

**UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF TEXAS
LAREDO DIVISION**

MARIO ERNESTO MANZANARES HERNANDEZ,

Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary
of the Department of Homeland Security (DHS);

PAMELA BONDI, in her official capacity as Attorney
General of the United States;

TODD LYONS, in his official capacity as Acting
Director and Senior Official Performing the Duties
of the Director of U.S. Immigration and Customs
Enforcement (ICE);

JUAN AGUDELO, in his official capacity as Field
Office Director Enforcement and Removal
Operations, U.S. Immigration and Customs
Enforcement (ERO), Harlingen, Texas;

DAVID COLE, OR THE ACTING WARDEN, in his
official capacity as Warden/Administrator of the Rio
Grande Processing Center;

Respondents.

Civil Action No. 25-CV-243

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This case seeks the release of Petitioner Mario Ernesto Manzanares Hernandez (“Petitioner” or “Mr. Manzanares Hernandez”) from Immigration and Customs Enforcement (“ICE”) custody. He is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A); he is bond-eligible under 8 U.S.C. § 1226(a).
2. At his bond hearing on August 29, 2025, the Immigration Judge (“IJ”) concluded that he lacked jurisdiction to grant bond based on the Board of Immigration Appeals’ (“BIA”) recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
3. The *Hurtado* decision is not entitled to deference and cannot override controlling Supreme Court precedent. In *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), the Supreme Court abrogated *Chevron* deference, holding that courts must exercise their independent judgment in interpreting statutory language, rather than deferring to agency interpretations. Under *Loper Bright*, this Court is obligated to determine the correct interpretation of 8 U.S.C. § 1225(b)(2)(A) without deference to the BIA’s conclusion. *Id.* at 385. The BIA’s interpretation in *Hurtado* directly conflicts with the Supreme Court’s holding in *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018), and the plain text of the statute. As such, *Hurtado* is not binding on this Court, and Petitioner’s detention under § 1225(b) is unlawful.
4. Petitioner has no criminal record and no history of unlawful behavior. ICE agents detained him on June 15, 2025. He has lived in Maryland since 2008 and is a married father of five, including three United States citizen children. For approximately seventeen years, he has been a devoted and responsible member of his community, providing consistent financial and emotional support to his family.

5. Without this Court’s review, Petitioner has no avenue to challenge his ongoing detention. The writ of habeas corpus allows a federal court to remedy unlawful custody without disturbing the underlying removal proceedings. See *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 118 (2020).

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus authority); 28 U.S.C. § 1331 (federal question jurisdiction); U.S. Const. art. I, § 9, cl. 2 (Suspension Clause).
7. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging both the lawfulness and the constitutionality of their detention. See *Demore v. Kim*, 538 U.S. 510, 533 (2003) (O’Connor, J., concurring); *Zadvydas v. Davis*, 533 U.S. 678, 687; *Rosales v. Bureau of Immigration & Customs Enf’t*, 426 F.3d 733, 736 (5th Cir. 2005).
8. Petitioner’s current detention, as imposed by Respondents, constitutes a “severe restraint[] on [his] individual liberty,” such that he is “in custody in violation” of the law. See *Hensley v. Mun. Ct., San Jose Milpitas Jud. Dist.*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241(c)(3). 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).
9. Venue properly lies with this Court under 28 U.S.C. §1391(e) because Petitioner is physically present and in the custody of Respondents at the Rio Grande Processing Center located in Laredo, Texas, within the jurisdiction of the Southern District of Texas.

10. Venue is proper within the Laredo Division because a substantial part of the events giving rise to the claims in this action took place in this District. Petitioner is detained by Respondents at the Rio Grande Processing Center located in Laredo, Texas, which is within the Laredo Division.

PARTIES

11. PETITIONER MARIO ERNESTO MANZANARES HERNANDEZ a citizen and national of El Salvador, has remained in immigration detention since June 15, 2025, spending more than five months in government custody. ICE agents arrested him in Frederick, Maryland, and transferred him far from his community and support system to the La Salle County Regional Detention Center, 832 E. Texas State Highway 44, Encinal, TX 78019. After he appeared for his Individual Hearing on November 14, 2025, ICE transferred Petitioner to the Rio Grande Processing Center in Laredo, Texas, further isolating him and complicating his ability to pursue relief from removal.
12. RESPONDENT KRISTI NOEM is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (“INA”) 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.
13. 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 (“EOIR”) and the immigration court system it operates are component agencies. Attorney General Bondi is sued in her official capacity.

14. RESPONDENT TODD LYONS is the Acting Director of Immigration and Customs Enforcement and oversees the ICE Field Offices nationwide. Mr. Lyons is named in his official capacity.
15. RESPONDENT JUAN AGUDELO is the Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Harlingen, Texas. He is named in his official capacity.
16. RESPONDENT DAVID COLE, OR THE ACTING WARDEN, is the Warden/Administrator of the Rio Grande Processing Center, located at 1001 San Rio Boulevard, Laredo, TX 78046. Mr. Cole, or the Acting Warden, is named in his official capacity. The Rio Grande Processing Center, located in Laredo, Webb County, Texas, is operated by the GEO Group under contract with the U.S. Government.

EXHAUSTION OF REMEDIES

17. No statutory exhaustion requirement applies to a petition challenging immigration detention under 28 U.S.C. § 2241. *See, e.g., Montano v. Texas*, 867 F.3d 540, 542 (5th Cir. 2017) (“Unlike 28 U.S.C. § 2254, Section 2241’s text does not require exhaustion.”); *Robinson v. Wade*, 686 F.2d 298, 303 n.8 (5th Cir. 1982) (“[S]ection 2241 contains no statutory requirement of exhaustion like that found in section 2254(b)”).
18. Petitioner’s claims that his detention is unconstitutional because it contravenes the protections of the Fifth Amendment are unrelated to any legitimate governmental purpose and therefore are not subject to any statutory requirement of administrative exhaustion, and thus, exhaustion is not a jurisdictional prerequisite. *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992); *id.* at 147

(holding that exhaustion is not appropriate where petitioner “may suffer irreparable harm if unable to secure immediate judicial consideration of [her] claim”).

19. Moreover, the BIA’s decision in *Hurtado* categorically removes IJ jurisdiction, leaving no administrative avenue for custody review. *See Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003) (Sotomayor, J.) (as amended) (judicial exhaustion may be excused when “available remedies provide no genuine opportunity for adequate relief” or exhaustion “would be futile”).

STATEMENT OF FACTS AND PROCEDURAL HISTORY

20. Petitioner Mario Ernesto Manzanares Hernandez is a 48-year-old citizen and national of El Salvador, born on [REDACTED]

21. He entered the United States without inspection (“EWI”) in December 2008 and has lived in the country since that time.

22. Before his detention, Mr. Manzanares Hernandez lived with his wife and children in Frederick, Maryland.

23. He married Ana Jael Pocasangre Recinos on December 27, 2018, in Frederick County, Maryland.

24. Mr. Manzanares Hernandez is the biological father of two children and the stepfather of three, all of whom he cared for before his detention. Three of his children are United States citizens.

His children are: Jonathan Lemus Pocasangre, age 19; [REDACTED] age 17; [REDACTED]

[REDACTED] age 10; D [REDACTED], age 5; and J [REDACTED]

[REDACTED] age 2.

25. He has played an active parental role in all five children's lives and has been their primary caregiver, providing consistent emotional and financial support. His absence has caused significant disruption to their daily lives and well-being.
26. Since 2008, he has maintained steady employment in landscaping, demonstrating a strong work ethic, and has consistently fulfilled his responsibilities as a devoted and responsible father and husband.
27. He has longstanding community ties and has been an active participant in Iglesia de Restauración Adonai, Inc. since 2017.
28. Mr. Manzanares Hernandez was detained by Immigration and Customs Enforcement on June 15, 2025.
29. Mr. Manzanares Hernandez has no criminal history in the United States or abroad and has been detained solely because of his immigration status. His detention is completely unrelated to any unlawful conduct and reflects no threat to public safety.
30. He was initially detained at the La Salle County Regional Detention Center in Encinal, Texas, and has since been transferred to the Rio Grande Processing Center in Laredo, Texas.
31. Mr. Manzanares Hernandez appeared for an Individual Hearing on November 14, 2025, before the Pearsall, Texas Immigration Court in the Western District of Texas. The hearing began but did not conclude, and the Immigration Judge continued the matter. His removal proceedings remain pending. Since ICE transferred him to the Rio Grande Processing Center, counsel has not received any updated information from EOIR regarding the rescheduled hearing date or the current status of his case.

32. To obtain relief from removal, Mr. Manzanares Hernandez has applied for Cancellation of Removal for Non-Lawful Permanent Residents and has filed Form EOIR-42B for the Immigration Court's adjudication.

LEGAL BACKGROUND

THE STATUTORY FRAMEWORK AT ISSUE

33. The Immigration Nationality Act prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.
34. First, 8 U.S.C. § 1226 ("Section 1226") authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229(a). Individuals in Section 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c). Those decisions are not reviewable by the federal circuit courts. 8 U.S.C. § 1226(e). This provision is relevant here, where Petitioner has spent his entire adult life in the United States and he has never been charged with or convicted of *any* crimes.
35. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under Section 1225(b)(1) and for other recent arrivals seeking admission under Section 1225(b)(2). This expedited removal provision is the provision that Respondents erroneously assert applies to Petitioner (and countless others). It does not, because Section 1226(a) is not superfluous. *See Jennings*, 583 U.S. at 287.
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). This provision likewise

does not apply to Petitioner, as he has not been ordered removed and is not in withholding-only proceedings.

**§§ 1226(A) AND 1225(B)(2)
AND DOJ’S NEW POLICY**

37. This case concerns the detention provisions in Sections 1226 and 1225, both of which 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).
38. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, those entering without inspection are not considered detainable under Section 1225, but rather Section 1226. *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). In the decades that followed, EWIs were placed in standard removal proceedings and received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ 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)).
39. The text of Section 1226 explicitly applies to individuals classified as entering the United States EWIs and who have been physically present in the country. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default, they are afforded a bond hearing under subsection (a). By contrast, Section 1225 applies to people arriving at U.S.

ports of entry or who recently entered the United States—individuals subject to expedited removal. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme 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*, 583 U.S. at 287.

ARGUMENT

PETITIONER’S DETENTION VIOLATES HIS RIGHT TO PROCEDURAL DUE PROCESS

40. The Fifth Amendment guarantees that no person in the United States shall be deprived of liberty without due process. U.S. Const. amend. V. These protections apply to all people, including noncitizens, regardless of their immigration status. “It is well established that the Fifth Amendment entitles aliens to due process of law,’ in the context of removal proceedings.” *Trump v. J.G.G.*, 604 U.S. 670, 673 (2025) citing *Reno v. Flores*, 507 U. S. 292, 306 (1993).
41. Due process requires that any deprivations of liberty be narrowly tailored to serve a compelling government interest. *Dep’t of State v. Munoz*, 602 U.S 899 (2024). Civil detention violates due process except in “special and narrow nonpunitive circumstances, where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas v. Davis* at 690–91.
42. Here, the categorical denial of any bond hearing for Mr. Manzanares Hernandez is an unlawful deprivation of his liberty. The Due Process Clause requires meaningful notice and an opportunity to challenge one’s detention, as well as meaningful process to contest continued confinement. *See Mathews v. Eldridge*, 424 U.S. 319, 332 (1976). In Mr. Manzanares Hernandez’s case, the

immigration judge refused to exercise jurisdiction citing *Hurtado*, 29 I&N Dec. 216 (BIA 2025), and declined to hold any custody hearing at all. He therefore received no individualized determination of flight risk or danger and no opportunity to present evidence supporting release. This blanket denial of process, based on an erroneous application of Section 1225(b), contradicts the statutory framework and Supreme Court precedent. *See Jennings*, 583 U.S. at 287.

43. In determining whether procedural due process has been violated, courts weigh: (1) the private interest affected by the government action; (2) the risk that current procedures will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards; and (3) the government's interest in maintaining the current procedures, including the governmental function involved and the fiscal and administrative burdens that the substitute procedural requirement would entail. *Mathews*, 424 U.S. 319 at 335.
44. As to the first *Mathews* factor—the private interest affected by the government action—Petitioner's liberty interest in remaining free from government restraint is of the highest constitutional import. Petitioner thus meets the first prong of the test.
45. As to the second *Mathews* factor, this Court must assess the risk that categorically placing those who EWI in mandatory detention will cause an erroneous deprivation of the private interest, and the extent to which that risk could be reduced by additional safeguards. The current procedures create that risk in full. Petitioner received no custody hearing at all; the Immigration Judge refused to conduct a bond hearing, stating he lacked jurisdiction under *Matter of Yajure Hurtado*, and made no individualized assessment of danger or flight risk. Without any mechanism to present evidence or seek release, Petitioner faces the highest possible risk of erroneous deprivation of liberty.

46. As to the third *Mathews* factor, Respondents cannot claim a legitimate interest in a detention scheme that categorically denies custody hearings based on the July 8, 2025, ICE–DOJ policy and its adoption in *Hurtado*, 29 I&N Dec. 216 (BIA 2025). As already described, *Hurtado* requires immigration judges to treat all EWIs as subject to mandatory detention under Section 1225(b), leaving no room for individualized review. The IJ applied that framework here and refused jurisdiction outright. A policy that eliminates individualized assessments and disregards binding Supreme Court precedent, including *Jennings*, cannot qualify as a legitimate governmental interest—let alone the type of clear and convincing justification necessary to deprive a person of liberty. See, e.g., *Addington v. Texas*, 441 U.S. 418, 424 (1979).
47. The BIA’s interpretation of Section 1225 in *Hurtado* is arbitrary and capricious for all of the reasons discussed above. See *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265-266 (1954) (holding that the actions of the Attorney General denied Petitioner the rights guaranteed to him by statute or regulation).
48. The BIA’s holding in *Hurtado* defies the INA and the Supreme Court’s dictates in *Jennings*, 583 U.S. at 287. Pursuant to its plain meaning, the mandatory detention provision of Section 1225 does not apply to people who have already entered and were residing in the United States for years at the time they were apprehended. As such, mandatory detention cannot be applied to Mr. Manzanares Hernandez.

**PETITIONER’S DETENTION VIOLATES
SUBSTANTIVE DUE PROCESS**

49. Petitioner’s detention violates his substantive due process right because he is not subject to expedited removal and is not a danger to the community or a flight risk.

50. To comport with substantive due process, *civil* immigration detention must bear a reasonable relationship to its two regulatory purposes: (1) to ensure the appearance of noncitizens at future hearings and (2) to prevent danger to the community pending the completion of removal. *Zadvydas* at 690-91. It cannot be used to punish; nor can it be used to detain those Congress never sought to detain pursuant to the INA. *Id.*; *Jennings*, 583 U.S. at 287.
51. Mr. Manzanares Hernandez is a pillar of his community, with no criminal record, who Respondents have no legitimate interest in civilly detaining. *See Demore* at 533 (2003). Indeed, no public interest is served by his detention. His detention is accordingly unlawful, warranting immediate release.

COUNT ONE

Violation of the Due Process Clause (Fifth Amendment)

52. Petitioner realleges and incorporates by reference all of the aforementioned allegations included in the above-numbered paragraphs as if set forth fully herein.
53. Respondents have deprived Petitioner of liberty without the process the Fifth Amendment requires. Petitioner was categorically denied any custody hearing and received no individualized consideration of flight risk or danger.
54. Respondents' reliance on *Matter of Yajure Hurtado* to bar custody review contradicts the statutory scheme and controlling Supreme Court precedent. *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).
55. Because Petitioner is not subject to the mandatory-detention provisions of 8 U.S.C. § 1225(b), and because Respondents lack a lawful basis to detain him under that provision, his continued custody violates both procedural and substantive due process.

56. Petitioner is therefore being held “in custody in violation of the Constitution” within the meaning of 28 U.S.C. § 2241(c)(3).
57. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [Due Process] Clause protects.” *Zadvydas* at 690. Petitioner’s detention violates his substantive due process rights because his liberty is being restricted without justification. *See Hensley*, 411 U.S. at 351; 28 U.S.C. § 2241(c)(3). There is no statutory basis for Petitioner’s detention. He should accordingly be released.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- 1) Assume jurisdiction over this matter;
- 2) Issue an order prohibiting Respondents from transferring Petitioner outside of this judicial district during the pendency of these habeas proceedings;
- 3) Order the immediate release of Petitioner pending these proceedings;
- 4) Declare that Respondents’ application of Section 1225 to Petitioner is unconstitutional because he is subject to Section 1226(a) proceedings, not the expedited removal proceedings applicable to Section 1225(b); and,
- 5) Grant such further relief as the Court deems just and proper.

Respectfully submitted this the 29th day of November 2025.

/s/Charlie Carrillo

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am one of the Petitioner's attorneys. I have discussed with the Petitioner, and/or someone acting on his behalf, the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Petition are true and correct to the best of my knowledge.

Dated: November 29, 2025

/s/Charlie Carrillo
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CERTIFICATE OF SERVICE

I hereby certify that on November 29, 2025, I electronically filed the foregoing Petition with the Clerk of Court using the CM/ECF system.

/s/Charlie Carrillo
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