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7 UNITED STATES DISTRICT COURT  
8 SOUTHERN DISTRICT OF NEW YORK

9 YOHANDRY JOSE CASTRO CONEO,  
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Petitioner,

Case No. 25-cv-9850

v.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

PAUL ARTETA, in his official capacity as  
Sheriff of Orange County, New York and  
Warden of the Orange County Correctional  
Facility; JUDITH ALMODOVAR,  
in her official capacity as Acting New York  
Field Office Director, U.S. Immigration &  
Customs Enforcement; KRISTI NOEM, in her  
official capacity as Secretary, U.S. Department  
of Homeland Security; TODD M. LYONS; in  
his official capacity as Acting Director of  
Immigration & Customs Enforcement;  
PAMELA BONDI, in her official capacity as  
Attorney General, U.S. Department of Justice

Respondents.

**INTRODUCTION**

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2 1. Petitioner Yohandry Jose Castro Coneo is detained at the Orange County  
3 Correctional Facility in Goshen, New York. His continued detention rests on a newly adopted  
4 and fundamentally erroneous interpretation of the Immigration and Nationality Act (“INA”)   
5 under which the Department of Homeland Security (“DHS”) and the Executive Office for  
6 Immigration Review (“EOIR”) have begun treating all noncitizens who entered without  
7 inspection at any time in the past as subject to mandatory detention under 8 U.S.C. §  
8 1225(b)(2)(A). Under this reinterpretation, such individuals are categorically barred from release  
9 on bond and immigration judges lack jurisdiction to review custody. The Board of Immigration  
10 Appeals (“BIA”) endorsed this reinterpretation in *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA  
11 2025), and *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

12 2. Petitioner’s detention is unlawful. He was placed in removal proceedings and  
13 charged with inadmissibility for entering the United States without inspection under 8 U.S.C. §  
14 1182(a)(6)(A)(i). For decades, individuals in Petitioner’s circumstances have been detained  
15 under 8 U.S.C. § 1226(a), which authorizes release on bond and provides for custody  
16 redetermination by an immigration judge. Section 1225(b)(2)(A) applies only to individuals  
17 encountered at the border and undergoing contemporaneous inspection. The Supreme Court has  
18 consistently described § 1225 as governing inspection and detention “at the Nation’s borders and  
19 ports of entry,” not long-settled residents apprehended in the interior. *Jennings v. Rodriguez*, 583  
20 U.S. 281, 287 (2018).

21 3. Courts across the country, including within this District, have rejected DHS’s new  
22 interpretation as contrary to the plain language and structure of the INA, the statute’s legislative  
23 history, and three decades of consistent agency practice.  
24

1 4. Petitioner seeks a writ of habeas corpus requiring his immediate release, or in the  
2 alternative, requiring Respondents to provide a custody redetermination hearing under § 1226(a)  
3 within seven days.

4 **JURISDICTION**

5 5. Petitioner is in the physical custody of Respondents. Petitioner is detained at the  
6 ORANGE COUNTY CORRECTIONAL FACILITY, in Goshen, New York. *See* Ex. B, ICE  
7 Detainee Locator Information.

8 6. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28  
9 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States  
10 Constitution (the Suspension Clause).

11 7. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory  
12 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

13 **VENUE**

14 8. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-  
15 500 (1973), venue lies in the United States District Court for the Southern District of New York,  
16 the judicial district in which Petitioner currently is detained.

17 9. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because  
18 Respondents are employees, officers, and agencies of the United States, and because a  
19 substantial part of the events or omissions giving rise to the claims occurred in the Southern  
20 District of New York.

21  
22 **REQUIREMENTS OF 28 U.S.C. § 2243**





1 to the United States. Section 1225 provides that “in the case of an alien who is an applicant for  
2 admission, if the examining immigration officer determines that an alien seeking admission is  
3 not clearly and beyond a doubt entitled to be admitted, the alien shall be detained.” Individuals  
4 detained under § 1225(b) are subject to mandatory detention pending the outcome of their  
5 proceedings.

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

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

9 23. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the  
10 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.  
11 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section  
12 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1,  
13 139 Stat. 3 (2025).

14 24. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining  
15 that, in general, people who entered the country without inspection were not considered detained  
16 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited  
17 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings;  
18 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

19 25. For nearly three decades following those regulations, DHS, EOIR, and federal  
20 courts uniformly applied § 1226(a) to noncitizens who entered without inspection and were later  
21 apprehended in the interior of the United States. Individuals in this category routinely received  
22 bond hearings before immigration judges because their detention arises from interior  
23 enforcement under § 1226(a), not from border inspection under § 1225(b). This uniform practice  
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1 reflects the INA’s structure and the distinction Congress drew between individuals seeking  
2 admission and those who have long since entered the United States. Nothing in the statutory text,  
3 legislative history, administrative interpretation, or case law suggested that individuals in  
4 Petitioner’s circumstances were to be treated as mandatory detainees under § 1225(b)(2)(A).

5         26. In July 2025, however, DHS abruptly adopted a new interpretation. ICE issued  
6 “Interim Guidance Regarding Detention Authority for Applicants for Admission,” asserting that  
7 any individual who is present in the United States without admission—regardless of residence,  
8 circumstances of arrest, or time since entry—is subject to mandatory detention under §  
9 1225(b)(2)(A). This interpretation effectively eliminates the statutory distinction between § 1225  
10 and § 1226 and asserts that immigration judges lack authority to hear custody redetermination  
11 requests from anyone who entered the country unlawfully, without inspection. The policy applies  
12 regardless of when a person is apprehended, and affects those who have resided in the United  
13 States for months, years, and even decades.

14         27. ICE’s policy is supported by two decisions issued by the Board of Immigration  
15 Appeals, *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I. &  
16 N. Dec. 216 (BIA 2025). In *Q. Li*, the BIA held that an “applicant for admission who is arrested  
17 and detained without a warrant while arriving in the United States,” and later placed into removal  
18 proceedings is subject to mandatory detention under 8 U.S.C. § 1225(b). 29 I. & N. Dec. at 69. In  
19 *Yajure Hurtado*, the Board expanded its holding in *Q. Li* to require mandatory detention for all  
20 noncitizens who are present in the United States without admission, regardless of manner of  
21 entry. 29 I. & N. Dec. at 216.

1           28.       With these decisions the BIA stripped immigration courts of the authority to hold  
2 bond hearings for any noncitizen who is present in the United States without having been  
3 admitted or paroled, subjecting these individuals to mandatory detention under § 1225(b)(2)(A).

4           29.       Since Respondents adopted their new policies, dozens of federal courts have  
5 rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected  
6 *Matter of Yajure Hurtado* and *Matter of Q. Li*, which adopt the same reading of the statute as  
7 ICE.

8           30.       Subsequently, courts of this District and around the country have rejected this  
9 reinterpretation as contrary to the INA. These courts have concluded that § 1225(b)(2)(A) does  
10 not apply to individuals like Petitioner, who entered the United States long ago and were  
11 apprehended in the interior. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL  
12 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp.  
13 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157  
14 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation*  
15 *adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025);  
16 *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13,  
17 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug.  
18 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFM), 2025 WL 2379285  
19 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass.  
20 Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug.  
21 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal.  
22 Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md.  
23 Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La.  
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1 Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL  
2 2466670 (D. Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS,  
3 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-  
4 DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No.  
5 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v.*  
6 *Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*,  
7 No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma*  
8 *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at \*2 (D. Neb. Sept. 3, 2025) (noting that  
9 “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v.*  
10 *Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at \*3 (D. Neb. Aug. 19, 2025) (same);  
11 *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at \*2 (D. Neb. Aug. 14,  
12 2025) (same).

13 31. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it  
14 defies the INA. As this court held in *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025  
15 WL 2371588 (S.D.N.Y. Aug. 13, 2025), and countless others have explained, the plain text of  
16 the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like  
17 Petitioner.

18 32. These decisions rest on consistent reasoning grounded in the statutory text,  
19 structure, and the Supreme Court’s description of § 1225(b) as a regime governing “arriving  
20 aliens” who are stopped at the border and are seeking admission. The Supreme Court has  
21 explained that § 1225(b) is designed to govern processing “at the Nation’s borders and ports of  
22 entry.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). This statutory framework presupposes  
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1 a contemporaneous inspection at the time the individual seeks admission, which does not apply  
2 to individuals residing in the interior who are later apprehended.

3 33. The statutory structure confirms this interpretation. Section 1225 is titled  
4 “Inspection by immigration officers” and repeatedly refers to determinations made by the  
5 examining officer at the time an individual seeks admission. *See* 8 U.S.C. § 1225(a)(3),  
6 (b)(1)(A), (b)(2)(A). In contrast, § 1226 applies to arrests made “on a warrant issued by the  
7 Attorney General” after a person is already present in the United States. Congress thus created  
8 two separate detention schemes—one for individuals at the border undergoing contemporaneous  
9 inspection, and one for individuals arrested in the interior. Petitioner plainly falls within the latter  
10 scheme.

11 34. Consequently, the new DHS and EOIR interpretation collapses the statutory  
12 distinction between border processing and interior arrest, undermines the express structure  
13 Congress enacted, and unlawfully eliminates bond hearings for a broad class of individuals  
14 whom Congress intended to be eligible for individualized custody determinations.

### 15 **FACTS**

16 35. Petitioner entered the United States without inspection on or about March 3, 2024.  
17 Ex. A, Notice to Appear. Since arriving in the United States, Petitioner has resided in Corona,  
18 Queens County, New York, together with his wife and their two children, who are three years  
19 old and seven months old. Petitioner has established his life, home, and community here.

20 36. On November 12, 2025, Petitioner appeared for a scheduled master calendar  
21 hearing at the New York Immigration Court located at 26 Federal Plaza in Manhattan. At the  
22 conclusion of the hearing, the immigration judge scheduled his next hearing date for September  
23 2026.

1 37. As Petitioner exited the courtroom, ICE officers apprehended him without prior  
2 notice or warning. He was transferred to Orange County Correctional Facility and has remained  
3 detained there.

4 38. By their aforementioned policies, ICE and EOIR have taken the position that  
5 Petitioner is subject to mandatory detention under § 1225(b)(2)(A) and is therefore ineligible for  
6 bond. As a result, Petitioner has not been afforded any opportunity to appear before an  
7 immigration judge to request release, nor has he been evaluated under the traditional § 1226(a)  
8 flight risk or danger assessment. The denial of access to a bond hearing has resulted in  
9 substantial hardship to Petitioner’s wife and minor children, who rely on him for care, support,  
10 and stability.

11  
12 **CLAIMS FOR RELIEF**

13 **COUNT I**  
14 **Violation of the INA**

15 39. Petitioner incorporates all preceding paragraphs.

16 40. The application of 8 U.S.C. § 1225(b)(2)(A) to Petitioner is contrary to the text,  
17 structure, and purpose of the INA.

18 41. Petitioner is not an “arriving alien” encountered at or near the border who is  
19 seeking admission at the time of inspection. He is a noncitizen who has resided in the interior of  
20 the United States for nearly two years and who was apprehended after attending an immigration  
21 court hearing.

22 42. Under longstanding agency practice and consistent judicial interpretation,  
23 individuals in these circumstances are detained under § 1226(a). Respondents’ application of §  
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1 1225(b)(2)(A) to Petitioner is therefore unlawful, and his continued detention without access to a  
2 bond hearing violates the INA.

3 **COUNT II**  
4 **Violation of the Bond Regulations**

5 43. Petitioner incorporates all preceding paragraphs.

6 44. The regulations governing immigration detention, promulgated following the  
7 1996 amendments to the INA, expressly provide for bond eligibility and bond redetermination  
8 for individuals who entered without inspection. These regulations were binding when issued and  
9 remain binding today. Respondents' reliance on *Matter of Q. Li* and *Matter of Yajure Hurtado* to  
10 override these regulations is unlawful.

11 45. Respondents' application of § 1225(b)(2)(A) to Petitioner directly contradicts the  
12 regulatory scheme codified at 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, each of which  
13 presupposes the availability of custody redetermination for individuals detained under § 1226(a).  
14 Respondents' refusal to afford Petitioner a bond hearing therefore violates the governing  
15 regulations.

16 **COUNT III**  
17 **Violation of Due Process**

18 46. Petitioner incorporates all preceding paragraphs.

19 47. The Due Process Clause prohibits the government from depriving an individual of  
20 liberty without due process of law. Detention is a severe deprivation of liberty, and the Supreme  
21 Court has repeatedly recognized that freedom from physical restraint is at the core of the liberty  
22 protected by the Fifth Amendment. The government may not deprive a person of life, liberty, or  
23 property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—  
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1 from government custody, detention, or other forms of physical restraint—lies at the heart of the  
2 liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

3 48. Petitioner has a fundamental interest in liberty and being free from official  
4 restraint.

5 49. The government’s refusal to provide Petitioner with an individualized custody  
6 determination, while holding him for a potentially prolonged period, violates substantive and  
7 procedural due process. The blanket denial of a bond hearing based on an erroneous statutory  
8 interpretation does not comport with the fundamental requirements of fairness and individualized  
9 decisionmaking that due process demands.

10 50. The Second Circuit has likewise held that due process requires a meaningful  
11 opportunity for an individualized determination of whether continued civil immigration detention  
12 is justified. *Velasco Lopez v. Decker*, 978 F.3d 842, 855–56 (2d Cir. 2020). Petitioner has been  
13 afforded no such process here.

14 51. The government’s detention of Petitioner without a bond redetermination hearing  
15 to determine whether he is a flight risk or danger to others violates his right to due process.  
16

17 **PRAYER FOR RELIEF**

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

- 19 a. Assume jurisdiction over this matter;
- 20 b. Expedite consideration of this Petition under 28 U.S.C § 1657 (“the court shall  
21 expedite the consideration of any action brought under chapter 153”, which  
22 includes petitions for habeas corpus);  
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- 1 c. Issue a writ of habeas corpus under 28 U.S.C. § 2241 ordering Petitioner’s  
2 immediate release from ICE custody under appropriate conditions of supervision,  
3 and do so promptly as required by 28 U.S.C. § 2243 (mandating a writ or order to  
4 show cause be returned within 3 days from filing, or 20 days for good cause  
5 shown);
- 6 d. Enjoin Respondents from transferring Petitioner out of the jurisdiction of this  
7 Court during the pendency of these proceedings;
- 8 e. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in  
9 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §  
10 1226(a) within seven days;
- 11 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act  
12 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under  
13 law; and
- 14 g. Grant any other and further relief that this Court deems just and proper.
- 15

16 DATED November 27, 2025

17

18 /s/Jonathan Langer

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2  
3 **VERIFICATION BY SOMEONE ACTING ON PETITIONERS' BEHALF PURSUANT**  
4 **TO 28 U.S.C. § 2242**

5 I am submitting this verification on behalf of the Petitioner because I am the attorney for  
6 Petitioner. I hereby verify that the statements made in the attached Petition for Writ of Habeas  
Corpus are true and correct to the best of my knowledge.

7 Dated: November 27, 2025

Respectfully submitted,

8 /s/Jonathan Langer

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