UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

FORT MYERS DIVISION

Case No.:

Germain Martinez Garcia,	)
Petitioner,	)
v.	)
Pamela Bondi, in her official capacity as Attorney General	)
Todd Lyons, in his official capacity as Acting Director, Immigration and Customs Enforcement;	)
Kristi Noem, in her official capacity as U.S. Secretary of Homeland Security;	)
Kelei Walker, in her official capacity as Field Office Director, Miami Field Office;	)
Warden, of Glades County Detention Center	)
U.S. Immigration and Customs Enforcement;	)
Department of Homeland Security	)
Respondents.	)

PETITION FOR WRIT OF HABEAS CORPUS 28 U.S.C. § 2241

Petitioner, **Germain Martinez Garcia**, petitions for a writ of habeas corpus under 28 U.S.C. § 2241. Petitioner has been detained by U.S. Immigration and Customs Enforcement (ICE) since November 19, 2025, following a random and unprovoked interior arrest in Florida—twenty-nine years after entering the United States without inspection as a minor in 1996. Petitioner was

not encountered at or near the border, has never applied for admission, and is in removal proceedings under 8 U.S.C. § 1229a.

At Petitioner's custody redetermination (bond) hearing on December 12, 2026, the Immigration Judge denied jurisdiction based solely on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and did not make any discretionary or adverse findings under *Matter of Guerra*, 24 I. & N. Dec. 37 (BIA 2006). Petitioner remains detained as a result of that legal interpretation.

This case presents a single, purely legal question appropriate for habeas review: whether a noncitizen encountered in the interior of the United States decades after entry, who has never applied for admission, is detained under 8 U.S.C. § 1226(a), rather than 8 U.S.C. § 1225(b). Petitioner does not challenge the initiation of removal proceedings, nor any discretionary custody determination. See *Madu v. U.S. Att'y Gen.*, 470 F.3d 1362, 1367–68 (11th Cir. 2006). Multiple decisions in this District have held that long-term residents encountered in the interior under these circumstances are detained under § 1226(a), not § 1225(b). See, e.g., *Patel v. Hardin,* No. 2:25-cv-870-JES-NPM, 2025 WL 3442706 (M.D. Fla. Dec. 1, 2025).; *Vasquez Carcamo v. Noem*, No. 2:25-cv-922, 2025 WL 3041895 (M.D. Fla. Nov. 7, 2025). Petitioner respectfully requests an order directing Respondents to provide a custody redetermination hearing under § 1226(a) within seven days, or in the alternative, to release Petitioner from custody subject to appropriate supervision.

JURISDICTION

1. This Court has jurisdiction under 28 U.S.C. § 2241 to review the legality of Petitioner's continued detention. Habeas jurisdiction is available to noncitizens challenging the statutory basis of immigration detention. See *Madu*, 470 F.3d at 1366–68 (11th Cir. 2006). Petitioner is not challenging the initiation of removal proceedings, the issuance or validity of any removal order, or any discretionary decision regarding custody. Instead, he challenges only the

government's legal conclusion that his detention is governed by 8 U.S.C. § 1225(b) rather than 8 U.S.C. § 1226(a). Such a "pure question of statutory interpretation" falls squarely within habeas jurisdiction. Id. at 1367.

2. The jurisdiction-stripping provisions of 8 U.S.C. § 1252 do not bar review. Section 1252(a)(5) and § 1252(b)(9) apply only to challenges to removal orders and claims arising from removal proceedings. Petitioner raises neither. See *Id.* at 1367–68 ("Section 1252 does not preclude habeas review of claims that are independent of challenges to removal orders."). Section 1252(g) does not apply because Petitioner does not challenge the Attorney General's decision to commence proceedings, adjudicate proceedings, or execute any removal order. See *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Section 1252(e) is inapplicable because Petitioner does not challenge the validity of any expedited removal order, nor could he—he was never subject to expedited removal.

3. Finally, Section 1252(a)(2)(B)(ii) does not apply because Petitioner is not seeking review of a discretionary custody determination; the immigration court made no such determination and expressly found Petitioner would be granted bond if jurisdiction existed. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

VENUE

4. Venue lies in this District under 28 U.S.C. § 2241(a) and (d), because Petitioner is detained at Glades County Detention Center which is within the Middle District of Florida. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004) (proper respondent in a habeas petition is the immediate custodian in the district of confinement). The Warden is a proper respondent, as the official with immediate physical custody over Petitioner. See *Id.* at 435. The additional federal officials are

included in their official capacities because they possess legal authority over Petitioner's detention under the Immigration and Nationality Act (INA).

PARTIES

5. Petitioner, **Germaine Martinez Garcia**, is a native and citizen of Mexico, detained by ICE at Glades County Detention Center within the Middle District of Florida. He brings this petition pursuant to 28 U.S.C. § 2241 to challenge the legality of his continued detention.

6. Respondent, **Pamela Bondi,** in her official capacity as Attorney General presides over the Executive Office for Immigration Review; an Immigration Judge in Pompano Beach, Florida has declined to hear Petitioner's bond hearing.

7. Respondent, **Todd Lyons**, in his official capacity as Senior Official Performing the Duties of the Director of ICE. ICE exercises authority over the detention, custody, and supervision of noncitizens pursuant to the INA.

8. Respondent, **Kristi Noem,** in her official capacity as U.S. Secretary of Homeland Security. The Secretary is the highest official within the DHS, which is charged with administering and enforcing federal immigration laws, including detention authority under the INA.

9. Respondent, **Kelei Walker**, in her official capacity as Field Office Director (FOD), Miami Field Office, U.S. Immigration and Customs Enforcement. The FOD for ICE's Miami Field Office is responsible for the custody, detention, and removal operations for individuals detained within the geographic area encompassing Petitioner's place of confinement.

10. Respondent, **John Doe**, in his official capacity as **Warden** of the Glades County Detention Facility. The warden of Glades County Detention is the immediate custodian and the official responsible for Petitioner's physical detention.

11. **U.S. Immigration and Customs Enforcement** is an agency within the Department of Homeland Security charged with the enforcement of immigration laws, including the detention and removal of noncitizens.

12. The **Department of Homeland Security** is the federal department responsible for administering and enforcing the INA, including statutory authority governing the detention of certain noncitizens.

UNDISPUTED FACTS

13. Petitioner is a native and citizen of Mexico who entered the United States without inspection in May 1996 at the age of sixteen. Petitioner has resided continuously in the United States since that time.

14. Petitioner was encountered by U.S. Immigration and Customs Enforcement on or about November 19, 2025, during a random and wanton stop by state law enforcement officers in Florida. Petitioner was not encountered at or near the border and did not present himself for inspection or admission at the time of arrest.

15. Prior to November 2025, Petitioner had never been detained by immigration officers or agents.

16. On November 18, 2025, DHS issued a Notice to Appear charging Petitioner as removable under 8 U.S.C. § 1182(a)(6)(A)(i) and under 8 U.S.C. § 1182(a)(7)(A)(i)(I).

17. At the master calendar hearing on December 9, 2025, the Immigration Judge sustained *only* the charge under 8 U.S.C. § 1182(a)(6)(A)(i). Removal proceedings remain pending under 8 U.S.C. § 1229a.

18. On December 12, 2025, Petitioner requested a custody redetermination hearing under 8 U.S.C. § 1226(a). He presented information regarding residence, family relationships, community ties, work history, and the absence of criminal history.

19. At the custody hearing, The Immigration Judge concluded that jurisdiction to redetermine custody was unavailable based on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and did not make any discretionary determination regarding custody. See *Bond Order* attached hereto as Exhibit "A."

20. Presently, Petitioner remains detained at the Glades County Detention Facility.

EXHAUSTION OF REMEDIES

There is no statutory exhaustion requirement for habeas challenges to the legal basis of immigration detention under 28 U.S.C. § 2241. See *Madu* at 1366–68 (11th Cir. 2006). Even if exhaustion applied, it would be futile. The Immigration Judge made no discretionary custody determination. As the Supreme Court has held, exhaustion is excused where "the administrative body is shown to be biased or has otherwise predetermined the issue before it." *McCarthy v. Madigan*, 503 U.S. 140, 148 (1992); see also *Shalala v. Ill. Council on Long Term Care, Inc.*, 529 U.S. 1, 13 (2000). This District has already held in identical circumstances that an administrative appeal would be futile because the result is predetermined by binding agency precedent. See *Patel*, 2025 WL 3442706, at 3.; *Vasquez Carcamo*, 2025 WL 3041895, at 3. Because the agency lacks authority to provide a custody redetermination under 8 U.S.C. § 1226(a), exhaustion would be futile.

STATUTORY BACKGROUND

Section 1226(a) provides that, "[o]n a warrant issued by the Attorney General," a noncitizen arrested and detained pending a decision on removal "may continue to be detained"

or "may be released on bond" or conditional parole. 8 U.S.C. § 1226(a)(1)–(2). The statute authorizes the Attorney General to make both the initial custody determination and subsequent custody redeterminations. Implementing regulations assign authority for custody redeterminations to Immigration Judges. See 8 C.F.R. § 1003.19(a).

Section 1225 governs the inspection and processing of applicants for admission. Under section 1225(b)(1) and (b)(2), certain applicants for admission who are determined to be inadmissible "shall be detained" pending further consideration of their application or removal. These provisions apply only to "applicants for admission" as defined by the INA.

The INA defines "admission" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." 8 U.S.C. § 1101(a)(13)(A). With limited exceptions not relevant here, a noncitizen who has entered the United States without inspection is not considered an "applicant for admission" at a later date solely by virtue of being encountered inside the country. Rather, the term applies to individuals who present themselves for inspection at a port of entry or who are treated as seeking admission under specific statutory provisions.

Section 1182(a)(6)(A)(i) renders an individual inadmissible if they are "present in the United States without being admitted or paroled." Section 1182(a)(7)(A)(i)(I) applies to "an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa" or other entry documents. The two grounds serve distinct statutory functions: § 1182(a)(6)(A)(i) describes unlawful presence after entry without inspection, while § 1182(a)(7) presumes an ongoing or contemporaneous "application for admission."

Under § 1226(a), individuals detained pending removal proceedings are entitled to custody redeterminations before an Immigration Judge unless detained under statutory provisions that

expressly withhold such authority. See 8 C.F.R. § 1003.19(h). By contrast, individuals detained under § 1225(b) are not eligible for bond redeterminations because detention is mandatory for applicants for admission falling within that section.

The Department of Justice's 1997 regulations implementing the Illegal Immigration Reform and Immigrant Responsibility Act reaffirmed that noncitizens who entered without inspection and were later arrested inside the United States are detained under § 1226(a) and may seek bond before an Immigration Judge. See Inspection and Expedited Removal of Aliens, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that aliens "arrested in the interior" fall under the Attorney General's general detention authority).

In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court distinguished the detention schemes of §§ 1225, 1226, and 1226(c), holding that each operates according to its terms and that bond eligibility turns on the statutory authority under which the individual is detained. The Court reiterated that §§ 1225(b) and 1226(c) impose mandatory detention, while § 1226(a) allows discretionary release.

This case does not involve 8 U.S.C. § 1231 or post-removal-order custody. Petitioner is in pending § 1229a proceedings and subject only to the pre-order detention provisions of the INA.

LEGAL ARGUMENT

The statutory scheme governing immigration detention distinguishes between individuals detained as applicants for admission and those detained after entry while removal proceedings are pending. For individuals arrested in the interior of the country who have already entered without inspection, detention is governed by 8 U.S.C. § 1226(a). That provision authorizes the Attorney General to determine custody status during removal proceedings and permits release on bond or conditional parole. This framework applies to noncitizens who, like Petitioner, entered the United

States without inspection years earlier and were encountered inside the country rather than at a port of entry. The implementing regulations have long recognized this distinction, confirming that individuals "arrested in the interior" after unlawful entry fall under the general detention authority of Section 1226(a).

Mandatory detention under 8 U.S.C. § 1225(b), by contrast, applies only to persons who are processed as applicants for admission. The statute predicates mandatory detention on that status and references individuals who present themselves for inspection, who are placed in expedited removal screening, or who otherwise fall within the statutory definition of an applicant for admission. The definition of admission, set forth at 8 U.S.C. § 1101(a)(13)(A), requires lawful entry after inspection and authorization. Individuals who enter without inspection are not transformed into applicants for admission simply because they are later encountered inside the United States during enforcement operations. The statutory structure does not permit treating long-settled interior residents as if they were arriving at the border.

The charges of inadmissibility issued to Petitioner confirm the statutory classification that applies here. In tangential removal proceedings on December 9, 2025, the Immigration Judge sustained *only* the charge under Section 1182(a)(6)(A)(i), which applies to individuals present in the United States without admission or parole.[1] The Immigration Judge did not sustain the charge under Section 1182(a)(7)(A)(i)(I), which applies to immigrants who lack valid documents "at the time of application for admission." By rejecting the latter charge, the Immigration Judge essentially determined that Petitioner was not, at the time of his encounter with immigration authorities, seeking admission or treated as if he were doing so. That determination aligns with the statutory text and removes any foundation for detaining Petitioner under Section 1225(b).

[1] The Immigration Judge presiding over removal proceedings is not the immigration judge who was assigned to the bond motion.

Because removal proceedings are pending under Section 1229a and no statutory provision mandates custody, Petitioner falls squarely under Section 1226(a) as a matter of law. Under that provision, Immigration Judges retain authority to conduct custody redeterminations unless expressly divested of jurisdiction. The Immigration Judge in this case concluded that he lacked such authority based solely on a legal interpretation concerning the reach of Section 1225(b).

Where an agency declines to exercise statutory authority based on a legal error, habeas jurisdiction is appropriate to correct the misclassification. As aforementioned, this Court, as well as others around the nation have repeatedly held that interior arrests of long-term residents who entered without inspection fall under Section 1226(a) and that detention under Section 1225(b) is not authorized in such circumstances.[2] These decisions reflect the statutory structure enacted by Congress and the longstanding regulatory distinction between applicants for admission and

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[2] See, e.g., *Vincens-Marquez v. Soto*, No. 25-16906 (KSH), 2025 WL 3097496 (D. N.J. Nov. 6, 2025); *Beltran, et. al v. Noem*, No. 25- cv-2650-LL-DEB, 2025 WL 3078837 (S.D. Cal. Nov. 4, 2025); *Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025); *Flores v. Olson*, 25 C 12916, 2025 WL 3063540 (N.D. Ill. Nov. 3, 2025); *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *Ramirez Valverde v. Olson*, No. 25-CV-1502, 2025 WL 3022700 (E.D. Wis. Oct. 29, 2025); *Hernandez Lopez v. Hardin*, No. 2:25-cv-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025); *Orellana v. Noem*, No. 4:25-CV-112-RGJ, 2025 WL 3006763 (W.D. Ky. Oct. 27, 2025); *Tomas Elias v. Hyde*, No. 25- cv-540-JJM-AEM, 2025 WL 3004437 (D. R.I. Oct. 27, 2025); *Aguilar Guerra v. Joyce*, 2:25-cv-534-SDN, 2025 WL 2986316 (D. Maine Oct. 23, 2025); *Contreras Maldonado v. Cabezas*, No. 25 cv-13004, 2025 WL 2985256 (D. N.J. Oct. 23, 2025); *Gomez Garcia v. Noem*, No. 5:25- cv-02771-ODW (PDx), 2025 WL 2986672 (C.D. Cal. Oct. 22, 2025); *Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 WL 2977650 (D.Colo. Oct. 22, 2025); *Ochoa Ochoa v. Noem*, No. 25-CV-10865, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *N.A. v. Larose*, No. 25 cv-2384-RSH-BLM, 2025 WL 2841989 (S.D. Cal. Oct. 7, 2025); *Lopez- Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Mosqueda v.* Noem, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Garcia v. Noem*, No. 25-cv-02180-DMS MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v.* Noem, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Ramirez Clavijov v. Kaiser* , No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Samb v. Joyce* , No. 25 Civ. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Romero v. Hyde* , No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem* , No. 5:25-cv- 01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Maldonado v. Olson* , No. 25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Lopez Benitez v. Francis* , No. 25 Civ. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa* , No. 25-CV-02157-PHX-DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted* , No. 25-CV- 02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Diaz Martinez v. Hyde* , No. 25-CV-11613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025); *Gomes v. Hyde* , No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025).

individuals arrested within the United States. Petitioner's continued detention without access to a custody redetermination therefore rests on an error of law that warrants relief.

CLAIM FOR RELIEF

Count One
Denial of Custody Redetermination Based on Legal Error

Petitioner realleges and incorporates the preceding allegations. Petitioner is detained during the pendency of removal proceedings and is not subject to any statutory provision mandating custody. Petitioner is detained under the statutory framework set forth in 8 U.S.C. § 1226(a), which authorizes discretionary release on bond and assigns Immigration Judges authority to conduct custody redeterminations.

Notwithstanding these findings, the Immigration Judge declined to adjudicate custody based solely on a legal conclusion that Petitioner is subject to mandatory detention as an applicant for admission under 8 U.S.C. § 1225(b).

Where continued detention is based solely on misapplication of the governing statute, habeas corpus is the appropriate means to correct the classification and require the agency to conduct a custody redetermination or release Petitioner from custody.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

a. Assume jurisdiction over this matter;

b. Issue an order to show cause under 28 U.S.C. § 2243 ordering Respondents to answer within 3 days;

c. Issue a writ of habeas corpus directing Respondents to provide Petitioner with an immediate custody redetermination before an Immigration Judge under 8 U.S.C. § 1226(a), or, in the alternative, order Petitioner's release from custody;

d. Declare that Petitioner is detained under Section 1226(a) and is not subject to mandatory detention under 8 U.S.C. § 1225(b);

e. Enjoin Respondents from continuing to detain Petitioner without providing a custody redetermination consistent with Section 1226(a) and the Immigration Judge's factual findings; and

f. Award such further relief as the Court deems just and proper.

Respectfully submitted on this day 12th of December, 2025.

Germaine Martinez Garcia

By his attorney,

/s/ Jose W. Alvarez
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