

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI

CARLOS RAMOS CHAVEZ,

Petitioner-Plaintiff,

v.

RAPHAEL VERGARA, Warden of Adams County)

Correctional Center)

BRIAN ACUNA, New Orleans Acting Field Office)

Director)

TODD LYONS, Acting Director, U.S.)

Immigrations and Customs Enforcement;)

SIRCE OWEN, Acting Director, Executive Office)

For Immigration Review;)

PAMELA BONDI, U.S. Attorney General;)

and KRISTI NOEM, U.S. Secretary)

of Homeland Security,)

Respondents-Defendants.)

Case No. 5:25cv138-DCB-BWR

SOUTHERN DISTRICT OF MISSISSIPPI
FILED

NOV 24 2025

BY ARTHUR JOHNSTON
DEPUTY

PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 USC §2241

INTRODUCTION

This petition for a writ of habeas corpus is being filed on behalf of Mr. Carlos Ramos Chavez (hereinafter "Mr. Ramos Chavez" or "Petitioner") seeking relief to remedy his unlawful detention. Mr. Ramos Chavez is currently detained at the Adams County Correctional Center in Natchez, Mississippi. Mr. Ramos Chavez is a citizen and national of Guatemala. He has lived in the United States since 2004. On or about September 30,

2025, Mr. Ramos Chavez was detained while stopped by ICE officers on his way to work.

In recent months, the U.S. Department of Homeland Security (“DHS”) and the U.S. Department of Justice (“DOJ”) has reversed decades of settled immigration practice and denied all immigration bond hearings. Specifically, DHS and DOJ are misclassifying people arrested inside the United States. These people are generally subject to the detention provisions of 8 U.S.C. § 1226, which usually allow for release on bond and conditions during the pendency of immigration proceedings. This misclassification is contrary to settled law and practice, and it is unlawfully premised solely upon the manner in which the person initially entered the country - in this case decades ago. Accordingly, to vindicate Petitioner’s constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

Petitioner respectfully submits that his detention is unlawful for the following reasons:

(1) DHS and DOJ are improperly applying the mandatory detention provisions of 8 U.S.C. § 1225(b) to individuals like Petitioner who were apprehended well inside the United States, even decades after entry, rather than applying 8 U.S.C. § 1226(a), which governs detention and release pending immigration proceedings; (2) this misclassification deprives Petitioner of his statutory right to a bond hearing before an Immigration Judge; (3) the government’s policy represents an arbitrary and capricious departure from decades of settled law and practice without any rational basis, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2); and (4) Petitioner’s prolonged detention without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment.

Absent an order from this Court granting habeas relief, Petitioner will remain detained without meaningful opportunity to secure release on bond, in violation of both statutory and constitutional protections.

Petitioner asks this Court to find that the Department of Homeland Security and Department of Justice are unlawfully detaining him under 8 U.S.C. § 1225(b), when the governing statute is 8 U.S.C. § 1226(a), and that such detention without a bond hearing violates his statutory and constitutional rights. Petitioner further asks this Court to order his immediate release or, in the alternative, to order the government to provide him with an individualized bond hearing before an Immigration Judge within seven (7) days of the Court's order.

JURISDICTION

- a. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
- b. 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 U.S. Constitution (Suspension Clause).
- c. This Court may grant relief under the habeas corpus statutes, 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

- d. Venue is proper because Petitioner is presently detained by ICE at the Adams County Correctional Correction Center in Natchez, Mississippi, which is within the jurisdiction of this District.

c. PARTIES

- f. Petitioner is a citizen and national of Guatemala. Petitioner is currently detained by ICE at the Adams County Correctional Center in Natchez, Mississippi, which is within the jurisdiction of this District. He is in the custody, and under the direct control, of Respondents and their agents.
- g. Respondent Raphael Vergara is the Warden of Adams County Correctional Center, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.
- h. Respondent Brian Acuna is sued in his official capacity as the Acting Director of the New Orleans Field Office of U.S. Immigration and Customs Enforcement. Respondent Acuna is a legal custodian of Petitioner and has authority to release him.
- i. Respondent Todd Lyons is sued in his official capacity as the acting director of U.S. Immigration and Customs Enforcement. In this capacity, Respondent Lyons is a legal custodian of Petitioner.
- j. Respondent Sirce Owen is the Acting Director of EOIR and has ultimate responsibility for overseeing the operation of the immigration courts and the Board of Immigration Appeals, including bond proceedings. Respondent Owen is a legal custodian of Petitioner.

- k. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (“DOJ”). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (“EOIR”), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.
- l. Respondent Kristi Noem is the U.S. Secretary of Homeland Security and administers the Department of Homeland Security. In that capacity, she exercises ultimate authority over DHS, including U.S. Immigration and Customs Enforcement (“ICE”), which has responsibility for the detention and removal of noncitizens, and U.S. Citizenship and Immigration Services (“USCIS”), which adjudicates immigration benefits. Respondent Noem is also a legal custodian of Petitioner.

REQUIREMENTS OF 28 U.S.C. § 2243

- m. 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).
- n. 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).

2. STATEMENT OF FACTS

- a. Petitioner is a 39-year-old citizen of Guatemala. He originally fled persecution in Guatemala in 2004. He applied for asylum affirmatively in 2015. He has maintained consistent employment in landscaping and has four United States citizen children who depend on his financial support. His youngest United States citizen child was born five weeks early on [REDACTED] and hospitalized for heart and lung problems. Petitioner and his partner have strong community ties. Petitioner’s only criminal history consists of two driving-without-a-license charges.
- b. Petitioner entered the United States in June of 2004 in California. He did not encounter immigration officials at that time.
- c. On or around September 30, 2025, Petitioner was stopped by ICE while driving to work. An ICE officer asked to see his green card and arrested him upon discovering that he did not have one.
- d. Petitioner was scheduled for a bond hearing on October 8, 2025 in Batavia, New York. However, the hearing was canceled after he was moved to Natchez, Mississippi. A bond hearing was then scheduled for October 21, 2025 in Jena, Louisiana. As DHS had not served Petitioner with a Notice to Appear (“NTA”), Immigration Judge Schumann stated he did not have jurisdiction to consider bond. He allowed Petitioner to withdraw the bond request. Soon after, counsel filed a third bond request for Petitioner and a bond hearing was scheduled for October

28, 2025. DHS still had not served Petitioner with a Notice to Appear and so Judge Schumann once again allowed Petitioner to withdraw the bond request. After DHS commenced removal proceedings, Petitioner's counsel filed another bond request and a bond hearing was scheduled for November 17, 2025. On that date, the Immigration Judge Andresen found that he lacked jurisdiction for the bond hearing according to *Matter of Yajure Hurtado*¹, 29 I&N Dec. 985 (BIA 2025).

3. LEGAL FRAMEWORK

- a. Petitioner is present in the United States and originally entered without inspection or parole in 2004.
- b. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(1), including because Petitioner does not meet the criteria for Expedited Removal. *See Make the Road New York v. Noem*, No. 25-190, 2025 WL 2494908, at 23 (D.D.C. Aug. 29, 2025).
- c. Petitioner cannot be subject to mandatory detention under 8 U.S.C. § 1225(b)(2), including because, as a person already present in the United States, Petitioner is not presently "seeking admission" to the United States. As a person arrested inside the United States and held in civil immigration detention, Petitioner is subject to detention, if at all, pursuant to 8 U.S.C. § 1226. Federal courts have rejected ICE and EOIR's recent reinterpretations of the Immigration and Nationality Act's detention provisions. These courts have held that § 1226(a), not

¹ The new BIA precedent, *Matter of Yajure Hurtado*, 29 I. & N. Dec 216 (B.I.A. 2025), adopted the position that noncitizens present in the United States without admission are "seeking admission" for purposes of § 1225(b)(2), and are therefore subject to the mandatory detention procedures set forth in § 1225. Under the facts and circumstances present here, this court should not defer to the BIA decision. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 400 (2024) ("[C]ourts must exercise independent judgment in determining the meaning of statutory provisions," and they "may not defer to an agency interpretation of the law simply because a statute is ambiguous.").

§ 1225(b)(2), governs the detention authority in cases such as Petitioner's. For example, courts in Texas, Massachusetts, Arizona, New York, Minnesota, California, and Nebraska have reached this conclusion. See: *Gonzalez Martinez v. Noem*, No. EP-25-CV-430-KC (W.D. Texas October 21, 2025); *Lopez Santos v. Noem*, 2025 WL 2642278 at 5 (W.D. La. Sep. 11, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142SRN-SGE (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM (D. Mass. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF (N.D. Cal. Aug. 21, 2025); *Palma Perez v. Berg*, No. 8:25CV494 (D. Neb. Sept. 3, 2025).

- d. Petitioner is not lawfully subject to mandatory detention under 8 U.S.C. § 1226(c), including because he has not been convicted of any crime that triggers such detention.
- e. Accordingly, Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a).
- f. As a person detained under 8 U.S.C. § 1226(a), Petitioner must, upon his request, receive a custody redetermination hearing (colloquially called a "bond hearing"). See, e.g. *Lopez-Arevelo v. Ripa*, 2025 WL 2691828, at 5 (W.D. Tex. Sept. 22, 2025); 8 C.F.R. 236.1(d) & 1003.19(a)-(f).
- g. Petitioner requests such a bond hearing.
- h. However, on September 5, 2025, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals issued a decision which purports

to require the Immigration Court to unlawfully deny a bond hearing to all persons such as Petitioner.²

- i. The responsible administrative agency has therefore predetermined that Petitioner will be denied a bond hearing.
- j. Petitioner is being irreparably harmed by his ongoing unlawful detention without a bond hearing, particularly as this absence from his family comes at a time when his wife and his newborn daughter have undergone serious medical distress without the emotional and financial support he would have been able to provide if he were not detained.
- k. The Immigration Court lacks jurisdiction to adjudicate the constitutional claims raised by Petitioner, and any attempt to raise such claims would be futile. *See Petgrave v. Aleman*, 529 F. Supp. 3d 665, 672 n.14 (S.D. Tex. 2021)
- l. Given the certainty that the Board of Immigration Appeals would decline to find the Petitioner eligible for a bond hearing, there is no requirement for Petitioner to further exhaust administrative remedies before pursuing this Petition. *See Hinojosa v. Horn*, 896 F.3d 305, 314 (5th Cir. 2018) (stating that “[e]xceptions to the exhaustion requirement are appropriate where the available administrative remedies either are unavailable or wholly inappropriate to the relief sought, or where the attempt to exhaust such remedies would itself be a patently futile course of action.” (citing *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994) (per curiam))).

4. CLAIMS FOR RELIEF

² The BIA’s reversal and newly revised interpretation of the statute are not entitled to any deference. *See Loper Bright Ent. v. Raimondo*, 603 U.S. 369, 412-13 (2024).

5. COUNT ONE

6. Violation of Fifth Amendment Right to Due Process

- a. Petitioner's prolonged detention without an individualized custody redetermination violates the Due Process Clause of the Fifth Amendment. By denying Petitioner a bond hearing, Respondents deprive him of liberty without due process of law. The determination of what procedures are required under the Fifth Amendment involves consideration of: "[f]irst, the private interest that will be affected by the official action; second, the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and finally, the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). The BIA's adoption of *Hurtado* dispenses with this individualized analysis and violates Carlos's procedural due process rights.

7. COUNT TWO

8. Unlawful Detention Under the INA 8 U.S.C. §§ 1225, 1226 and Violation of the Administrative Procedure Act (5 U.S.C. § 706)

- a. Petitioner's continued detention is not authorized by statute. Petitioner cannot be lawfully detained under 8 U.S.C. § 1225(b)(1) because he does not meet the statutory criteria for expedited removal, nor under § 1225(b)(2) because, as a person already present in the United States, he is not "seeking admission." Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), as he

has not been convicted of any removable crime. Instead, Petitioner is lawfully subject, if at all, only to detention under § 1226(a), which requires access to an individualized custody redetermination hearing. The refusal to provide such a hearing is ultra vires and unlawful.

- b. The Department of Justice and Department of Homeland Security, through *Matter of Yajure Hurtado*, 29 I&N Dec. 985 (BIA 2025), have arbitrarily and capriciously departed from decades of settled statutory practice by misclassifying persons like Petitioner under § 1225(b) rather than § 1226(a). This misclassification denies access to bond hearings without reasoned explanation, in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2).
- c. For these reasons, Petitioner's detention violates 5 U.S.C. § 706.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- 1. Assume jurisdiction over this matter;
- 2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- 3. Declare that Petitioner's detention under 8 U.S.C. § 1225(b) is unlawful and ultra vires, and that Petitioner is lawfully subject, if at all, only to detention under 8 U.S.C. § 1226(a);
- 4. Declare that Petitioner's continued detention without an individualized custody redetermination hearing violates the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment to the United States Constitution;

5. Enjoin Respondents from applying *Matter of Yajure Hurtado*, 29 I&N Dec. 985 (BIA 2025), to Petitioner or to other similarly situated individuals in this District, insofar as it deprives them of their statutory right to a bond hearing;
6. Order Respondents to provide Petitioner with an individualized custody redetermination (bond) hearing before an Immigration Judge within seven (7) days of this Court's order, with the procedural safeguards required by law, including the government's burden to justify detention by clear and convincing evidence;
7. Alternatively, order Petitioner's immediate release from immigration custody under reasonable conditions of supervision; and
6. Grant any further relief this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this the 20th day of November, 2025.


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