

1 INTRODUCTION

2 1. Petitioner Hany Kamal Abdelalim-Elmetaher is a 48-year-old Egyptian man who
3 has lived in the U.S. without any criminal history since he entered in 2022. Petitioner fled Egypt
4 to [REDACTED]

5 [REDACTED] He entered the U.S. in August 2022, applied for asylum in December 2022, and was
6 released from Immigration Customs and Enforcement (ICE) custody on conditional parole in
7 December 2022. Petitioner complied with his parole conditions, but on November 13, 2025, ICE
8 arrested him at his ICE check-in and informed him they were terminating his parole. Petitioner is
9 in the physical custody of Respondents at the Karnes County Immigration Processing Facility.
10 He now faces unlawful detention because the Department of Homeland Security (DHS) and the
11 Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to
12 mandatory detention.

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

15 3. Based on this allegation in Petitioner’s removal proceedings, DHS denied
16 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
17 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
18 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
19 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
20 therefore ineligible to be released on bond.

21 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
22 Board) issued a precedent decision, binding on all immigration judges, holding that an
23 immigration judge has no authority to consider bond requests for any person who entered the
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1 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
2 The Board determined that such individuals are subject to detention under 8 U.S.C. §
3 1225(b)(2)(A) and therefore ineligible to be released on bond.

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

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

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

15 JURISDICTION

16 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
17 Karnes County Immigration Processing Center in Karnes City, Texas.

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

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

1 **VENUE**

2 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
3 500 (1973), venue lies in the United States District Court for the Western District of Texas, the
4 judicial district in which Petitioner currently is detained.

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

9 **REQUIREMENTS OF 28 U.S.C. § 2243**

10 13. The Court must grant the petition for writ of habeas corpus or order Respondents
11 to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
12 order to show cause is issued, Respondents must file a return “within three days unless for good
13 cause additional time, not exceeding twenty days, is allowed.” *Id.*

14 14. Habeas corpus is “perhaps the most important writ known to the constitutional
15 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
16 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
17 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
18 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
19 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

20 **PARTIES**

21 15. Petitioner Hany Kamal Abdelalim-Elmetaher is a citizen of Egypt who has been
22 in immigration detention since November 13, 2025. After arresting Petitioner at the San Antonio
23 ICE Office during his check-in, ICE did not set bond and Petitioner is unable to obtain review of
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1 his custody by an Immigration Judge (IJ), pursuant to the Board's decision in *Matter of Yajure*
2 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

3 16. Respondent Miguel Vergara is the Director of the San Antonio Field Office of
4 ICE's Enforcement and Removal Operations division. As such, Miguel Vergara is Petitioner's
5 immediate custodian and is responsible for Petitioner's detention and removal. He is named in
6 his official capacity.

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

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

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

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

21 21. Respondent Rose Thompson is employed by GEO Group as Warden of the
22 Karnes County Immigration Processing Center, where Petitioner is detained. She has immediate
23 physical custody of Petitioner. She is sued in her official capacity.

LEGAL FRAMEWORK

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2 22. The INA prescribes three basic forms of detention for the vast majority of
3 noncitizens in removal proceedings.

4 23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
5 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
6 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
7 while noncitizens who have been arrested, charged with, or convicted of certain crimes are
8 subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

9 24. Second, the INA provides for mandatory detention of noncitizens subject to
10 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
11 referred to under § 1225(b)(2).

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

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

15 27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
16 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
17 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
18 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1,
19 139 Stat. 3 (2025).

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

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

10 30. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
11 rejected well-established understanding of the statutory framework and reversed decades of
12 practice.

13 31. The new policy, entitled “Interim Guidance Regarding Detention Authority for
14 Applicants for Admission,”¹ claims that all persons who entered the United States without
15 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
16 policy applies regardless of when a person is apprehended and affects those who have resided in
17 the United States for months, years, and even decades.

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

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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 33. Since Respondents adopted their new policies, dozens of federal courts have
2 rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected
3 *Matter of Yajure Hurtado*, which adopts the same incorrect reading of the statute as ICE.

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

11 35. Subsequently, court after court has adopted the same reading of the INA's
12 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
13 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
14 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
15 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
16 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
17 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
18 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,
19 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
20 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
21 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
22 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
23 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-

1 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
2 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
3 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
4 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
5 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
6 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
7 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
8 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
9 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
10 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
11 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
12 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
13 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

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

17 37. Section 1226(a) applies by default to all persons “pending a decision on whether
18 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
19 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

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

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

8 40. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
9 recently entered the United States. The statute’s entire framework is premised on inspections at
10 the border of people who are “seeking admission” to the United States. 8 U.S.C.
11 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
12 applies “at the Nation’s borders and ports of entry, where the Government must determine
13 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
14 U.S. 281, 287 (2018).

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

18 **FACTS**

19 42. Petitioner has resided in the United States since 2022 and lives in Austin, Texas.

20 43. Petitioner entered the country fleeing Egypt in August 2022, and when he entered,
21 DHS placed Petitioner in removal proceedings before the San Antonio Immigration Court
22 pursuant to 8 U.S.C. § 1229a. In the Notice to Appear (NTA), DHS charged Petitioner with, *inter*

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1 *alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United
2 States without inspection.

3 44. Petitioner was detained upon entering the country in August 2022. In December
4 2022, he timely filed his asylum application on Form I-589 with the Executive Office for
5 Immigration Review (EOIR). On December 16, 2022, he was released from detention and
6 granted conditional parole by ICE.

7 45. On November 13, 2025, Petitioner was arrested by Immigration Customs and
8 Enforcement at the ICE office in San Antonio, Texas. Petitioner had gone to the ICE office for
9 his scheduled check-in with the agency. Petitioner is now detained at Karnes County
10 Immigration Processing Center in Karnes City, Texas.

11 46. Petitioner has lived in the U.S. since August 2022 and has continuously resided in
12 Austin, Texas, since ICE released him from detention in December 2022. Petitioner timely
13 applied for asylum within one year of the date of his arrival to the US. He fears torture and
14 murder 

15 His fear is on account of his political opinion and membership in a particular social group. He
16 has complied with the requirements of his parole, including attending regular check-ins with ICE
17 and attending all Immigration Court hearings. Petitioner is invested in his case, and he has
18 complied with all requirements to attend appointments with USCIS, along with his court
19 hearings.

20 47. Petitioner has worked diligently to support himself since arriving in the U.S. He
21 first worked as a chef for Zaza Halal in Austin, Texas, and this year he got a new job as a
22 security guard. He has no arrest or criminal history in the US. He is an active member of the
23 Austin community. Petitioner is neither a flight risk nor a danger to the community.

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1 48. Petitioner attended his ICE check-in on November 13, 2025. After he presented
2 himself, ICE arrested Petitioner. Although Petitioner complied with the conditions of his parole,
3 ICE advised him that day they were revoking his parole for no reason. ICE sent him to Karnes
4 County Immigration Processing Center (Karnes). Before Petitioner's ICE arrest and transfer to
5 Karnes, ICE issued a custody determination to continue Petitioner's detention without an
6 opportunity to post bond or be released on other conditions.

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

9 50. As a result, Petitioner remains in detention. Without relief from this court, he
10 faces the prospect of months, or even years, in immigration custody, separated from his
11 longstanding community. In addition, Petitioner's continued detention and transfers to various
12 facilities have hampered his ability to communicate with and access his counsel.

13 **CLAIMS FOR RELIEF**

14 **COUNT I**

15 **Violation of the INA**

16 51. Petitioner incorporates by reference the allegations of fact set forth in the
17 preceding paragraphs.

18 52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
19 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
20 relevant here, it does not apply to those who previously entered the country, were placed in
21 removal proceedings and released from detention, and have been residing in the United States
22 prior to being apprehended again. Such noncitizens are detained under § 1226(a), unless they are
23 subject to § 1225(b)(1), § 1226(c), or § 1231. The detention provision certainly does not
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1 encompass individuals who have applied for asylum and received parole. Petitioner has been
2 fully complying with the laws around asylum applicants and work permits, and he has attended
3 every check-in and meeting required.

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

6 **COUNT II**

7 **Violation of Due Process**

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

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

14 56. Petitioner has a fundamental interest in liberty and being free from official
15 restraint.

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

18 **PRAYER FOR RELIEF**

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

- 20 a. Assume jurisdiction over this matter;
- 21 b. Order that Petitioner shall not be transferred outside the Western District of Texas
- 22 while this habeas petition is pending;
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- 1 c. Issue an Order to Show Cause ordering Respondents to show cause why this
2 Petition should not be granted within three days;
- 3 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
4 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
5 1226(a) within seven days;
- 6 e. Declare that Petitioner's detention is unlawful;
- 7 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
8 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
9 law; and
- 10 g. Grant any other and further relief that this Court deems just and proper.

11 DATED this 20th day of November, 2025.

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14 /s/Edna Yang
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I. VERIFICATION

I have read the foregoing Petition for Writ of Habeas Corpus. I have personal knowledge of the factual allegations contained therein, and if called as a witness to testify, I would competently testify as to the matters stated therein. This declaration is made pursuant to 8 U.S.C. § 1746. I declare under the penalty of perjury that the foregoing is true and correct.

/s/



Petitioner: Hany Kamal Abdelalim-Elmetaher

Date: November 20, 2025

Certificate of Service

I, Meredith Hoffman, hereby certify that on November 20, 2025, I mailed a copy of Petitioner's Petition for Writ of Habeas Corpus to the U.S. Attorney for the Western District of Texas San Antonio Division, at the United States Attorney's Office, 601 NW Loop 410, Suite 600, San Antonio, Texas 78216.

Meredith Hoffman