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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA

LUIS ALBERTO PAREDES QUISPE,

Petitioner,

v.

MICHAEL T. ROSE, Acting Field Office
Director of Enforcement and Removal
Operations, Philadelphia Field Office,
Immigration and Customs Enforcement; Kristi
NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; EXECUTIVE OFFICE
FOR IMMIGRATION REVIEW; CRAIG A.
LOWE, Warden of PIKE COUNTY JAIL.

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

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INTRODUCTION

1. Petitioner Luis Alberto Paredes Quispe is in the physical custody of Respondents at the Pike County Jail. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded that Petitioner is subject to mandatory detention, contrary to the law.

2. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Petitioner’s removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. On May 15, 2025, the Board of Immigration Appeals (BIA or Board) previously issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who was released from detention pursuant to a grant of parole under section 212(d)(5)(a). *See Matter of Q. Li*, 29 I.

1 & N. Dec. 66 (BIA 2025). The Board determined that such individuals are subject to detention
2 under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

3 5. Petitioner's detention on under Section 1225(b)(2)(a) violates the plain language of
4 the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like
5 Petitioner who previously entered and are now residing in the United States. Instead, such
6 individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole
7 or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible
8 for having entered the United States without inspection.

9 6. Respondents' new legal interpretation is plainly contrary to the statutory framework
10 and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

11 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released
12 or that Respondents provide a bond hearing under § 1226(a) within seven days.

13 JURISDICTION

14 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
15 Pike County Jail in Milford, Pennsylvania.

16 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C.
17 § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the
18 Suspension Clause).

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

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VENUE

11. 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 Middle District of Pennsylvania, the judicial district in which Petitioner currently is detained.

12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Pennsylvania.

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REQUIREMENTS OF 28 U.S.C. § 2243

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

14. 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).

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PARTIES

15. Petitioner Luis Alberto Paredes Quispe is a citizen of Peru who has been in immigration detention since November 21, 2025. After detaining Petitioner while he was attending an ICE check-in appointment in Philadelphia, Pennsylvania, ICE did not set bond and Petitioner

1 is unable to obtain review of his custody by an IJ, pursuant to the Board's decisions in *Matter of*
2 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) and *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA
3 2025)

4 16. Respondent Michael T. Rose is the Director of the Philadelphia Field Office of
5 ICE's Enforcement and Removal Operations division. As such, Michael T. Rose is Petitioner's
6 immediate custodian and is responsible for Petitioner's detention and removal. He is named in his
7 official capacity.

8 17. Respondent Kristi Noem is the Secretary of the Department of Homeland Security.
9 She is responsible for the implementation and enforcement of the Immigration and Nationality Act
10 (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate
11 custodial authority over Petitioner and is sued in her official capacity.

12 18. Respondent Department of Homeland Security (DHS) is the federal agency
13 responsible for implementing and enforcing the INA, including the detention and removal of
14 noncitizens.

15 19. Respondent Pamela Bondi is the Attorney General of the United States. She is
16 responsible for the Department of Justice, of which the Executive Office for Immigration Review
17 and the immigration court system it operates is a component agency. She is sued in her official
18 capacity.

19 20. Respondent Executive Office for Immigration Review (EOIR) is the federal agency
20 responsible for implementing and enforcing the INA in removal proceedings, including for custody
21 redeterminations in bond hearings.

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

6 29. Thus, in the decades that followed, most people who entered without inspection
7 and were placed in standard removal proceedings received bond hearings, unless their criminal
8 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with
9 many more decades of prior practice, in which noncitizens who were not deemed “arriving” were
10 entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994);
11 *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the
12 detention authority previously found at § 1252(a)).

13 30. On May 15, 2025, the BIA issued a precedent decision, binding on all immigration
14 judges, holding that an immigration judge has no authority to consider bond requests for any person
15 who was released from detention pursuant to a grant of parole under section 212(d)(5)(a). *See*
16 *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025). The Board determined that such individuals are
17 subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

18 31. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
19 rejected well-established understanding of the statutory framework and reversed decades of
20 practice. The new policy, entitled “Interim Guidance Regarding Detention Authority for
21 Applicants for Admission,”¹ claims that all persons who entered the United States without
22 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
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24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 policy applies regardless of when a person is apprehended, and affects those who have resided in
2 the United States for months, years, and even decades.

3 32. On September 5, 2025, the BIA adopted this same position in a published decision,
4 *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States
5 without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for
6 IJ bond hearings.

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

10 34. Even before ICE or the BIA introduced these nationwide policies, IJs in the
11 Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered
12 the United States without inspection and who have since resided here. There, the U.S. District
13 Court in the Western District of Washington found that such a reading of the INA is likely unlawful
14 and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to
15 the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

16 35. Subsequently, court after court has adopted the same reading of the INA's detention
17 authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Cantu Cortes v. O'Neill et*
18 *al.*, No. 25-CV-6338-CFK, 2025 WL 3171639 (E.D. Pa. Nov. 13, 2025) ("ICE's mandatory
19 detention of Petitioner under U.S.C. § 1225(b)(2)(A) violates the laws of the United States and
20 Petitioner's rights under the Due Process Clause."); *Kashranov v. Jamison, et al.*, No. 2:25-CV-
21 05555-JDW, 2025 WL 3188399 (E.D. Pa. Nov. 14, 2025) (same); *Del Cid v. Bondi et al.*, No.
22 3:25-CV-00304, 2025 WL 2985150 (W.D. Pa. Oct. 23, 2025) (finding Special Immigrant Juvenile
23 Status applicant was not detained under section 1225, but rather under section 1226(a);
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1 *Bethancourt Soto v. Soto et al.*, 1:25-CV-16200 (D.N.J. Oct. 22, 2025) (similar); *Gomes v. Hyde*,
2 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No.
3 CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v.*
4 *Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025),
5 *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133
6 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588
7 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL
8 2374411 (D. Minn. Aug. 15, 2025); *Arazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW
9 (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM,
10 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL
11 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL
12 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL
13 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL
14 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F.
15 Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-
16 cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*,
17 No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v.*
18 *Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro*
19 *Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v.*
20 *Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma*
21 *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he
22 Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*,
23 No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio*
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1 v. *Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025)
2 (same).

3 36. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it
4 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
5 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

6 37. Section 1226(a) applies by default to all persons “pending a decision on whether
7 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
8 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

9 38. The text of § 1226 also explicitly applies to people charged as being inadmissible,
10 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s
11 reference to such people makes clear that, by default, such people are afforded a bond hearing
12 under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates
13 ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute
14 generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic*
15 *Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025 WL 1869299,
16 at *7.

17 39. Section 1226 therefore leaves no doubt that it applies to people who face charges
18 of being inadmissible to the United States, including those who are present without admission or
19 parole.

20 40. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
21 recently entered the United States. The statute’s entire framework is premised on inspections at
22 the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A).
23 Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the
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1 Nation's borders and ports of entry, where the Government must determine whether a[]
2 [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287
3 (2018).

4 41. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply
5 to people like Petitioner, who have already entered and were residing in the United States at the
6 time they were apprehended.

7 **FACTS**

8 42. Petitioner has resided in the United States since November 3, 2022, and lives in
9 Upper Darby, Pennsylvania.

10 43. On November 1, 2022, Petitioner entered the United States without inspection, and
11 on November 3, 2022, was paroled under 8 U.S.C. § 1182(d)(5).

12 44. Petitioner timely applied for asylum with United States Citizenship and
13 Immigration Services on July 13, 2023.

14 45. On November 21, 2025, Petitioner reported to the ICE Philadelphia Field Office as
15 requested and was detained by ICE. Petitioner was then transferred to the Pike County Correctional
16 Facility, where he currently remains detained.

17 46. DHS placed Petitioner in removal proceedings before the Elizabeth Immigration
18 Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being inadmissible
19 under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

20 47. Petitioner timely filed his asylum application affirmatively with USCIS in July
21 2023, which was transferred to the Immigration Court non-detained docket in June 2025.
22 Petitioner lived in Upper Darby, Pennsylvania with his wife and minor child. Petitioner complied
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1 with the conditions of his release and has no criminal record. He is an active member of his church
2 and his community. Petitioner is neither a flight risk nor a danger to the community.

3 48. Following Petitioner's arrest and transfer to Pike County, ICE issued a custody
4 determination to continue Petitioner's detention without an opportunity to post bond or be released
5 on other conditions.

6 49. Pursuant to *Matter of Yajure Hurtado* and *Matter of Q.Li*, an immigration judge is
7 unable to consider Petitioner's bond request.

8 50. As a result, Petitioner remains in detention. Without relief from this court, he faces
9 the prospect of months, or even years, in immigration custody, separated from his family and
10 community.

11 **CLAIMS FOR RELIEF**

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

14 51. Petitioner incorporates by reference the allegations of fact set forth in the preceding
15 paragraphs.

16 52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
17 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
18 relevant here, it does not apply to those who previously entered the country and have been residing
19 in the United States prior to being apprehended and placed in removal proceedings by
20 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
21 § 1225(b)(1), § 1226(c), or § 1231.

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

24 **COUNT II**

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Violation of the Bond Regulations

54. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

55. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

56. Nonetheless, pursuant to *Matter of Yajure Hurtado* and *Matter of Q.Li*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

57. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of Due Process

58. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

59. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

1 60. Petitioner has a fundamental interest in liberty and being free from official restraint.

2 61. The government's detention of Petitioner without a bond redetermination hearing
3 to determine whether he is a flight risk or danger to others violates his right to due process.

4 **PRAYER FOR RELIEF**

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

- 6 a. Assume jurisdiction over this matter;
- 7 b. Order that Petitioner shall not be transferred outside the Middle District of
8 Pennsylvania while this habeas petition is pending;
- 9 c. Issue an Order to Show Cause ordering Respondents to show cause why this
10 Petition should not be granted within three days as required under 28 U.S.C. § 2243;
- 11 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
12 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
13 1226(a) within seven days;
- 14 e. Declare that Petitioner's detention is unlawful;
- 15 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
16 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
17 law; and
- 18 g. Grant any other and further relief that this Court deems just and proper.

19 DATED this Twenty-eighth day of November, 2025.

20 *s/Christopher M. Casazza*
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