

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF OKLAHOMA**

1. Arnaldo Rafael AURE IBARRA,
Petitioner,

v.

1. Scarlet GRANT, Warden of Cimarron Correctional Center, in her official capacity;
2. Russell HOLT, Field Office Director of Enforcement and Removal Operations, Chicago Field Office, Immigration and Customs Enforcement, in his official capacity;
3. Todd LYONS, Acting Director of Immigration and Customs Enforcement, in his official capacity;
4. Daren MARGOLIN, EOIR Director, U.S. Department of Justice, in his official capacity;
5. Kristi NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity;
6. Pamela BONDI, U.S. Attorney General, in her official capacity,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Arnaldo Rafael Aure Ibarra, has been in the custody of Immigration and Customs Enforcement (“ICE”) since November 25, 2025, approximately three weeks. Petitioner’s continued detention is unconstitutional and unlawful because he has been denied a bond hearing. Petitioner has a pending defensive Form I-589, Application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture, which he filed on May 3, 2023, well prior to his detention. Accordingly, to vindicate Petitioner’s constitutional rights, this Court should grant the instant petition for a writ of habeas corpus.

2. Absent an order from this Court, Petitioner will continue to be detained for an unknown and unreasonable amount of time by ICE without a bond hearing.

3. Petitioner asks this Court to find that his continued detention is unconstitutional and order the Petitioner released pending his immigration proceedings.

4. In the alternative, the Court should order Respondents to provide Petitioner a bond hearing within five days of the order.

JURISDICTION

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C § 1101 *et seq.*

6. 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).

7. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgement Act, 28, U.S.C. § 2201 *et seq.* and the All Writs Act, 28 U.S.C § 1651.

VENUE

8. Venue is proper because Petitioner is detained at Cimarron Correctional Facility in Cushing, Payne County, Oklahoma, which is within the jurisdiction of the Western District of Oklahoma.

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

REQUIREMENTS OF 28 U.S.C § 2243

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

11. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

12. Petitioner Arnaldo Rafael Aure Ibarra is a native and citizen of Venezuela, born on  He is currently detained at Cimarron Correctional Facility and is in the custody and direct control of Respondents and their agents.

13. Respondent is the Warden of Cimarron Correctional Facility, Scarlet Grant, and she has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Scarlet Grant is a legal custodian of Petitioner.

14. Respondent Russell Holt is the Director of the Chicago Field Office of ICE’s Enforcement and Removal Operations division. As such, Holt is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

15. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Lyons is Petitioner’s immediate custodian and is

responsible for Petitioner's detention and removal. He is named in his official capacity.

16. Respondent Daren Margolin is the Director of U.S. Department of Justice's Executive Office for Immigration Review (EOIR), which includes the immigration court system. He is sued in his official capacity.

17. 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. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

18. 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 and the immigration court system it operates is a component agency. She is sued in her official capacity.

LEGAL FRAMEWORK

19. The Immigration and Nationality Act prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

20. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in § 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).

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

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

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

24. The detention provisions at § 1226(a) and § 1225(b)(2) 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).

25. Following the enactment of the 1996 IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). 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).

26. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more 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)).

27. On July 8, 2025, ICE, “in coordination with” the Department of Justice, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

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

29. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. *Id.*

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

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

32. Subsequently, court after court—including this Court—has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See Escarcega v. Olson*, No. CIV-25-1129-J, 2025 LX 598796 (W.D. Okla. Nov. 20, 2025); *Diaz v. Holt*, No. CIV-25-1179-J, 2025 LX 516591 (W.D. Okla. Nov. 26, 2025); *Garcia v. Holt*, No. CIV-25-1225-J, 2025 LX 508489 (W.D. Okla.

Dec. 8, 2025). *See also*, *Mendoza Gutierrez v. Baltasar*, No. 1:25-cv-02720-RMR (D. Colo. Oct. 17, 2025); *Garcia Cortes v. Noem*, No. 1:25-cv-02677-CNS, 2025 U.S. Dist. LEXIS 181582 (D. Colo. Sept. 16, 2025); *Velasquez Salazar v. Dedos*, 1:25-cv-00835-DHU-JMR, 2025 U.S. Dist. LEXIS 183335 (D.N.M. Sept. 17, 2025); *Buentrostro Mendez v. Bondi et al*, 4:25-cv-03726 (S.D. Tex. Oct. 7, 2025); *Almazan Tapia v. Vergara*, No. 5:25-cv-174 (S.D. Tex. Oct. 17, 2025); *Lopez-Arevelo v. Ripa*, No. 3:25-cv-0037, 2025 U.S. Dist. LEXIS 188232 (W.D. Tex. Sept. 21, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM,

2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); see also, e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

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

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

35. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court

explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see also *Gomes*, 2025 WL 1869299, at *7.

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

37. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. 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 v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

STATEMENT OF FACTS

39. Petitioner is native and citizen of Venezuela. Petitioner is forty (40) years old.

40. Petitioner last entered the United States at or near Eagle Pass, Texas, without inspection, on or about September 17, 2022. He later filed a defensive Form I-589 asylum application on May 3, 2023, and has been actively pursuing relief from removal.

41. While in Venezuela, Petitioner was beaten and tortured by [REDACTED]

[REDACTED] Following this persecution, Petitioner fled to the United States seeking safety and protection. Petitioner fled to Colombia in 2018 but continued to fear persecution after the 2022 presidential election due to the new administration's alignment with authoritarian and revolutionary armed groups. Petitioner came to the United States seeking refuge from political persecution, imprisonment, torture, and death.

42. On November 25, 2025, Petitioner was detained by ICE and has remained in custody since that time. Petitioner has no criminal history in the United States or elsewhere. Petitioner received a bond hearing on December 10, 2025, at which the Immigration Judge denied bond due to "lack of jurisdiction" under *Matter of Yajure Hurtado*. As a result, Petitioner continues to suffer from prolonged civil detention.

43. Petitioner's detention has caused severe emotional and financial hardship to his wife, Yelena Peña, who is struggling to pay essential bills and maintain stability without his income, support, and presence.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

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

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

COUNT II

Violation of Due Process

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

48. 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).

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

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

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that Petitioner’s detention violates the INA and the Due Process Clause of the Fifth Amendment;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or alternatively, ordering Respondents to provide a bond hearing for Petitioner within five days.

- (5) Issue an Order prohibiting the Petitioner's transfer to another jurisdiction away from his family and counsel;
- (6) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (7) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/S/ Elissa R Stiles
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Dated: December 16, 2025

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Arnaldo Rafael Aure Ibarra, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: December 16, 2025

/S/ Elissa R Stiles

Elissa Stiles