JUDGE KATHLEEN CARDONE

UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
EL PASO DIVISION

NORBERTO ARAGONES-FRIAS, **Petitioner,**	§	EP 25CV0590
V.	§	**Case No.** _____
KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, MARY DE ANDA YBARRA, Field Operations Director of the El Paso Immigration and Customs Enforcement Office, TODD M. LYONS, Acting Director of United States Immigration and Customs Enforcement, PAMELA BONDI, Attorney General of the United States; All acting in their official capacities, **Respondents.**	§	

PETITION FOR WRIT OF HABEAS CORPUS

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PRELIMINARY STATEMENT

1. Petitioner NORBERTO ARAGONES-FRIAS, a citizen of Mexico, is detained by Respondents at the El Paso Processing Center, 8915 Montana, El Paso, Texas because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) illegally concluded that he is subject to mandatory detention under 8 U.S.C. § 1225(b). Petitioner seeks relief under 28 U.S.C. § 2241.

2. Mr. Aragones-Frias entered the United States without inspection on or about April 16, 2005. Exhibit A. Thereafter, Mr. Aragones-Frias met and married his wife, Maria Elvia Tavarez de Aragones, a United States citizen. Exhibits B-C.

3. Mrs. Aragones filed an I-130 application on behalf of her husband with United States Citizenship and Immigration Services that was approved on December 21, 2012. Exhibit C.

4. DHS officers arrested Mr. Aragones-Frias on October 15, 2025, when he was a passenger in a motor vehicle that was stopped by a Ward County Sheriff's Deputy for "driving on the shoulder" of the highway. Exhibit D.

6. Immigration officials transported Petitioner to El Paso, Texas where he is detained at the El Paso Processing Center, 8915 Montana, El Paso, Texas 79901.

8. Mr. Aragones-Frias filed a motion for bond hearing with the Immigration Judge. Exhibit F.

9. On November 24, 2025, the Immigration Judged denied a bond hearing to Petitioner, citing *Matter of Yajure Hurtado,* 29 I&N Dec. 216, 220 (BIA 2025) but stated, "were this Court to have jurisdiction, the Court would find the respondent is not a danger and that his flight risk could be mitigated by a bond of $5000.00." Exhibit G.

10. Mr. Aragones-Frias is *prima facie* eligible from removal before the Immigration Court.

See 8 U.S.C. § 1229b(b) (providing for adjustment of status for certain non-lawful permanent residents).

11. Mr. Aragones-Frias is also eligible to become a United States citizen based upon the approved I-130 application.

12. Mr. Aragones-Frias has no criminal history. Exhibit D.

13. The DHS alleges that Petitioner is inadmissible under 8 U.S.C. §§ 1182(a)(6)(A)(i) and 1182(a)(7)(A)(i)(I). Exhibit A.

14. Prior to October 15, 2025, the government had not elected to detain Petitioner.

15. On July 8, 2025, DHS introduced a "new policy" instructing all ICE employees to treat anyone alleged to be inadmissible under Section 1182(a)(6)(A)(i) as an "applicant for admission" subject to the mandatory detention under 8 U.S.C. § 1225(b)(2)(A). This announcement of the policy conceded that it was created "in coordination with the Department of Justice (DOJ)." Exhibit H. This incorrect and indefensible interpretation of the Immigration and Nationality Act ("INA") was endorsed by the Board of Immigration Appeals, an arm of the Department of Justice, on September 5, 2025, *Matter of Yajure Hurtado,* 29 I&N Dec. 216, 220 (BIA 2025). The IJ cited *Matter of Yajure Hurtado* to deny the bond hearing. Exhibit G.

16. Petitioner's detention under *Matter of Yajure Hurtado* violates the plain language of the Immigration and Nationality Act and contradicts basic precepts of statutory construction and legal analysis.

17. A correct reading of the INA would conclude that Section 1225(b)(2)(A) applies to recent arrivals who are apprehended near the border. It does not apply to individuals, like Petitioner, who are accused of entering the country years ago and are arrested many miles north of the U.S.-Mexico border during a traffic stop in Ward County, Texas.

18. The correct reading of the statute is discerned from text, case law, and decades of agency practice. Petitioner should not be deemed detained under Section 1225(b)(2) but under Section 1226(a) and, thus, eligible for bond. Respondents' interpretation to the contrary is a dangerous transgression of the INA, the Administrative Procedure Act, and Due Process.

19. Petitioner seeks a writ of habeas corpus for immediate release or an individualized bond hearing before an immigration judge.

CUSTODY

20. Petitioner is in the physical custody of Respondent MARY DE ANDA YBARRA, El Paso Field Office Director for Detention and Removal, Immigration and Customs Enforcement (ICE), and the Department of Homeland Security (DHS).

JURISDICTION

21. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article 1, section 9, clause 2 of the United States Constitution (the Suspension Clause).

22. 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.

VENUE

23. 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 Western District of Texas, El Paso Division because Petitioner is detained in El Paso County, Texas, within the environs of the El Paso Division.

24. Venue is also proper pursuant to 28 U.S.C. § 1391(e) because (a) Respondents are employees, officers, and agencies of the United States, and (b) a substantial part of the events or

omissions giving rise to the claims occurred in the Western District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

25. The Court must grant a petition for writ of habeas corpus or order a respondent 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, a respondent must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

26. 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).

PARTIES

27. Petitioner is a national and citizen of Mexico. Exhibit 1.

28. Respondent Kristi Noem is the Secretary of the United States Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees ICE, which is responsible for Petitioner's detention. Secretary Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

29. Respondent Mary De Anda Ybarra is the Field Office Director of ICE's Enforcement and Removal Operations division in El Paso, Texas. As such, Respondent is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is named in her official capacity.

30. Respondent Todd M. Lyons is the Acting Director of United States Immigration

and Customs Enforcement, and responsible for Petitioner's detention. He is named in his official capacity.

31. 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 is a component agency. She is sued in her official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

32. "The major purpose of the exhaustion doctrine is to prevent the courts from interfering with the administrative process until it has reached a conclusion." *Von Hoffburg v. Alexander*, 615 F.2d 633, 637 (5th Cir. 1980). Under *Matter of Yajure Hurtado*, an immigration judge has no jurisdiction to entertain a bond hearing for people such as Petitioner. Because *Yajure Hurtado* was issued as a precedential decision, it serves as "precedent[] in all proceedings involving the same issue or issues" upon BIA review. 8 C.F.R. § 1003.1(g)(2). Any appeal of the denial of the bond hearing to the BIA "would be a patently futile course of action." *Fuller v. Rich,* 11 F.3d. 61, 62 (5th Cir. 1994 (per curiam). Therefore, an exception to exhaustion exists and Petitioner's only remedy is by way of a writ of habeas corpus to this Court.

LEGAL FRAMEWORK

8 USC §§ 1225, 1226 and *Matter of Yajure Hurtado*

33. The Immigration and Nationality Act ("INA") prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

34. 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 detained under Section 1226(a) are generally entitled to a bond hearing at the outset of their detention. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). However, noncitizens who have been arrested, charged with, or convicted of

certain crimes are subject to mandatory detention under Section 1226(c). *See* 8 U.S.C. § 1226(c).

35. Second, the INA provides for mandatory detention of two groups of noncitizens: The first group consists of those who are subject to expedited removal for being apprehended upon arrival near the border or for being unable to show that they have been physically present in the United States for more than two years until a determination has been made as to whether they have a credible fear of persecution. 8 U.S.C. § 1225(b)(1). The second group subject to mandatory detention consists of anyone alleged to be an "applicant for admission" who is "seeking admission" and whom an "examining immigration officer determines . . . is not clearly and beyond a doubt entitled to be admitted." *See* 8 U.S.C. § 1225(b)(2)(A).

36. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

37. Mr. Aragones-Frias' case concerns the detention provisions described in Section 1226(a) and Section 1225(b)(2).

38. The detention provisions in Section 1226(a) and Section 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).

39. Following the enactment of the IIRIRA, EOIR drafted regulations explaining that, in general, people who entered the country without inspection were considered detained under Section 1226(a), not under Section 1225. *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).

40. In the decades that followed the creation of this statutory and regulatory language, people who entered without inspection were placed in standard removal proceedings and received bond hearings, unless their criminal histories triggered the requirements for mandatory detention outlined in 8 U.S.C. § 1226(c) (concerning mandatory detention of "criminal aliens"). *See also* 8 C.F.R. 236.1(c)(8) (describing criteria for release). That practice was consistent with many 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).

41. On July 8, 2025, ICE, announced a new policy "in coordination with" the Department of Justice that rejected the well-established understanding of the statutory framework and reversed decades of practice. Exhibit H.

42. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] asserts that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225(a)(1), and therefore subject to mandatory detention provision under Section 1225(b)(2)(A). The policy applies regardless of when or where a person was apprehended, and it affects those who have resided in the United States for months, years, and even decades.

43. On September 5, 2025, the Board of Immigration Appeals (BIA) issued an opinion adopting this interpretation of the detention statutes. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025). The decision holds that "aliens who are present in the United States without admission are applicants for admission as defined under section 235(b)(2)(A) of the

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

INA, 8 U.S.C. § 1225(b)(2)(A), and must be detained for the duration of their removal proceedings." *Id.*

44. ICE, certain immigration courts and now, the Board of Immigration Appeals, have adopted this position even though a vast majority of federal courts have rejected this very argument. Even before the announcement of this new DHS policy, in the immigration court in Tacoma, Washington, immigration judges 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 Section 1226(a), not Section 1225(b), applies to noncitizens who are neither apprehended upon arrival to the United States nor within the first two years of presence. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025) (granting TRO relief).

45. In the Central District of California, detainees sought a nationwide class action challenging this policy. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, Class Action Compl. & Am. Pet. for Habeas Corpus, Dkt. 15 (C.D. Cal. July 28, 2025). The district court granted a temporary restraining order for the named class members. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, Order Granting Pet'rs' Ex Parte Appl. for TRO & Order to Show Cause, Dkt. 5 (C.D. Cal. July 28, 2025). Thereafter, the respondents provided an individualized bond hearing to each of the named petitioners. Dkt. 58. The Court granted Petitioners' Motion for Partial Summary Judgment and the motion for class certification is pending. Dkt. 81.

46. At least 75 United States District Courts reject DHS/EOIR/*Matter of Yajure Hurtado* holding. Exhibit H (list of cases).

47. Three (3) United States District Courts disagree: *Chavez v. Noem*, --- F. Supp. 3d ---, 2025 U.S. Dist. LEXIS 192940 (S.D. Cal. Sept. 24, 2025) (denying request for ex parte temporary

restraining order on the grounds that the petitioners' motion did not raise "serious questions going to the merits"); *Vargas Lopez v. Trump*, --- F. Supp. 3d ---, 2025 U.S. Dist. LEXIS 192557 (D. Neb. Sept. 30, 2025) (denying relief "in large part to mistakes in the petitioner's pleadings" and "failure to provide exhibits"); *Sandoval v. Acuna*, No. 6:25-CV-01467, 2025 U.S. Dist. LEXIS 215357 (W.D. La. Oct. 31, 2025).

48. The joint DHS-DOJ interpretation of Section 1225(b)(2) defies the INA's text, the INA's logic, and the well-established case law and practice interpreting this provision. There are at least four separate grounds on which the DHS-DOJ interpretation of law fails basic methods of statutory construction.

49. First, the DHS-DOJ reading of the statute is wrong because it is incompatible with the title of Section 1225, "Inspection by Immigration Officers; *Expedited Removal of Inadmissible Arriving Aliens*; Referral for Hearing." 8 U.S.C. § 1225 (emphasis added). As the Supreme Court has explained, "the title of a statute and

the heading of a section are tools available for the resolution of a doubt" about the meaning of a statute. *Almendarez-Torres v. United States*, 523 U.S. 224, 234 (1998). Section 1225's title refers to "arriving" noncitizens who are put in "expedited removal proceedings." *Id.* These are the people to whom Section 1225(a)(1)'s definition of "applicant for admission" and Section 1225(b)(2)(A)'s mandatory detention provisions apply. The government gravely errs by applying the definition of "applicant for admission" to people who are not "arriving" and not in "expedited removal proceedings." In this case, Petitioner was not "arriving" or "seeking admission" when he was detained **years after entry hundreds of miles north of the U.S. – Mexico border.** Nor was he put in expedited removal proceedings. Exhibit A. Section 1225(b)(2)(A) cannot apply to him.

50. Second, the DHS-DOJ reading violates the INA because it ignores the subject-matter

of Section 1225. Section 1225 describes the procedures for the inspection and expedited removal of people detained at the border who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). The Supreme Court itself noted that the mandatory detention scheme in Section 1225(b)(2)(A) 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). Throughout, Section 1225's text makes clear that it concerns apprehensions and "expedited" procedures conducted at the border—not actions taken far from the border like Chicago. That the DHS-DOJ reading of the statute ignores this context. "It is a fundamental canon of statutory construction," the Supreme Court explained, "that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme." *Davis v. Michigan Dep't of Treasury*, 489 U.S. 803, 809 (1989). The context of Section 1225 demonstrates that subsections 1225(a)(1) and 1225(b)(2)(A) apply to those apprehended at or near the border upon arrival or shortly thereafter. They do not apply to those who are arrested in the interior of the United States months, years or a decade or more later. The DHS-DOJ reading of the statute is an act of cherry-picking a definitional phrase from one context and applying it to another context where it does not belong.

51. Third, the DHS-DOJ reading of Section 1225(b)(2)(A) is wrong because it requires courts to ignore numerous words in the text of that very subsection. As Justice Antonin Scalia and his co-author, Bryan A. Garner, explain: "If possible, every word and every provision is to be given effect." SCALIA AND GARNER, READING LAW: THE INTERPRETATION OF LEGAL TEXTS AT 174 (2012). A good interpretation of a statute will not result in "extra" words. Yet that is exactly what occurs if one tries to apply Section 1225(b)(2)(A) to Petitioner's case. Here is the full text of Section 1225(b)(2)(A), the mandatory-detention provision:

> [I]n the case of an alien who is an applicant for admission,

> if the *examining immigration officer* determines that an alien [2] *seeking* admission is [3] *not clearly and beyond a doubt entitled to be admitted*, the alien shall be detained for a proceeding under section 240.

8 U.S.C. § 1225(b)(2)(A) (emphasis and bracketed numbers added). Petitioner was never seen by an "examining immigration officer." There was never a "determin[ation] that . . ." he was "not clearly and beyond a doubt entitled to be admitted." Nor was Petitioner "seeking" when he did what he was asked to do: attend the I-130 interview at USCIS. The reason the DHS-DOJ application of the statute has all of these "extra" words is that the statute applies only to those who are "arriving" at the border and are candidates for "expedited removal." In *that* context, those "extra" words make sense, as there will be an "examining immigration officer" and there will be a determination of potential eligibility for immigration relief. These procedures are uniquely tethered to the border and they are described in exquisite detail in the subsections of Section 1225. But Section 1225's procedures have no purchase in the entirely different context of someone, in Petitioner's position, who is detained far from the border and decades after he has allegedly entered. Only by ignoring all of these "extra" words can DHS-DOJ claim to make its reading of the statute fit Petitioner.

52. Further, Respondents' proposed interpretation of the statute ignores the plain meaning of the phrase "seeking admission." *See Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 Dist. LEXIS 141724, at *6-11 (D. Mass July 24, 2025). "Seeking" means "asking for" or "trying to acquire or gain." Merriam-Webster Dictionary, https://www.merriam-webster.com/dictionary/seeking. And the use of a present participle, "seeking," "necessarily implies some sort of present-tense action." *Martinez*, 2025 Dist. LEXIS 2084238, at *7. The term "admission" is defined as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). And "entry" has long been understood to mean "a crossing into the territorial limits

of the United States." *Hing Sum v. Holder*, 602 F.3d 1092, 1100-01 (9th Cir. 2010) (quoting *Matter of Pierre*, 14 I & N Dec. 467, 468 (1973)). To piece this together, the phrase "seeking admission" means that one must be actively "seeking" "lawful entry." *See Lopez Benitez v. Francis,* No. 25-Civ-5937, 2025 U.S. Dist. LEXIS 153952 at *7 (S.D.N.Y. Aug. 8, 2025).[2]

53. However, Petitioner was not seeking admission when he was arrested by immigration officials in Ward County, Texas on October 15, 2025. He was already in the United States, having entered without inspection on April 16, 2005. If anything, Petitioner was seeking to ***remain*** in the United States. As *Lopez-Benitez* noted:

> [S]omeone who enters a movie theater without purchasing a ticket and then proceeds to sit through the first few minutes of a film would not ordinarily then be described as "seeking admission" to the theater. Rather, that person would be described as already present there. Even if that person, after being detected, offered to pay for a ticket, one would not ordinarily describe them as "seeking admission" (or "seeking" "lawful entry") at that point—one would say that they had entered unlawfully but now seek a lawful [*12] means of remaining there. As § 1225(b)(2)(A) applies only to those noncitizens who are actively "seeking admission" to the United States, it cannot, according to its ordinary meaning, apply to [petitioner], because he has already been residing in the United States for more than two years.

Lopez Benitez, 2025 WL 2371588, at *7; *see also Lopez-Campos v. Raycraft*, No. 2:25-CV-12486,

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[2] This understanding is further buttressed by the fact that "lawful entry" may occur only after "inspection and authorization by an immigration officer," see 8 U.S.C. § 1101(a)(13), a process that typically must occur at the border or other port of entry. *See Posos-Sanchez v. Garland*, 3 F.4th 1176, 1183 (9th Cir. 2021) (explaining that "inspection and authorization" must "take place at a 'port of entry'" for one to be considered to have "awfully entered"). The regulations that set out "inspection procedures" make clear that inspection is a procedure that occurs at ports of entry. *See* 8 C.F.R § 235.1(a) ("Application to lawfully enter the United States shall be made in person to an immigration officer at a U.S. port-of-entry when the port is open for inspection.").

2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025) ("[S]eeking 'admission' implies action — something that is currently occurring, and in this instance, would most logically occur at the border upon inspection.").

54. Fourth, the DHS-DOJ reading of Section 1225(b)(2)(A) violates the INA because it renders a neighboring subsection superfluous. In Section 1226(c), the INA describes people who would otherwise be eligible for bond under Section 1226(a) but are rendered ineligible for bond because of their criminal histories. *See* 8 U.S.C. § 1226(c). Of particular interest, subsections 1226(c)(1)(E)(i)-(ii) address people who are alleged to be inadmissible under 8 § U.S.C. 1182(a)(6)(A) as aliens present without inspection. According to these subsections, such people are ineligible for bond *only* if they are also "charged with, . . . arrested for, . . . convicted of . . ." certain crimes. *See* 8 U.S.C. § 1226(c)(1)(E)(i)-(ii). In short, Section 1226(c) requires mandatory detention for people who have entered without inspection *and* have criminal histories. But if the DHS-DOJ reading were correct, then all people who entered without inspection would be mandatorily detained, regardless of whether they had criminal histories or not. Subsections 1226(c)(1)(E)(i) and (ii) would be superfluous, if the DHS-DOJ position were correct, because Section 1225(b)(2)(A) would govern all cases where someone was alleged to have entered without inspection. But we know that cannot be right, as these subsections of 1226(c)(1) were the most recent subsections added by Congress to the INA just this year in the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. ___ (2025) (adding (E)(i) and (E)(ii) to Section 1226(c)(1)). Congress would not have added the subsections only to see these additions rendered completely superfluous.

55. For the four distinct reasons outlined above, the mandatory detention provision of Section 1225(b)(2)(A) does not apply to people like Petitioner.

Due Process Violation

56. Respondents' detention of Mr. Aragones-Frias without a bond hearing denies due process under the Fifth Amendment.

57. "To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976)." *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 U.S Dist. LEXIS 174415, at *3 (W.D. Tex. Sept. 8, 2025). Those factors are: (1) "the private interest that will be affected by the official action"; (2) "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 (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335. "The essence of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time." *Id.* at 348.

a. Private Interest

58. As to the first element, "'[t]he interest in being free from physical detention' is 'the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Respondents have detained Petitioner since October 15, 2025. A person's physical freedom is a paramount liberty interest, secured not just by statute but by the Constitution. *Id.* This liberty interest applies to noncitizens, although to varying degrees

Martinez v. Hyde, --- F. Supp. 3d ---, 2025 U.S. Dist. LEXIS 141724 at *8 (D. Mass. July 24, 2025) (citation omitted). "[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality." *Id.* (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958)). "In the latter instance the Court has recognized additional rights and privileges not extended to those

in the former category who are merely "on the threshold of initial entry."" *Id.* (*quoting Leng May Ma,* 357 U.S. at 187).

59. Petitioner has lived in the United States since April 16, 2005, so "it cannot be denied that [he] was 'already in the country.'" *See id.* (quotations omitted). He has no criminal history (Exhibit D, p. 3), and he has established a family and a community here. In custody, he is suffering all the deprivations of incarceration, including loss of contact with friends and family and, most fundamentally, the lack of freedom of movement.

60. Recently, district courts throughout the United States have considered due process claims in habeas petitions by noncitizens without lawful immigration status who entered the United States surreptitiously, like Mr. Aragones-Frias. Those courts have found that because the petitioners established a life here—albeit without authorization—they possessed a strong liberty interest in their freedom from detention. *See, e.g., Sanchez Alvarez v. Noem*, No. 25-CV-1090, 2025 U.S. Dist. LEXIS 2048996 at *1 (W.D. Mich. Oct. 17, 2025); *Choglo Chafla v. Scott*, Nos. 25-CV-437, 438, 439, 2025 U.S. Dist. LEXIS 184909 at *1, 10 (D. Me. Sept. 22, 2025); *Martinez v. Noem*, No. EP:25-CV-430-KC, U.S. Dist. LEXIS 403462 (W.D. Tex. Oct. 21, 2025). These decisions are persuasive and consistent with the longstanding principle that due process applies to those who are present in the interior of the United States, regardless of their citizenship status. *See Leng May Ma*, 357 U.S. at 187.

b. Risk of Erroneous Deprivation

61. Under the second *Mathews* factor, the Court must consider "whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Martinez v. Noem*, 2025 U.S. Dist. LEXIS 403462 at *8 (*quoting Gunaydin v. Trump*, 784 F. Supp. 3d 1175, 1187 (D. Minn. May 21, 2025)).

62. Detaining Petitioner without holding a bond hearing creates a certain result that he is

deprived of his liberty, the Immigration Judge already finding him not a danger or flight risk with the grant of a $5,000 bond "were the Court to have jurisdiction." Exhibit G. Therefore, the second *Mathews* factor weighs in favor of Mr. Aragones-Frias.

c. Government's Interest

63. Respondents' only possible interest to detain Petitioner without a bond hearing serves the misguided policy to detain every non-citizen who entered the United States without inspection pursuant to *Matter of Yajure Hurtado*. Even if all of the 75+ United States District Judges are wrong and Respondents' interpretation of the statutes is correct, Petitioner's constitutional interest in his liberty exists above and apart from the INA. *See A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) ("[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.") (citation omitted). Certainly, the Government has an interest in ensuring that noncitizens appear for their removal hearings and do not pose a danger to the community. But these concerns have already been addressed by the Immigration Judge. Exhibit D. Thus, the third *Mathews* factor also weighs in favor of Petitioner.

64. Since all *Mathews* factors support Mr. Aragones-Frias' position, the denial of an individualized bond hearing, where the risk of flight and dangerousness has been resolved, continued detention deprives him of his constitutional right to procedural due process under the Fifth Amendment of the United States Constitution. Mr. Aragones-Frias is entitled to be released upon pursuant to the Immigration Judge's findings for a $5,000.00 bond. *See Martinez v. Noem*, 2025 U.S. Dist. LEXIS 403462 at *9.

Administrative Procedure Act

65. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance

with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

66. Respondents' detention of Petitioner pursuant to Section 1225(b)(2) is arbitrary and capricious. Respondents' detention of Petitioner violates the INA and the Fifth Amendment. Respondents do not have statutory authority under Section 1225(b)(2) to detain Petitioner.

RELEVANT FACTS

67. Petitioner is a citizen and national olf Mexico who entered the United States without inspection on April 16, 2-005. Exhibit A.

68. Petitioner is married to a United States citizen. Exhibits B-C.

69. The United States Citizenship and Immigration Service has approved an I-130 petition for Petitioner to become a lawful permanent resident. Exhibit E.

70. Petitioner was arrested in Ward County, Texas by United States Border Patrol agents on October 15, 2025, when a Ward County Deputy Sheriff conducted a traffic stop in the vehicle that Petitioner was a passenger. Exhibit D.

71. Petitioner was detained by immigration officials at the El Paso Processing Center where he requested a bond hearing from an Immigration Judge. Exhibit F.

72. The Immigration Judge denied the bond hearing, citing *Matter of Yajure Hurtado,* but stated, "[H]owever, were the Court to have jurisdiction, the Court would find that the respondent is not a danger and that his flight risk could be mitigated by a bond of $5,000.00." Exhibit F.

CLAIMS FOR RELIEF

COUNT I: VIOLATIONS OF THE INA

73. Petitioner incorporates by reference the factual allegations and legal arguments set forth

in the preceding paragraphs.

74. For the reasons described above, the mandatory detention provision of 8 U.S.C. § 1225(b)(2) cannot not apply to all noncitizens in the United States who are subject to the specified grounds of inadmissibility, entry without inspection. As relevant here, this mandatory detention statute cannot be read to apply to those who are accused of residing in the United States for decades prior to apprehension and removal proceedings. proceedings. A person with long-term residence in the United States who is alleged to be removable should be deemed detained under Section 1226(a), unless they are subject to Section 1226(c) or Section 1231. Indeed, for the reasons described in all the paragraphs above, the mandatory detention statute cannot be read to apply to someone in Petitioner's circumstances.

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

COUNT II: VIOLATION OF DUE PROCESS

76. Petitioner incorporates by reference the factual allegations and legal arguments set forth

COUNT III: VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

80. Petitioner incorporates by reference the factual allegations and legal arguments set forth in the preceding paragraphs.

81. Under the Administrative Procedure Act, a court must "hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with the law," that is "contrary to constitutional right [or] power," or that is "in excess of statutory jurisdiction, authority, or limitations, or short of statutory right." 5 U.S.C. § 706(2)(A)-(C).

82. Respondents' detention of Petitioner pursuant to Section 1225(b)(2) is arbitrary and capricious. Respondents' detention of Petitioner violates the INA and the Fifth Amendment. Respondents do not have statutory authority under Section 1225(b)(2) to detain Petitioner.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring Respondents to release Petitioner upon payment of the $5,000.00 bond or provide an individualized bond hearing within 10 days.

c. 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 justified basis under law; and

d. Grant such other relief that the Court deems proper.

Date: November 25, 2025

Respectfully submitted,

Stephen W. Spurgin
Texas Bar No. 189743250
310 North Mesa, Suite 300
Cortez on the Plaza
El Paso, Texas 79901
Tel: 915.779.2800
Email: stephen@spurginLaw.com
Attorney for Petitioner
Norberto Aragones-Frias

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

I, Stephen W. Spurgin, am submitting this verification on behalf of Petitioner because I am his attorney and Petitioner is in ICE custody. I have discussed with Petitioner the events described in this Petition and have reviewed the documents corroborating those events. I hereby verify under penalty of perjury that the factual statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Stephen W. Spurgin
November 25, 2025