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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

GONZALES JUAN, Cleofas,

Petitioner,

v.

Garrett J. RIPA, Field Office Director of
Enforcement and Removal Operations, Miami
Field Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; Pamela
BONDI, U.S. Attorney General; Juan
AGUDELO, Assistant Field Director of Krome
North Service Processing Center, in their
official capacities,

Respondents.

Case No. 1:25cv25924

**VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS**

1 INTRODUCTION

2 1. Petitioner Cleofas Gonzales Juan is in the physical custody of Respondents at the
3 Krome North Service Processing Center. He now faces unlawful detention because the
4 Department of Homeland Security (DHS) and the Executive Office of Immigration Review
5 (EOIR) have concluded Petitioner is subject to mandatory detention.

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

8 3. Based on this allegation in Petitioner’s removal proceedings, DHS denied
9 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
10 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
11 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
12 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
13 therefore ineligible to be released on bond.

14 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
15 Board) issued a precedent decision, binding on all immigration judges, holding that an
16 immigration judge has no authority to consider bond requests for any person who entered the
17 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
18 The Board determined that such individuals are subject to detention under 8 U.S.C. §
19 1225(b)(2)(A) and therefore ineligible to be released on bond.

20 5. Petitioner’s detention on this basis violates the plain language of the Immigration
21 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
22 previously entered and are now residing in the United States. Instead, such individuals are
23 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.

1 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
2 having entered the United States without inspection.

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

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

8 JURISDICTION

9 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
10 Krome North Service Processing Center.

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

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

16 VENUE

17 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
18 500 (1973), venue lies in the United States District Court for the Southern District of Florida, the
19 judicial district in which Petitioner currently is detained.

20 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
21 Respondents are employees, officers, and agencies of the United States, and because a
22 substantial part of the events or omissions giving rise to the claims occurred in the Southern
23 District of Florida.

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1 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
2 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

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

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

13 21. Respondent Juan Agudelo is employed as the Assistant Field Office Director of
14 the Krome North Service Processing Center, where Petitioner is detained. He has immediate
15 physical custody of Petitioner. He is sued in his official capacity.

16 **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

17 22. No exhaustion is statutorily required for Petitioner's habeas claim because
18 "Section 2241 itself does not itself impose an exhaustion requirement," *Santiago-Lugo v.*
19 *Warden*, 785 F.3d 467, 474 (11th Cir. 2015).

20 23. Regardless, "[w]here Congress does not say there is jurisdictional bar, there is
21 none." *Id.* at 473. The fact that it did not limit courts' subject matter jurisdiction to decide
22 unexhausted § 2241 claims compels the conclusion that any failure of [the respondent] to exhaust
23 administrative remedies is not a jurisdictional defect." *Id.* at 474.

24

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

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

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

7 32. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
8 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
9 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section
10 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1,
11 139 Stat. 3 (2025).

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

17 34. Thus, in the decades that followed, most people who entered without inspection
18 and were placed in standard removal proceedings received bond hearings, unless their criminal
19 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
20 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
21 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
22 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
23 “restates” the detention authority previously found at § 1252(a)).
24

1 35. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
2 rejected well-established understanding of the statutory framework and reversed decades of
3 practice.

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

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

13 38. Since Respondents adopted their new policies, dozens of federal courts have
14 rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected
15 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

16 39. Even before ICE or the BIA introduced these nationwide policies, IJs in the
17 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
18 entered the United States without inspection and who have since resided here. There, the U.S.
19 District Court in the Western District of Washington found that such a reading of the INA is
20 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
21 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
22 1239 (W.D. Wash. 2025).

23 _____
24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 40. Subsequently, court after court has adopted the same reading of the INA's
2 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
3 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
4 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
5 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
6 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
7 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
8 WL 2371588, at *1 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-
9 SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-
10 01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-
11 11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Leal-Hernandez v. Noem*, No. 1:25-
12 cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-
13 01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-
14 CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670, at *8 (D. Minn. Aug. 27, 2025)
15 *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug.
16 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal.
17 Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL
18 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL
19 2609425 (E.D. Mich. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025
20 WL 2531566 at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that §
21 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-
22 RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-
23 cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

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

4 42. Section 1226(a) applies by default to all persons "pending a decision on whether
5 the [noncitizen] is to be removed from the United States." These removal hearings are held under
6 § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

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

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

18 45. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
19 recently entered the United States. The statute's entire framework is premised on inspections at
20 the border of people who are "seeking admission" to the United States. 8 U.S.C.
21 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
22 applies "at the Nation's borders and ports of entry, where the Government must determine
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1 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
2 U.S. 281, 287 (2018).

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

6 **FACTS**

7 47. Petitioner has resided in the United States since May 1997 and lives in Oviedo,
8 Florida.

9 48. On September 14, 2025, Petitioner was arrested for driving without a license.
10 Petitioner is now detained at the Krome North Service Processing Center.

11 49. DHS issued a Warrant for Arrest of Alien against Petitioner on September 14,
12 2025. The Warrant for Arrest specifically states that it’s being issued pursuant to sections 236
13 and 287 of the Immigration and Nationality Act.

14 50. DHS placed Petitioner in removal proceedings before the Miami Immigration
15 Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being
16 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States
17 without inspection.

18 51. Petitioner has resided in the United States for nearly three decades and is the
19 father of three United States citizen children: Jason (20), C [REDACTED] (13), and G [REDACTED] (10), who
20 depend on his daily presence and support. Petitioner owns the family home in Oviedo, Florida,
21 where he lives with his wife and children, demonstrating long-standing stability and deep
22 community roots. He has consistently worked to provide for his family, including through his
23 landscaping business, and is described by numerous community members as hardworking,
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1 honest, and reliable. Letters from friends, neighbors, and clients attest to his integrity, generosity,
2 and commitment to his family and community. Petitioner's criminal history is limited to minor
3 traffic violations, with no convictions for violent offenses, aggravated felonies, or crimes
4 involving moral turpitude. He poses no danger to the community and, with strong family ties,
5 homeownership, and sponsorship by his U.S. citizen brother-in-law, he presents no risk of flight.
6 These equities underscore that his continued detention is unnecessary and unjust. Petitioner is
7 neither a flight risk nor a danger to the community.

8 52. Following Petitioner's arrest and transfer to Krome North Service Processing
9 Center, ICE issued a custody determination to continue Petitioner's detention without an
10 opportunity to post bond or be released on other conditions.

11 53. Petitioner subsequently requested a bond redetermination hearing before an
12 Immigration Judge. Specifically, on December 11, 2025, Petitioner was denied bond by an
13 Immigration Judge at the Miami Immigration because he was deemed an "applicant for
14 admission."

15 54. Pursuant to *Matter of Yajure Hurtado*, the Immigration Judge is unable to
16 consider Petitioner's bond request.

17 55. As a result, Petitioner remains in detention. Without relief from this court, he
18 faces the prospect of months, or even years, in immigration custody, separated from his family
19 and community.

20 **CLAIMS FOR RELIEF**

21 **COUNT I**

22 **Violation of the INA**

1 56. Petitioner incorporates by reference the allegations of fact set forth in the
2 preceding paragraphs.

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

9 58. DHS detained Petitioner under a warrant of arrest under INA § 236. A true and
10 accurate copy of Petitioner's Warrant for Arrest is submitted as Exhibit A to this filing.

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

13 **COUNT II**

14 **Violation of Due Process**

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

17 61. The government may not deprive a person of life, liberty, or property without due
18 process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government
19 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
20 Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653
21 (2001).

22 62. Petitioner has a fundamental interest in liberty and being free from official
23 restraint.
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I submit this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I verify that the statements made in this Amended Verified Petition for a Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED: December 16, 2025
Orlando, Florida

/s/ Lorraine Margarita Marte
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