

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS**

ALAN ESTUARDO LOPEZ MIRANDA,)	
)	
)	
Petitioner-Plaintiff,)	VERIFIED PETITION FOR WRIT OF
)	HABEAS CORPUS AND COMPLAINT
)	FOR DECLARATORY AND
v.)	INJUNCTIVE RELIEF
)	
MARISA FLORES, Director of the El Paso)	
Field Office for ICE/ERO)	
TODD LYONS, Acting Director, U.S.)	3:25-cv-00584
Immigrations and Customs Enforcement;)	
PAMELA BONDI, U.S. Attorney General;)	
For Immigration Review;)	
and KRISTI NOEM, U.S. Secretary)	
of Homeland Security,)	
)	
Respondents-Defendants.)	
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PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 USC §2241

INTRODUCTION

1. This petition for a writ of habeas corpus is being filed on behalf of Mr. Alan Estuardo Lopez Miranda (hereinafter “Mr. Lopez Miranda” or “Petitioner”) seeking relief to remedy his unlawful detention. Mr. Lopez Miranda is currently detained at the ERO El Paso Camp East Montana in El Paso, Texas. Mr. Lopez Miranda is a citizen and national of Guatemala. He has lived in the United States since 2023. On or about October 5, 2025,

Mr. Lopez Miranda was detained by ICE while on his way to court to appear for his criminal proceedings.

2. Currently 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 allows 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.
3. 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.

4. Absent an order from this Court granting habeas relief, Petitioner will remain indefinitely detained without meaningful opportunity to secure release on bond, in violation of both statutory and constitutional protections.
5. 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

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
7. 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).
8. 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.
9. For immigration habeas petitions, “jurisdiction lies in only one district: the district of confinement.” *Trump v. J.G.G.*, 604 U.S. 670, 672, 145 S.Ct. 1003, 221 L.Ed.2d 529 (2025).

VENUE

10. Venue is proper because Petitioner is presently detained by ICE at the ERO El Paso Camp East Montana, in El Paso, Texas, which is within the jurisdiction of this District.

PARTIES

11. Petitioner is a citizen and national of Guatemala. Petitioner is currently detained by ICE at the ERO El Paso Camp East Montana, in El Paso, Texas, which is within the jurisdiction of this District. He is in the custody, and under the direct control, of Respondents and their agents.
12. Respondent Warden of ERO El Paso Camp East Montana, 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. Respondent Warden is a legal custodian of Petitioner.
13. Respondent Todd Lyons is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent Lyons is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees the U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Lyons is a legal custodian of Petitioner.
14. 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.

15. 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

16. 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).
17. 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).

STATEMENT OF FACTS

18. Petitioner is a 20-year-old citizen of Guatemala. He has consistently been enrolled in school since he entered the United States in 2023.
19. Petitioner entered the United States on April 6, 2023 as an Unaccompanied Alien Child (“UAC”), near Hidalgo, Texas, when he was seventeen (17) years old. He was encountered by Border Patrol and issued a defective Notice to Appear on April 7, 2023

and released into his Uncle's custody on his own recognizance pending immigration proceedings.

20. On or about October 5, 2025, Petitioner was detained by ICE while on his way to appear for a criminal court proceeding.

21. Petitioner was scheduled for a bond hearing on November 12, 2025. At the outset of that hearing, however, the Immigration Judge declined jurisdiction, citing *Matter of Yajure Hurtado*¹, 29 I&N Dec. 985 (BIA 2025), thereby denying Petitioner the opportunity for an individualized bond determination.

LEGAL FRAMEWORK

22. Petitioner is present in the United States and, on information and belief, the DHS has alleged or will allege that Petitioner was not previously admitted or paroled into the United States.

23. 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).

24. 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. “And the distinction is one of place—not status: “[O]ur immigration laws have long made a distinction between those

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.”).

aliens who have come to our shores seeking admission and those who are within the United States after an entry, irrespective of its legality.” *See Lopez Arevaelo v. Ripa*, EP-25-cv-337-KC, 2025 WL 2691828 (W.D. Texas 2025), quoting *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025).²

25. On information and belief, Petitioner was not, at the time of arrest, paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A), and therefore Petitioner could not “be returned” under that provision to mandatory custody under 8 U.S.C. § 1225(b) or any other form of custody. Petitioner is not subject to mandatory detention under § 1225 for this reason, as well.

26. Instead, 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. *See Lopez Arevaelo v. Ripa*, EP-25-cv-337-KC, 2025 WL 2691828 (W.D. Texas 2025).

27. 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. *See Demore v. Kim*, 538 U.S. 510, 513-14, 531 (2003) (allowing mandatory detention

² Petitioner was given apparent notice, based on his warrant and Notice to Appear, that he was being detained under § 1226, not § 1225. That, and the abrupt change in the government’s longstanding detention policy under §§ 1225 and 1226, *see Carlos Augusto Chang Barrios, v. Craig Shepley, et al.*, No. 1:25-CV-00406-JAW, 2025 WL 2772579, at *9 (D. Me. Sept. 29, 2025) (discussing longstanding government policy of applying § 1226(a) to noncitizens without documentation already present in the United States), should give this Court pause. Courts considering factually similar cases have found that aliens without criminal convictions, who are already in the country, have been taken into custody under 8 U.S.C. § 1226, are specifically described in charging documents as “alien[s] present in the United States who ha[ve] not been admitted or paroled,” and are in removal proceedings, are detained under 8 U.S.C. § 1226. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *dos Santos v. Noem*, No. 1:25-CV-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025); *Jimenez v. FCI Berlin*, Warden, No. 25-CV-326-LM-AJ, 2025 WL 2639390 (D.N.H. Sept. 8, 2025) (McCafferty, C.J.); *see also Romero v. Hyde*, No. CV 25-11631-BEM, 2025 WL 2403827, at *1 (D. Mass. Aug. 19, 2025) (gathering cases). The interpretive reasoning of these cases, given the lack of Supreme Court or First Circuit authority on the basic question of whether aliens in the petitioner’s position are held under § 1225 or § 1226, should lead this Court to believe, that with an individual hearing in Immigration Court, a bond hearing on the merits of Mr. Lopez Miranda’s request for release is the course of action most consistent with the requirements of due process.

under § 1226(c) for brief detention of persons convicted of certain crimes and who concede removability).

28. Accordingly, Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a).
29. 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”) under INA § 236 with strong procedural protections.
30. Petitioner requests such a bond hearing.
31. 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.³
32. The responsible administrative agency has therefore predetermined that Petitioner will be denied a bond hearing.
33. Petitioner is raising a constitutional question that “neither [an] [IJ] nor th[e] [BIA] may rule on”, and the appeal of an IJ’s bond denial to the BIA would “exacerbate his alleged injury of the prolonged detention”. *Petgrave v. Aleman*, 529 F.Supp. 3d 655, 672 b.14 (S.D. Tex. 2021) “Bond denial appeal appeals ‘typically take six months or more to be resolved at the BIA.’” *Lopez Arevalo v. Ripa*, EP-25-cv-337-KC, 2025 WL 2691828 (W.D. Texas 2025), (quoting *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *3 (E.D. Mich. Sept. 9, 2025). “The prevention of six months or more of unlawful detention thus outweighs the interests the BIA might have in resolving” Lopez-Miranda’s appeal of the IJ’s bond dismissal. *See Id.*

³ 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).

34. 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*, 592 F. Supp. 3d at 672 (holding exhaustion is excused by the BIA's lack of authority to adjudicate constitutional questions and the timeline for an appeal of a bond denial to the BIA would exacerbate the alleged injury of prolonged detention.)
35. The vast majority of courts have squarely rejected DHS's expansive interpretation of INA § 1225(b)(2)(A) and the BIA's interpretation in *Matter of Yajure Hurtado*, finding that the interpretation is contradictory to the plain text of § 1225. See, e.g., *Soto*, 2025 WL 2976572, at *7 (finding that § 1225(b)(2)(A) applies only to noncitizens who are actively, i.e., affirmatively, "seeking admission" to the United States and not petitioners who have been residing in the United States); *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947 at * 6 (D. Minn. Oct. 1, 2025) (noting that "the government's proposed interpretation of § 1225(b) [is] at odds with the context and structure of the provisions governing detention of noncitizens who are arriving at the border and those who are already present in the country"); *Zumba*, 2025 WL 2753496 at * 3 (noting that "up until July 8 the predominant form of detention authority for petitioner and other noncitizens arrested in the interior of the United States was § 1226(a)"); *Salazar v. Dedos*, No. 25-cv-835, 2025 WL 2676729 (D.N.M. Sept. 17, 2025); *Lepe v. Andrews*, No. 25-cv-01163, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Roman v. Noem*, No. 25-cv-01684, 2025 WL 2710211 (D. Nev. Sept. 23, 2025); *Giron Reyes v. Lyons*, No. 25-cv- 4048, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025); *Singh v. Lewis*, No. 25-cv-0096, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *Barrera v. Tindall*, No. 25-cv-541, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Hasan v. Crawford*, No.

25-cv-1408, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); Vazquez v. Feeley, No. 2:25-cv-01542, 2025 WL 2676082 (D. Nev. Sept. 17, 2025); Lopez Santos v. Noem, No. 25-cv-1193, 2025 WL 2642278 (W.D. La. Sept. 11, 2025); Perez v. Kramer, No. 25-cv-3179, 2025 WL 2624387 (D. Neb. Sept. 11, 2025); Pizarro Reyes v. Raycraft, No. 25-cv-12546, 2025 WL 2609425 at * 5 (E.D. Mich. Sept. 9, 2025); Hiestroza v. Kaiser, No. 25-cv- 7559, 2025 WL 2606983 (N.D. Cal. Sept. 9, 2025); Jimenez v. FCI Berlin, Warden, No. 25-cv- 326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); Leal-Hernandez v. Noem, No. 25-cv-2428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); Lopez-Campos v. Raycroft, No. 25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); Lopez Benitez, 2025 WL 2371588, and these courts regularly hold that noncitizens arrested inside the United States after entry are subject to discretionary detention under § 1226(a), not mandatory detention as “applicants for admission.” These recent rulings support the argument that Petitioner here, likewise apprehended within the United States, is entitled to an individualized custody redetermination before an Immigration Judge pursuant to § 1226(a).

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

36. Petitioner’s prolonged detention without an individualized custody redetermination violates the Due Process Clause of the Fifth Amendment. Detainees under § 1226(a) are entitled to a custody redetermination hearing. By denying Petitioner any bond hearing, Respondents have deprived him of liberty without due process of law.

37. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO

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

38. 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.

39. The Department of Justice and Department of Homeland Security, through the *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).

40. 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.

Respectfully submitted,

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