25-CV-1090, 2025 WL 2942648, at *5 (W.D. Mich. Oct. 17, 2025) (noting that he phrase "seeking admission" refers to an action that is currently occurring and that would occur at the United States' border when the alien is being inspected); *Herrera Avila v. Bondi*, et al., No. CV 25-3741, 2025 WL 2976539 (D. Minn. Oct. 21, 2025) (finding that seeking action implies a current action happening at the border upon inspection).
30. In these cases, courts rejected the government's current position and broad reading of § 1225(b)(2) and instead construed § 1226(a)'s plain language to apply to detainees in situations like Petitioner's. The text of § 1226 applies to people charged as being inadmissible, including those who entered without inspection and who are present without admission or parole. *See* 8 U.S.C. § 1226. By contrast, § 1225(b) applies to

people arriving at U.S. ports of entry or who recently entered the United States. *See* 8 U.S.C. § 1225.

31. Consequently, the mandatory detention provision § 1225(b)(2) does not apply to individuals like Petitioner who entered the United States without inspection.
32. Respondents' current position is articulated in the BIA's recent decision, *Matter of Yajure Hurtado*, 29 I&N Dec. at 225-228. In *Matter of Yajure Hurtado*, the BIA concluded that an Immigration Judge lacks jurisdiction to conduct a custody redetermination for a noncitizen who is present in the United States without admission because such noncitizens are subject to mandatory detention under § 1225(b)(2). 29 I&N Dec. at 225. This decision has unlawfully created a new rule that strips most individuals of bond eligibility, which is inconsistent with the Supreme Court's statutory interpretation in *Jennings* and with decades of the Respondents' own agency practices.
33. This Court is not bound by the BIA's interpretation. *Pizarro Reyes*, 2025 WL 2609425, at *6. Under the BIA's reading in *Yajure Hurtado*, the statute would indefinitely classify all noncitizens who entered without inspection as actively "seeking admission," regardless of decades of residence, family and community integration. This renders long-term residents indistinguishable from new arrivals for purposes of mandatory detention, violating principles of statutory construction and ignoring Congress's intent to distinguish between border entrants and interior residents.
34. In *Jennings*, the Supreme Court differentiated between noncitizens "arriving" to the United States, who are governed by § 1225, and noncitizens already present in the country who are governed by § 1226. *Jennings*, 583 U.S. at 287-289. See also *Sanchez Alvarez*, 2025 WL 2942648, at *5. The Supreme Court explained that § 1225 is limited to "arriving aliens," those in the process of "seeking admission." *Jennings*, 583 U.S. at 287-289. The Court further explained that § 1226 is the default rule and applies to individuals who are apprehended inside the United States after living and being present in the country. *Id.*
35. The legislative history also supports a limited reading of § 1225's reach. During discussions, legislators expressed concerns about detention of individuals who were deemed inadmissible upon inspection at the border, released after being placed into removal proceedings, and had been present in the United States for a number of years prior to being taken into detention. See H.R. Rep. No. 104-469, pt. 1, at 157–58, 228–29 (1996); H.R. Rep. No. 104-828, at 209 (1996) (Conf. Rep.). As held by this Court, decades of agency practice are also at odds with the BIA's interpretation of § 1225(b)(2) in *Yajure Hurtado*. *See Pizarro Reyes*, 2025 WL 2609425, at *7-8.
36. In *Yajure Hurtado*, the BIA relied on a recent Department of Homeland Security (DHS) interpretation of 8 U.S.C. §1225, adopted in July 2025, which has already been widely rejected by district courts across the country, including this Honorable Court, as inconsistent with the statutory text and legislative intent. *Pizarro Reyes*, 2025 WL 2609425, at *7 (collecting cases with which *Yajure Hurtado* contradicts); *Lopez-Campos*

v. Raycraft, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Romero v. Hyde*, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Carmona-Lorenzo v. Trump*, 2025 WL 2531521 (D. Neb. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025).

37. The BIA's erroneous interpretation of the INA defies the plain text of the statute as well as Supreme Court precedent. The Court is not required, and should not, give deference to *Yajure Hurtado*. Rather, this Court can simply look to the Supreme Court's own words in *Jennings* that for decades, §1225 has applied to new arrivals seeking admission into the country, and that this contrasts with § 1226, which applies to noncitizens already in the country. *Jennings*, 583 U.S. at 287-289.
38. Petitioner is not "seeking" admission as is required by the plain language of § 1225(b)(2)(A). As such, he is entitled to a bond hearing pursuant to 8 U.S.C. § 1226(a). Because Petitioner is detained without receiving a bond hearing, he is in custody in violation of federal law.

STATEMENT OF FACTS

39. Petitioner entered the United States without inspection around October 1995, when he was sixteen years old. Until his detention on October 30, 2025, he had never encountered immigration officials.
40. Petitioner has lived in the United States for three decades, during which he has built considerable family and community ties. **Exh. A.**
41. Since his entry into the United States, Petitioner has worked to provide for his family, including his fifteen-year-old son J[redacted] and his elderly mother Modesta Rios Cruz. Petitioner's U.S. citizen son, LPR mother, as well as other family members, desperately need his emotional and medical support as they battle medical issues. Petitioner himself is diagnosed with type 2 diabetes, the effect of which is further amplified by the distress Petitioner has experienced as a result of his detention.
42. Petitioner's son, J[redacted] is a citizen of the United States and is diagnosed with fatty liver disease. **Exh. D.** Petitioner's mother, Modesta Rios Cruz, is a lawful permanent resident (LPR) of the United States. She is eighty years old and suffers from a variety of health issues, including heart failure, coronary atherosclerosis (buildup of plaque in the arteries that supply blood to the heart), stage 3 chronic kidney disease, and type 2 diabetes. **Exh. E.** Petitioner is the primary caretaker of his mother and resides with her. **Exh. F.**
43. Other than his immigration detention, Petitioner has no criminal history, arrests, or other legal issues in any country.
44. Petitioner was employed at Kelty Lawn Care as a landscaper before he was detained. **Exh. G.** On October 30, 2025, Petitioner was working outside a residential building by

Concordia University in River Grove, Illinois, when he was arrested by ICE officials without a warrant.

45. Petitioner has yet to be served with a NTA and placed in removal proceedings before the EOIR. **Exh. C**. Once removal proceedings are officially initiated against Petitioner, he intends to file an application for cancellation of removal and adjustment of status under 8 U.S.C. § 1229b(b) based on the exceptional and extremely unusual hardship his U.S. citizen son and LPR mother would suffer in the event of his forced departure from the United States. Petitioner is statutorily eligible for a grant of cancellation of removal under 8 U.S.C. § 1229b(b).
46. Petitioner is unlawfully detained without bond because, according to Respondents, he is an applicant for admission and is seeking admission under § 1225(b)(1)(A). It is the Respondent's adopted policy that 1225(b)(1)(A) applies to all aliens who have resided within the United States prior to their arrest and detention. Notably, the BIA recently proclaimed that any individual who has ever entered the United States unlawfully and was later detained is no longer eligible for bond and is subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. at 229.
47. Petitioner represents that the Immigration Judge has jurisdiction over his bond proceedings and that he is eligible for bond. Petitioner is neither a danger to others nor a flight risk. He has resided in the United States for three decades, where he supported his family financially and emotionally and continued to his community. Petitioner has a strong incentive to remain in the United States to pursue cancellation of removal before the Immigration Court, a form of relief that leads to permanent resident status.
48. The current government policy violates the long-standing statutory interpretation of § 1225 and 1226, which has been affirmed by the Supreme Court. Petitioner respectfully requests that this Court adopt the interpretation in *Jennings* as well as scores of other cases decided by district courts within the Sixth Circuit and across the country, which reject the BIA's reading in *Yajure Hurtado*.
49. Petitioner has lived in the United States since his entry into the country around October 1995. He was not apprehended at the border while seeking admission. In fact, he had no encounters with immigration officials for thirty years until his detention by ICE on October 30, 2025. Petitioner's warrantless arrest is in violation of the law and the Castanon Nava consent decree, which enforces federal limits on ICE officers' ability to arrest people without warrants or probable cause. *Castanon Nava v. Dept. of Homeland Sec.*, No. 18-CV-3757, 2025 WL 2842146 (N.D. Ill. Oct. 7, 2025). Pursuant to the holding in *Jennings*, Petitioner is not an arriving alien and cannot be governed by the mandatory detention provision in § 1225(b), the entire framework of which is premised on inspections at the border of new arrivals seeking admission to the United States. 8 U.S.C. § 1225(b)(2)(A).

50. Petitioner's detention falls under the default rule set forth in § 1226(a), which applies to individuals who entered without inspection and are present within the United States. 8 U.S.C. § 1226.
51. Petitioner has not requested a bond hearing and is not required to exhaust administrative remedies. There is no applicable statute or rule that mandates administrative exhaustion by Petitioner. *See Mauricio Diego v. Raycraft, et al*, No. 25-13288, 2025 WL 3159106, at *2 (E.D. Mich. Nov. 12, 2025); *Contreras Alvarez v. Noem et al.*, No. 1:25-CV-1313, 2025 WL 3151948, at *4 (W.D. Mich. Nov. 12, 2025). Waiver of the exhaustion doctrine is appropriate when the interests of the individual weigh heavily against requiring administrative exhaustion, or exhaustion would be futile and unable to afford Petitioner the relief he seeks. *McCarthy v. Madigan*, 503 U.S. 140, 145 (1991).
52. Furthermore, exhaustion would not effectively afford him the relief he seeks, as the EOIR's approach to the issue has already been discussed in length in *Yajure Hurtado*, which is binding on immigration judges. This Court has previously waived the exhaustion requirements in similar proceedings. *See Pizarro Reyes*, 2025 WL 2609425, at *6-10; *Mauricio Diego*, 2025 WL 3159106, at *3-4.
53. As a noncitizen who previously entered the United States and lived here for decades prior to his detention at the North Lake Correctional Facility, Petitioner is entitled to a bond determination hearing under § 1226(a). His continued detention under § 1225(b)(2) is therefore unlawful.

CAUSES OF ACTION

COUNT ONE

Violation of 8 U.S.C. § 1226(a)

54. Petitioner incorporates by reference paragraphs 1 through 53, as if fully stated in this Count.
55. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1).
56. The application of § 1225(b)(2) to bar Petitioner from receiving a bond determination hearing and from being granted bond by an immigration judge violates the Immigration and Nationality Act.

COUNT TWO

Violation of the Fifth Amendment Due Process

57. Petitioner incorporates by reference paragraphs 1 through 53, as if fully stated in this Count.

58. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. Amen. 5. "Liberty is one of the most basic and fundamental rights afforded and "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the very liberty that [the Due Process Clause] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The Due Process Clause extends to all "persons" regardless of status, including non-citizens (whether here lawfully, unlawfully, temporarily, or permanently). *Id.* at 693.
59. Petitioner has a fundamental interest in liberty and being free from official restraint. Petitioner's indefinite detention by Respondents under the mandatory detention framework, which strips him of bond eligibility, is a violation of his due process rights.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff requests that this Honorable Court:

1. Assume jurisdiction over this matter;
2. Order Respondents not to transfer Petitioner out of the jurisdiction of this Court during the pendency of these proceedings to preserve jurisdiction and access to counsel;
3. Declare that Respondent's actions to deny Petitioner bond eligibility and detain him under the mandatory detention framework violate the Due Process Clause of the Fifth Amendment, and the Immigration and Nationality Act;
4. Issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241, requiring Respondents to release Petitioner or grant him a bond hearing within 7 days;
5. Award reasonable attorney fees and costs of this action; and
6. Grant such further relief as is just and equitable.

Respectfully submitted,

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