UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

FERNANDO RODRIGUEZ-LARA	§	
	§	
Petitioner,	§	
	§	
VS.	§	**5:25-CV-01581-XR**
	§	
PAMELA JO BONDI,	§	
United States Attorney General,	§	
KRISTI LYNN NOEM,	§	
Secretary of the United States	§	
Department of Homeland Security	§	
TODD M. LYONS	§	
Acting Director of United States	§	
Immigration and Customs Enforcement	§	
SYLVESTER M. ORTEGA,	§	
Field Office Director for	§	
U.S. Immigration and Customs Enforcement	§	
BOBBY THOMPSON, Warden,	§	
South Texas Detention Center	§	
UNITED STATES DEPARTMENT	§	
OF HOMELAND SECURITY;	§	
	§	
Respondents.	§	

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

Designation as EMERGENCY is warranted in the government's detention of FERNANDO RODRIGUEZ LARA ("Petitioner"). Each day of custody inflicts irreparable harm: Petitioner's physical liberty is restrained; his family is separated from its primary provider; and he is denied any access to the bond process Congress attached to the statute that governs his custody. No adequate remedy exists absent immediate intervention. Petitioner therefore respectfully requests that the Court: (1) temporarily restrain Respondents from treating him as a mandatory detainee under 8 U.S.C. § 1225(b)(2)(A) and from denying him an individualized bond hearing; (2) declare that his detention is governed by 8 U.S.C. § 1226(a); (3) order that he be released under appropriate

supervision or afforded a prompt bond hearing before a neutral decisionmaker; (4) enjoin any transfer from this Division pending resolution; and (5) under Rule 65(c), waive security or set a nominal bond given the constitutional and statutory claims asserted against the Government.

The Petitioner arrived and has resided in the United States since in or around April 2000. He has lived in the United States for over two decades. In 2013, the United States Department of Homeland Security ("DHS") through its subagency, Immigration and Customs Enforcement ("ICE"), arrested and detained Petitioner. DHS: (1) served him with a Notice to Appear ("NTA") initiating § 1229a proceedings; (2) arrested him on a Warrant for Arrest of Alien that cites "section 236 of the Immigration and Nationality Act" as the detention authority; (3) issued a Notice of Custody Determination invoking § 236; and (4) executed an Order of Release on Recognizance that expressly released him "in accordance with section 236 of the Immigration and Nationality Act [8 U.S.C. § 1226]" into the community. *See Pet. Ex. 1.* ICE's own I-213 records that he was "release[d] on an Order of Recognizance into the Alternatives to Detention Program" while awaiting his hearing before an immigration judge ("IJ"). *Id.*

On September 25, 2025, Petitioner appeared for a routine check-in at the ICE office in San Antonio. After initially being detained, he was released and instructed to return on or about November 3, 2025. Upon his return to the San Antonio ICE office, Petitioner was detained and has since remained in DHS/ICE custody at the South Texas ICE Processing Center in Pearsall, Texas. Nothing about his conduct, his proceedings, or the underlying charges had changed. What changed was the legal framework the agency and the immigration courts now claim to be bound by. In July 2025, ICE issued interim guidance on "detention authority for applicants for admission," and in September 2025 the Board of Immigration Appeals ("BIA" or "Board") issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In the wake of those actions, IJs have

been instructed to treat noncitizens in Petitioner's position as "applicants for admission" governed by 8 U.S.C. § 1225(b)(2)(A) and, on that basis alone, to disclaim bond jurisdiction. As a result, Petitioner is left with no avenue to seek a bond hearing—not because Congress withdrew that process, and not because any factual finding was made about him in particular, but because a change in legal classification now operates, as a matter of law, to bar the immigration court from hearing his custody request.

Petitioner does not challenge the validity of his removal proceedings or the government's authority to pursue removal in the ordinary course. He challenges only the current basis and conditions of his confinement: the midstream reclassification of him, as a matter of law, as an "applicant for admission" under § 1225(b)(2)(A) and the resulting denial of any bond hearing before a neutral decisionmaker. He asks this Court to enforce the statutory line Congress drew, hold that his detention is governed by § 1226(a), and restore him to the bond-eligible custody regime that the government itself applied to him for more than a decade

FACTUAL BACKGROUND

1. Petitioner incorporates by reference all factual allegations set forth in his Petition for Writ of Habeas Corpus filed contemporaneously herewith.

LEGAL STANDARD

2. A preliminary injunction is appropriate when: (1) the movant has shown a substantial likelihood of success on the merits; (2) there is a substantial threat that the movant will suffer irreparable harm if the injunction is denied; (3) the threatened injury to the movant outweighs the threatened harm to the opposing party; and (4) granting the injunction will not disserve the public interest. *Winter v. Natural Res. Def. Council*, 555 U.S. 7, 20 (2008); *Tex. Med. Providers Performing Abortion Servs. v. Lakey*, 667 F.3d 570, 574 (5th Cir. 2012).

3. When the government is the opposing party, the third and fourth factors merge because "the Government's interest in enforcing its laws is always substantial." *Nken v. Holder*, 556 U.S. 418, 435 (2009).

4. All four elements must be demonstrated to obtain injunctive relief: *Lakey*, 667 F.3d at 574.

ARGUMENT

I. Likelihood of Success on the Merits

5. Petitioner has demonstrated a substantial—indeed compelling—likelihood of success on multiple independent grounds: (1) the governing statute, read according to its text and structure, places his custody under § 1226(a), not § 1225(b)(2)(A); (2) denying him any bond hearing based solely on a legal reclassification violates procedural and substantive due process; and (3) continued detention on the wrong statutory footing is arbitrary, unauthorized, and impermissibly retroactive under the APA. Each ground independently warrants injunctive relief.[1]

6. Petitioner has demonstrated a substantial—indeed overwhelming—likelihood of success on multiple independent grounds: (1) ICE wrongly reclassified petitioner as an "applicant for admission" under § 1225(b)(2)(A); (2) Petitioner's detention violates his due process rights; and (3) the new detention regime violates the APA because it is arbitrary, capricious, and impermissibly retroactive.

7. Indeed, the United States District Court for the Central District of California recently granted Petitioners' Motion for Partial Summary Judgment in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025), holding that DHS's July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission" and the related

[1] Over 250 district courts around the United States have held the government's actions in similar cases are impermissible. *See Pet. Ex. 2.*

practice of detaining all noncitizens arrested in the interior and charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) pursuant to § 1225(b)(2)(A) are unlawful. The Court held that noncitizens in Petitioners' posture—long-time interior residents arrested and charged with inadmissibility under § 1182(a)(6)(A)(i)—are detained under § 1226(a), not § 1225(b)(2), and are entitled to bond-eligible custody. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, slip op. at 10–16 (C.D. Cal. Nov. 20, 2025) (granting partial summary judgment declaring the July 8, 2025 DHS Policy unlawful and recognizing § 1226(a) as the governing detention authority for the Bond Eligible Class). Importantly, Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista* in that: (1) he entered without inspection; (2) he was not apprehended on arrival; and (3) he was not detained under § 1226(c), § 1225(b)(1), or § 1231 at the time of DHS's initial custody determination. The *Maldonado Bautista* class certification order extends the same declaratory relief to the Bond Eligible Class nationwide, declaring that class members are detained under § 1226, not § 1225(b)(2), and are bond eligible.

A. The INA's text and structure confirm that Petitioner's detention is governed by § 1226(a), not § 1225(b)(2)(A).

8. Congress drew a simple line. Section 1225(b) governs "applicants for admission" at the threshold—those stopped and inspected at the border or its functional equivalent. Section 1226 governs the arrest and detention of aliens "already in the country" pending removal, after they have been placed in § 1229a proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). The Fifth Circuit has adopted the same division, finding that § 1226(a) "applies to aliens who have already entered the United States" and are in ordinary removal proceedings, as opposed to the "applicants for admission" covered by § 1225(b)(2). *Texas v. Biden*, 20 F.4th 928, 946–47 (5th Cir. 2021), vacated on other grounds, 597 U.S. 785 (2022).

9. Petitioner falls squarely on the § 1226 side of that line. He was arrested in the interior, served with an NTA initiating § 1229a proceedings in the San Antonio Immigration Court, and taken into custody on a warrant expressly invoking "section 236 of the Immigration and Nationality Act" as the detention authority. ICE then issued a Notice of Custody Determination and an Order of Release on Recognizance again invoking § 1226 and releasing him "in accordance with section 236 of the Immigration and Nationality Act" while his § 1229a case proceeded. Those are formal exercises of statutory authority placing his custody under § 1226(a). District courts in this Circuit have applied the same statutory framework to cases bearing materially similar facts, holding that long-time interior residents in § 1229a proceedings are detained under § 1226(a), not § 1225(b)(2), and ordering bond-eligible custody redetermination hearings accordingly. *See, e.g., Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 438445 (S.D. Tex. 2025); *Juan Carlos Cruz Gutierrez v. Thompson*, No. 4:25-4695, 2025 WL 3187521 (S.D. Tex. Nov. 14, 2025). As most recently noted in *Maldonado Bautista*, "considering the statutory definitions . . . and the plain meaning of § 1225, it is unambiguous that 'applicants for admission' do not include noncitizens already in the United States . . . [who] were not determined inadmissible by an 'examining immigration officer.'" 5:25-CV- 01873-SSS-BFM, slip op. at 14,

10. *Matter of Yajure Hurtado* cannot rewrite the statute. An agency may not, by "interpretation," convert every noncitizen who once entered without inspection into a perpetual "applicant for admission" for detention purposes and thereby erase § 1226(a)'s bond regime for long-time interior residents. Congress created two provisions, two categories, two custody schemes. Petitioner's paperwork, history, and posture all match § 1226(a). Treating him as a § 1225(b)(2)(A) detainee is not interpretation; it is amendment by executive fiat.

B. Denying Petitioner any bond hearing based solely on a legal reclassification violates due process.

11. The Due Process Clause "imposes constraints on governmental decisions which deprive individuals of 'liberty' or 'property' interests." *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" it protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). When the government deprives someone of liberty, it must apply the correct legal standard and provide procedures adequate to guard against erroneous deprivation.

12. Petitioner has a statutory entitlement to be considered for release on bond under § 1226(a). The government need not release him, but it must use the right statute and the right process in deciding whether Petitioner is to be released. Instead of following § 1226(a) and its regulations—which authorize custody "pending a decision on whether the alien is to be removed" and provide a bond-hearing mechanism before an immigration judge, see 8 C.F.R. §§ 236.1(d), 1003.19—Respondents invoke § 1225(b)(2)(A) and rely on that provision to declare that an immigration judge "lacks jurisdiction" to consider any bond request. The denial of process flows directly from this misclassification.

13. Under *Mathews*, the Court weighs the private interest, the risk of erroneous deprivation and value of additional safeguards, and the government's interests. 424 U.S. at 335. Civil immigration detention is the core liberty loss. The risk of error is acute when the agency moves a person from one statutory regime to another and simultaneously precludes a neutral adjudicator from reviewing that decision. The additional safeguard Petitioner seeks is simply the ordinary bond process Congress attached to § 1226(a). Courts considering similar post-*Yajure Hurtado* schemes have ordered bond hearings with appropriate safeguards after finding that prolonged mandatory detention of long-time residents under § 1225(b)(2), with no access

to an individualized bond determination from a neutral arbiter, violates due process. *See, e.g.*, *Vieira v. Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 410786 (W.D. Tex. 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 467042 (W.D. Tex. 2025); *Hernandez-Fernandez v. Lyons*, No. 5:25-CV-00773-JKP, 2025 WL 493117 (W.D. Tex. 2025). For the reasons set forth in Counts One and Two of the Petition, Respondents' actions violate both substantive and procedural due process.

C. The new detention regime is arbitrary, capricious, and impermissibly retroactive.

14. For decades after IIRIRA, DHS and EOIR treated interior noncitizens who entered without inspection and were placed in § 1229a proceedings—like Petitioner—as § 1226(a) detainees with access to bond and custody redetermination hearings. ICE's own 2013 custody documents in this case reflect that settled practice.

15. Relying on the July 8, 2025, ICE Guidance and *Matter of Yajure Hurtado*, the Executive Branch of the government has adopted what is, in substance, a new legislative rule: it switches the operative detention provision, strips an existing entitlement to seek bond, and replaces a decades-old framework with a new, harsher one. Under *Landgraf v. USI Film Prods.*, a measure operates retroactively when it "attaches new legal consequences to events completed before its enactment." 511 U.S. 244, 270 (1994). Under *Bowen v. Georgetown Univ. Hosp.*, agencies lack authority to promulgate retroactive rules without express congressional authorization. 488 U.S. 204, 208 (1988).

16. For example, in *Monteon-Camargo v. Barr*, 918 F.3d 423 (5th Cir. 2019), the Fifth Circuit held that the BIA could not broaden its definition of the types of thefts that constitute crimes involving moral turpitude, and then retroactively apply the expanded definition to an older theft conviction, because it upset "fair notice, reasonable reliance, and settled expectations."

Id. at 432–34. The same is true here. *Yajure Hurtado* and the July 2025 guidance seek to treat Petitioner's long-ago entry and decade-old § 1226(a) custody as if they had always fallen under § 1225(b)(2), and to impose mandatory detention where only discretionary, bond-eligible custody previously applied. There is no clear statement from Congress authorizing such a retroactive shift. For the reasons set out in Counts Three and Four of the Petition, the new detention regime is arbitrary, capricious, "not in accordance with law," and impermissibly retroactive under 5 U.S.C. § 706(2).

II. Petitioner Will Suffer Irreparable Harm Absent Injunctive Relief

17. The loss of physical liberty—"from government custody, detention, or other forms of physical restraint"—is irreparable harm per se. *Zadvydas v. Davis*, 533 U.S. at 690. Each additional day Petitioner spends confined in an immigration detention facility, with no avenue to seek bond, is a day of unconstitutional injury that no later award of damages can cure.

18. Petitioner has lived in San Antonio for years with his U.S.-citizen wife and three U.S.-citizen children. For more than a decade, he complied with the conditions of his release, appeared at his check-ins, and remained available to the government. His sudden re-detention has severed him from his household, his employment, and his community. It has replaced a stable, supervised life with indefinite confinement under a statutory regime that, properly read, does not apply to him. The injury is ongoing and worsens every day.

19. The irreparable harm is magnified by the nature of the error. Petitioner is not simply contesting the conditions of confinement or asking the Court to second-guess a bond denial. He is being denied access to any bond process at all, solely because of a legal reclassification that contradicts the governing statute and the agency's own record. That is a structural due-process violation, and structural violations are paradigmatic examples of irreparable harm.

III. The Balance of Equities Tips Decisively in Petitioner's Favor

20. On one side of the scale lies Petitioner's interest in freedom from unlawful confinement and in restoration of the bond process Congress provided. Deprivation of liberty is "a grievous loss," *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972), and the Supreme Court has repeatedly treated continued detention in violation of law as a weighty, irreparable harm. On the other side lies the government's interest in administering the immigration laws—an interest duly recognized, but one that does not extend to detention forbidden by statute.

21. Granting relief here does not bar the government from enforcing the immigration laws or from pursuing Petitioner's removal in the ordinary course. It simply requires Respondents to do what the statute already commands: treat Petitioner as a § 1226(a) detainee, rather than as a § 1225(b)(2)(A) "applicant for admission," and afford him the bond eligibility that status entails. The government has no legitimate interest in maintaining detention on a legal basis that Congress did not authorize. Requiring a prompt bond hearing—or release under appropriate conditions—imposes at most a modest administrative burden, particularly for a noncitizen who has long resided in the district and complied with supervision.

22. The equities are therefore lopsided. Petitioner faces ongoing incarceration under an unlawful classification, with all the attendant harms to his family, livelihood, and constitutional interests. Respondents face only the obligation to follow the statute as written. The balance tips sharply in Petitioner's favor.

IV. Granting the Injunction Serves the Public Interest

23. The public has a profound interest in ensuring that government agencies comply with constitutional requirements and respect fundamental rights. Allowing ICE to detain individuals without following mandatory procedural requirements undermines the rule of law.

24. Moreover, granting injunctive relief here advances, rather than impedes, the public interest. It enforces the limits Congress placed on civil immigration detention; it vindicates the due-process requirement that liberty not be withdrawn under the wrong statute; and it preserves the separation of powers by preventing the executive from rewriting § 1225 and § 1226 by administrative decision. It also promotes confidence in the fairness of the immigration system by assuring that long-time residents are not swept into a border-detention regime that does not fit their circumstances.

25. By contrast, denying relief would signal that agencies may reclassify individuals midstream and, on the strength of that label alone, erase statutory safeguards Congress considered essential. That is not the rule of law; it is the rule of discretion. The public interest lies on the other side.

PROPOSED INJUNCTIVE RELIEF

For the foregoing reasons, Petitioner respectfully requests that the Court grant his Emergency Motion for Temporary Restraining Order and Preliminary Injunction and enter an order providing the following relief:

1) Temporarily restrain and preliminarily enjoin Respondents from treating Petitioner as a detainee under 8 U.S.C. § 1225(b)(2)(A) and from denying him access to an individualized bond determination on that basis;
2) Declare that Petitioner's detention is governed by 8 U.S.C. § 1226(a) and that he is eligible for consideration for release on bond or conditional supervision under that provision;
3) Declare that Petitioner is a member of the *Maldonado Bautista* Bond Eligible Class, which has already obtained a declaration that DHS's § 1225(b)(2) detention policy is unlawful, and find that as a class member Petitioner's detention is governed by 8 U.S.C. § 1226(a).

Insofar as Petitioner is a member of the Bond Eligible Class, this Court should declare without a hearing or further proceedings that Petitioner is eligible for consideration for release on bond or conditional supervision under § 1226(a);

4) Order Respondents either (a) to release Petitioner under appropriate supervision consistent with § 1226(a), or (b) to provide him with an individualized bond hearing before an immigration judge within seven (7) days, at which the government bears the burden to justify continued detention and the immigration judge applies the legal standard applicable to § 1226(a) custody;

5) Enjoin Respondents from transferring Petitioner out of the Western District of Texas, or otherwise beyond the reach of this Court, during the pendency of this action, and require at least forty-eight (48) hours' advance written notice to counsel before any planned transfer or removal;

6) Set this matter for an expedited hearing at the Court's earliest availability; and

7) Under Federal Rule of Civil Procedure 65(c), waive security or set a nominal bond in light of the constitutional and statutory nature of Petitioner's claims.

Respectfully submitted, this 28 November 2025,

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ATTORNEYS FOR PETITIONER

VERIFICATION OF COUNSEL

I, Juan Carlos Rodríguez, hereby certify that I am familiar with the case of the named Petitioner and that the facts as stated above are true and correct to the best of my knowledge and belief.

November 28, 2025

/s/Juan Carlos Rodríguez
State Bar of Texas No: 24033007

CERTIFICATE OF SERVICE

I certify, in accordance with the rules of this Court, I filed the foregoing via the Court's CM/ECF system, which will send notice to all registered counsel of record.

November 28, 2025

/s/Juan Carlos Rodríguez
State Bar of Texas No: 24033007

CERTIFICATE REGARDING CONFERENCE (IMPRACTICABILITY STATEMENT)
CERTIFICATE REGARDING CONFERENCE (L.R. CV-7(I))

Undersigned counsel states that a conference under Local Rule CV-7(i) is **impracticable**. This motion seeks **emergency relief** concerning Petitioner's ongoing detention and potential removal; immediate filing is necessary to prevent irreparable harm. At the time of filing, no Assistant United States Attorney had appeared for Respondents, and detention/transfer logistics make delay untenable. Upon appearance by Government counsel, Petitioner will promptly confer and advise the Court of the Government's position.

November 28, 2025

/s/Juan Carlos Rodríguez
State Bar of Texas No: 24033007