

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

EDGAR HERRERA-RECINOS,

Petitioner,

v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Case No. 3:25-cv-01499

SCOTTY RHODEN, in his official
capacity as Warden, Baker County
Detention Center;

GARRETT RIPA, in his official capacity
as Field Office Director, Miami Field
Office, U.S. Immigration and Customs
Enforcement;

KRISTI NOEM; in her official capacity
as Secretary of the U.S. Department of
Homeland Security,

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

Respondents.

INTRODUCTION

1. This case challenges the unlawful detention of EDGAR HERRERA-RECINOS (“Petitioner” or “Mr. Herrera-Recinos”) who is currently in the custody of Immigration and Customs Enforcement (“ICE”) at the Baker County Detention Center.

2. Petitioner challenges his detention under 8 U.S.C. §1225.

PARTIES

3. Petitioner, EDGAR HERRERA-RECINOS has lived in the United States for approximately fifteen years. Prior to Petitioner's detention on or about November 23, 2025, he was residing in Flagler County, Florida. Petitioner is currently detained at the Baker County Detention Center.

4. Respondent, SCOTTY RHODEN, is sued in his official capacity as Warden of the Baker County Detention Center, where Petitioner is currently detained.

5. Respondent GARRETT RIPA is sued in his official capacity as the ICE Field Office Director for Miami, which includes the Baker County Detention Center.

6. Respondent, KRISTIN NOEM is sued in her official capacity as the Secretary of the Department of Homeland Security.

7. Respondent, PAM BONDI is sued in her official capacity as the Attorney General of the United States. The Attorney General controls the Department of Justice, which has within its control the Executive Office for Immigration Review and the immigration court system.

JURISDICTION AND VENUE

8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause of the Constitution because this action is a habeas corpus petition and under 28 U.S.C. § 1331 because this action arises under federal law,

including the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.*, and Administrative Procedure Act, 5 U.S.C. § 551, *et seq.*

9. Venue is proper in this district because Respondent, Warden SCOTTY RHODEN is Petitioner's immediate custodian and under 28 U.S.C. § 1391(e)(1) because Respondents are officers of United States agencies, Petitioner is currently detained within this District, and there is no real property involved in this action.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

10. Petitioner was born in Guatemala City, Guatemala in 1978. Petitioner came to the United States approximately around 2010 to 2011. Petitioner has remained in the United States ever since. The Petitioner entered the United States approximately in 2010 to 2011 and has resided here continuously since that time.

11. On November 23, 2025, Petitioner was stopped by law enforcement and arrested for Driving Under the Influence. Immigration and Customs Enforcement ("ICE") placed a detainer on Petitioner. Petitioner bonded out on the criminal charges, which are currently pending and was taken into immigration custody.

12. Petitioner was transferred to the Baker County Detention Center, where he remains. ICE filed a Notice to Appear with the Immigration Court and

Petitioner has a master calendar hearing scheduled on December 8, 2025 at 1:00 pm. ICE is holding Petitioner with no bond and has informed him that they plan to transfer him to another facility.

13. On July 8, 2025, DHS issued a notice to all ICE employees declaring that 8 U.S.C. §1225(b)(2) applies to any alien present in the United States, “who has not been admitted...whether or not at a designated port of arrival.” See *ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025). The notice states, “it is the position of DHS that such aliens are subject to detention under INA §235(b) [8 U.S.C. §1225(b)] and may not be released from ICE custody except by INA §212(d)(5) parole.” *Id.* The notice also states “[t]hese aliens are also ineligible for a custody redetermination hearing (bond hearing) before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that ‘arriving aliens’ have historically been treated.” *Id.*

14. On September 5, 2025, the Board of Immigration Appeals decided *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In *Matter of Yajure Hurtado*, the BIA held that an immigration judge lacks authority to hear a noncitizen’s bond request if that noncitizen entered the United States without inspection, even if that noncitizen has resided within the United States for more than 2 years. *Id.*

Matter of Yajure Hurtado is a published and precedential decision that is binding on immigration judges. 8 C.F.R. §1003.1(g)(2).

15. On November 20, 2025, the district court in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-CFM (C.D.Cal.) granted partial summary judgment on behalf of individual plaintiffs challenging the interpretation that noncitizens who entered without inspection fell under the mandatory detention provision in 8 U.S.C. §1225. On November 25, 2025, the district court in *Maldonado Bautista v. Santacruz* certified a nationwide class and extended declaratory judgment to that certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025)(order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment). The declaratory judgment stated that the Bond Denial Class members are detained under 8 U.S.C. §1226(a), and therefore may not be denied for release consideration under 8 U.S.C. §1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

16. Petitioner is a member of the Bond Eligible Class as he does not have lawful status in the United States and is currently detained, he entered the United States without inspection approximately 11 or 12 years ago and was not

apprehended upon arrival, and he is not detained under 8 U.S.C. §1226(c), §1225(b)(1), or §1231.

LEGAL FRAMEWORK

17. This petition concerns the legal interpretation and interplay between two statutory provisions, 8 U.S.C. §1225 and 8 U.S.C. §1226, governing detention of noncitizens placed in removal proceedings.

18. Respondents have detained Petitioner under 8 U.S.C. §1225, which applies to the inspection, detention and removal of applicants for admission. An “applicant for admission” is defined as “[a]n alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters.” 8 U.S.C. §1225(a)(1).

19. 8 U.S.C. §1225(2)(A) requires detention “...in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted...” [emphasis added].

20. “Applicants for admission” who are “seeking admission” must remain in custody throughout immigration proceedings. 8 U.S.C. §1225(b)(2); see also *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018).

21. However, 8 U.S.C. §1225 does not apply to Petitioner because he has remained continuously inside the United States for approximately 10 to 11 years and is not “seeking admission”, which is required for that provision to apply. Rather, Petitioner is entitled to a bond redetermination hearing under 8 U.S.C. §1226(a).

22. 8 U.S.C. §1226(a) is the general detention statute that provides the framework for arrest, detention and release of noncitizens in removal proceedings. A person arrested and detained under 8 U.S.C. §1226(a) may be released on a bond of at least \$1,500 or on conditional parole. 8 U.S.C. §1226(a)(2).

23. 8 C.F.R. §236.1(d)(1) provides the regulatory framework for immigration judges to consider motions for bond reconsideration when DHS makes an initial determination that the noncitizen should be detained.

24. As opposed to a noncitizen arriving at the border, a noncitizen already present inside the United States “has a constitutional liberty interest to remain in the U.S.” *Knauff v. Shaughnessy*, 338 U.S. 537 (1950).

25. Respondents’ own agencies have historically applied §1226(a) to noncitizens who have entered the United States without inspection and have since resided inside the United States, while applying §1225(b)(2) only to those encountered at the border. *Maldonado v. Feely et al.*, Case No. 25-cv-01542-RFB-EJY (D.Nev. Sept. 17, 2025).

26. Respondents' interpretation of §1225(b)(2) is in contradiction to the plain meaning of the statutes, the legislative history of each statute, and the interpretation of each statute by courts in multiple jurisdictions.

27. District Courts within the First, Second, Fifth, Sixth, Eighth, Ninth and Eleventh Circuits have all held that 8 U.S.C. §1225(b)(2) does not apply to noncitizens who are detained inside the United States. *See Bautista v. Noem*, 2025 U.S. Dist. LEXIS 227222 (M.D.Fla. November 19, 2025); *Merino v. Ripa et al.*, Case No. 25-23845-CIV-MARTINEZ (S.D. Florida October 15, 2025); *J.A.M. v. Streeval*, 2025 U.S. Dist. LEXIS 215437 (M.D. Fla. November 1, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486 (E.D. Mich. Aug. 29, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK (D. Mass. July 7, 2025); *Martinez v. Hyde*, 1:25-cv-11613-BEM (D. Mass. July 24, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa et al.*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis et al.*, No. 1:25-cv-05937-DEH, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Gonzalez et al. v. Noem et al.*, No. 5:25-cv-02054-ODW-BFM (C.D. Cal. Aug. 13, 2025); *Santos v. Noem*, No. 1 :25-cv-12052-JEK, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde, et al.*, No. 1:25-cv-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Benitez et al. v. Noem et al.*, No.

5:25-cv-02190-RGK-AS (C.D. Cal. Aug. 26, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025).

28. The district court's order in *Maldonado Bautista* on November 25, 2025 granted declaratory relief to members of the certified class nationwide. *Maldonado Bautista*, 2025 WL 3289861, at *11. Petitioner is a member of that certified class.

29. Respondents have refused to abide by the declaratory relief order and have continued to deny motions for bond redetermination on jurisdiction grounds for members of the certified class.

CLAIMS FOR RELIEF

Count One Relief Pursuant to *Maldonado Bautista*

30. Petitioner realleges all paragraphs above as if fully set forth here.

31. Petitioner is a member of the Bond Eligible Class in *Maldonado Bautista* and is therefore entitled to a bond redetermination hearing pursuant to 8 U.S.C. §1226(a).

32. The order granting partial summary judgment holds that Respondents violate the Immigration and Nationality Act ("INA") by applying the mandatory detention statute of 8 U.S.C. §1225(b)(2) to class members.

33. The district court's order has the full force and effect of a final judgment. 28 U.S.C. §2201(a).

34. Respondents have continued to detain Petitioner in violation of the district court's order and have continued to deny motions for bond redetermination based on *Matter of Yajure Hurtado*.

Count Two
Violation of the Immigration and Nationality Act, 8 U.S.C. §1226(a) and Regulations

35. Petitioner realleges all paragraphs above as if fully set forth here.

36. 8 U.S.C. §1226(a) provides Petitioner with statutory right to a bond redetermination hearing.

37. Respondents have unlawfully detained Petitioner under 8 U.S.C. §1225(b)(2), which applies only to "applicants for admission" who are "seeking admission."

38. Respondents have detained Petitioner in violation of the regulatory procedure outlined in 8 C.F.R. §236.1, §1236.1. and §1003.19.

Count Three
Violation of the Fifth Amendment of the U.S. Constitution
Substantive Due Process

39. Petitioner's detention is in violation of Petitioner's Fifth Amendment right to liberty with due process.

40. The Due Process Clause of the Fifth Amendment applies to all persons within the United States, which includes noncitizens "whether their

presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001).

41. Petitioner was detained based on a mistaken interpretation of the relevant immigration detention statutes

Count Four
Violation of the Fifth Amendment of the U.S. Constitution
Procedural Due Process

42. Plaintiff realleges all paragraphs above as if fully set forth here.

43. *Mathews v. Eldridge*, 424 U.S. 319, 333, instructs courts to balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government’s interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail.

44. The first factor, the private interest at issue, favors Petitioner. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects.” *Zadvyda*, 533 U.S. at 690.

45. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard

against erroneous deprivations of liberty, statutory provisions and regulations specify the circumstances when a noncitizen shall be detained and when a noncitizen is eligible for release and what procedures the noncitizen is afforded in seeking release. Respondents violated those statutes and regulations here, leaving the risk of erroneous deprivation of liberty not just high, but certain.

46. The third factor, the government's interest, also favors Petitioner. When the government misinterprets the law, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. The government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law.

47. For these reasons, detaining Petitioner under §1225, as opposed to §1226 has failed to provide Petitioner with the procedural due process he is entitled to under §1226.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Exercise jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day,

Respondents release Petitioner;

c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. §1226(a) within seven days;

d. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;

e. Award Petitioner costs and reasonable attorneys' fees under the Equal Access to Justice Act, 5 U.S.C. §504 ; and

f. Order such other relief as this Court may deem just and proper.

Respectfully submitted,

DATED: December 8, 2025

By: /s/Jeremy Lasnetski
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner 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. This verification is not made by petitioner because petitioner is in custody in a different county, scheduling visits with inmates at the Petitioner's detention center are limited, and the need to file this petition is urgent.

DATED: December 8, 2025

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