IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION

CARLOS HIDALGO-FERNANDEZ (A#[redacted]) Petitioner,	§	
v.	§	CIVIL ACTION NO. _____
GRANT DICKEY, Warden, Joe Corley Detention Facility, PATRICK CONTRERAS, ICE Field Office Director, Houston Field Office, Immigration and Customs Enforcement, KRISTI NOEM, Secretary, Department of Homeland Security, PAMELA JO BONDI, Attorney General of the United States Respondents,	§	

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND COMPLAINT FOR DECLARATORY & INJUNCTIVE RELIEF

Petitioner, by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 and for declaratory and injunctive relief, and alleges as follows:

I. INTRODUCTION

1. Petitioner is a long-term resident of the United States who entered without inspection years ago and has resided continuously in the interior of the country. Petitioner is currently detained by Immigration and Customs Enforcement ("ICE") at the Houston Contract Detention Facility, located within the Southern District of Texas.

2. Petitioner is being unlawfully detained under 8 U.S.C. § 1225(b)(2)(A) pursuant to a new DHS policy issued on July 8, 2025, and subsequently endorsed by the Board of Immigration Appeals ("BIA") in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under that policy, any person who originally entered the United States without inspection is deemed an "applicant for admission" subject to mandatory detention, no matter how

many years they have lived in the United States, and regardless of whether they were apprehended in the interior, long after entry.

3. Numerous federal courts have already held that this DHS/BIA interpretation is contrary to the Immigration and Nationality Act ("INA"), including decisions in Wisconsin, Kentucky, Maryland, and a nationwide class-certification decision in *Maldonado Bautista v. Sykes* (C.D. Cal. 2025). See *Ramirez Valverde v. Warden* (E.D. Wis. 2025); *Hernandez Gomez v. Garland* (E.D. Ky. 2025); *Leal-Hernandez v. Garland* (D. Md. 2025); *Maldonado Bautista v. Sykes* (C.D. Cal. 2025) (summary judgment & class certification).

4. As Judge Stadtmueller explained in the Wisconsin decision, the new DHS interpretation "renders large swaths of § 1226 meaningless, contradicts *Jennings v. Rodriguez*, and is inconsistent with decades of agency practice." *Ramirez Valverde* at 10–16.

5. These decisions reflect the statutory structure recognized by the Supreme Court:

> § 1225 governs those "seeking admission," i.e., individuals arriving at the border or ports of entry.
>
> § 1226 governs the detention of individuals who are "already present in the United States."
>
> — *Jennings v. Rodriguez*, 138 S. Ct. 830, 837–838 (2018).

6. Petitioner was arrested in the interior, long after his entry. He was not seeking admission at the time of arrest. The government's reliance on § 1225(b)(2)(A) therefore violates the INA and is ultra vires.

7. Under the correct statute, 8 U.S.C. § 1226(a), Petitioner is eligible for a bond hearing. Because ICE refuses to provide one, habeas relief is required.

8. Petitioner also seeks a Temporary Restraining Order ("TRO") and Order to Show Cause. Although no specific transfer or removal date has been set, ICE retains the discretion to transfer Petitioner at any time. Such a transfer would undermine this Court's jurisdiction and cause irreparable harm to Petitioner's access to counsel and family.

II. JURISDICTION AND VENUE

9. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2. Petitioner challenges the lawfulness of his detention and the legal authority under which he is held, which are core habeas functions.

10. The jurisdiction-stripping provisions of 8 U.S.C. §§ 1252(b)(9) and 1252(g) do not apply to habeas challenges to detention.

11. Venue is proper because Petitioner is detained at Joe Corley Detention Center – which is located within the Southern District of Texas, Houston Division. 28 U.S.C. § 1391(b), (e)(1); See *Rumsfeld v. Padilla*, 542 U.S. 426 (2004).

III. PARTIES

12. Petitioner CARLOS HIDALGO -FERNANDEZ is a noncitizen residing in the United States who is currently detained at the Joe Corley Detention Facility located in Conroe, Texas.

13. Respondent Grant Dickey is sued in his official capacity as Warden of the Joe Corley Detention Facility and is Petitioner's immediate custodian for purposes of 28 U.S.C. § 2241.

14. Respondent Patrick Contreras is sued in his official capacity as Houston Field Office Director of ICE Enforcement and Removal and exercises authority over petitioner's detention and custody determinations.

15. Respondent Kristi Noem is sued in her official capacity as Secretary of the Department of Homeland Security and is responsible for the administration and enforcement of the immigration laws, including the detention policies challenged in this action.

16. Respondent Pamela Bondi is sued in her official capacity as Attorney General of the United States and is responsible for the conduct of immigration litigation and the legal positions taken by the government in this case.

IV. STATEMENT OF FACTS

A. Petitioner's Residence and Ties to the United States

17. Petitioner entered the United States on February 28, 2022, and has lived continuously in the United States for nearly four years.

18. Petitioner resides with his spouse, his stepdaughter, and his U.S. citizen daughter.

B. Arrest in the Interior

19. Petitioner was arrested on or about October 7, 2025, at the Houston ICE Field Office, far from any border or port of entry. Petitioner was arrested while complying with ICE reporting requirements.

20. After his arrest, ICE issued a Notice to Appear and filed it with the immigration court on October 10, 2025, commencing removal proceedings.

21. At the time of the arrest that triggered the current pending removal proceedings, Petitioner was not seeking admission into the United States.

C. Custody Classification Under § 1225(b)

22. ICE classified Petitioner as detained under § 1225(b)(2)(A).

23. This was a shift from the longstanding practice of classifying detainees apprehended in the interior as detained under § 1226(a).

24. This reclassification eliminated Petitioner's eligibility for a bond hearing and placed him in mandatory detention, despite the fact that Petitioner was arrested in the interior.

25. On December 2, 2025, Immigration Judge Andrea Cole denied Petitioner's motion for release on bond finding that under *Matter of Yajure-Hurtado*, she did not have jurisdiction. *See* Exhibit 1.

D. Threat of Transfer or Removal

26. ICE retains the authority to transfer Petitioner to a facility outside the Southern District of Texas at any time, which would deprive this Court of jurisdiction over Petitioner's immediate custodian and cause irreparable harm to Petitioner's ability to maintain family contact and access to counsel.

V. PROCEDURAL HISTORY

A. Immigration Court Proceedings

27. Immigration proceedings against Petitioner are pending before the Conroe Immigration Court, Case #[redacted]

28. Petitioner's next master calendar hearing is scheduled for January 7, 2026.

29. No individual hearing has been scheduled. No final order of removal has been entered against Petitioner.

B. Bond Hearing Denial

30. On December 2, 2025, Immigration Judge Andrea Cole denied Petitioner's request for a bond hearing. *See* Exhibit 1 (Order).

31. Immigration Judge Cole found that she lacked jurisdiction to conduct a bond hearing based on the Board of Immigration Appeals' decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

32. In *Matter of Yajure-Hurtado*, the BIA held that noncitizens who entered without inspection are "applicants for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), regardless of when or where they were arrested, and regardless of how long they have resided in the United States.

33. Following *Matter of Yajure-Hurtado*, immigration judges nationwide have concluded that they lack authority to conduct bond hearings for any noncitizen who originally entered without inspection, even if arrested years later in the interior of the United States.

C. This Petition

34. This petition challenges only the statutory authority under which Petitioner is detained. Petitioner does not challenge the validity of the removal charges or seek dismissal of the removal proceedings. Rather, Petitioner challenges DHS's misapplication of the detention statute and seeks reclassification under the correct statutory provision, 8 U.S.C. § 1226(a), which entitled him to a bond hearing.

VI. Exhaustion of Remedies

35. Petitioner has exhausted available administrative remedies. On December 2, 2025, Immigration Judge Andrea Cole denied Petitioner's request for a bond hearing, finding that the court lacked jurisdiction under *Matter of Yajure-Hurtado*. Exhibit 1.

36. Further administrative pursuit would be futile. Under *Matter of Yajure-Hurtado*, immigration judges are bound to find that all noncitizens who entered without inspection are detained under § 1225(b)(2) and are ineligible for bond hearings.

37. An appeal to the BIA would be similarly futile. The BIA has already decided this precise issue in *Matter of Yajure-Hurtado* and would affirm any immigration judge decision applying that precedent.

38. Moreover, Petitioner challenges the statutory authority for his detention—a pure question of law that is properly before this Court in habeas corpus. The Supreme Court has confirmed that habeas jurisdiction under 28 U.S.C. § 2241 does not require exhaustion of administrative remedies where the petitioner challenges whether the detention statute applies at all. *See INS v. St. Cyr*, 533 U.S. 289, 314 (2001).
39. Requiring Petitioner to pursue administrative appeals that cannot provide relief would impose months of continued unlawful detention while the BIA and courts of appeals reach the same conclusion that multiple district courts have already reached: that DHS's interpretation of § 1225(b)(2) is unlawful.
40. Accordingly, exhaustion is complete and this Court has jurisdiction to proceed.

VII. The INA Requires Detention of Interior Arrestees Under § 1226(a).

A. Historical Statutory Interpretation

41. The Supreme Court in *Jennings v. Rodriguez* confirmed the statutory structure:

- § 1225 governs arriving aliens and those seeking admission,
- § 1226 governs detention of persons already present in the United States.

42. The regulation implementing IIRIRA in 1997, 62 Fed. Reg. 10323, likewise confirms that individuals who entered without inspection and were later arrested in the interior are processed under § 1226.
43. For decades, DHS and the BIA followed this structure — until July 2025.
44. Before September 5, 2025, just 3 months prior, the official position of the BIA was that the Immigration Judge had power to grant release on bond under INA section 236(a) if the person did not have a disqualifying criminal record and the judge was satisfied, after a hearing, that the person was not a danger to the community or a flight risk. Matter of Akhmedov, 29 I&N Dec. 166 (BIA 2025).
45. Moreover, ICE had a longstanding practice of treating noncitizens taken into custody while living in the United States as detained pursuant to 8 U.S.C. section 1226(a). Rocha Rosado v. Figueroa, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); see *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024) ("[T]he longstanding practice of the government—like any other interpretive aid—can inform [a court's] determination of what the law is.").

However, this position changed on July 8, 2025, when internal "interim guidance" was released regarding a change in their longstanding interpretation of which noncitizens are eligible for release on bond. Ex. 3, Interim Guidance (July 8, 2025). Specifically, ICE is arguing that only those already admitted to the U.S. are eligible to be released from custody during their removal proceedings, and that all others are subject to mandatory detention under 8 U.S.C. § 1225, instead of 8 U.S.C. § 1226, and will remain detained with only extremely limited parole options at ICE's discretion. See id.

B. DHS's New Interpretation is Unlawful

46. Under the July 8, 2025, detention policy and *Matter of Yajure-Hurtado*, DHS asserts that any EWI noncitizen is always an "applicant for admission." No contemporaneous seeking of entry is required.

47. Multiple federal courts have rejected this interpretation:

- Wisconsin: DHS's reading "contradicts *Jennings*," "renders § 1226 superfluous," and is "not entitled to deference."
- Kentucky: Interior arrests "fall squarely under § 1226," and detention under § 1225(b)(2) is unlawful.
- Maryland: Unlawful application of § 1225(b)(2) to interior arrestees.
- *Maldonado Bautista* (C.D. Cal.): Nationwide summary judgment and class certification holding the policy unlawful.

The Houston Division should reach the same conclusion.

C. Congress's Recent Legislation Confirms That § 1225 Does Not Cover Interior Arrestees

49. Congress's enactment of the Laken Riley Act in January 2025 confirms that § 1225(b)(2) does not already apply to all EWI noncitizens arrested in the interior.

50. The Laken Riley Act amended 8 U.S.C. § 1226(c) to require mandatory detention of certain EWI noncitizens who have been charged with specified crimes. *See* Laken Riley Act, Pub. L. 119-__, 2(a) (2025).

51. If DHS' interpretation were correct—that all EWI noncitizens are already "applicants for admission" subject to mandatory detention under § 1225(b)(2) – then the Laken Riley Act's amendment to § 1226(c) would be entirely superfluous. Noncitizens covered by the Laken

Riley Act would already be subject to mandatory detention under § 1225(b)(2) under DHS's theory.

52. Congress does not enact meaningless legislation. "It is a cardinal principle of statutory construction that a statute ought, upon the whole, to be so construed that, if it can be prevented, no clause, sentence, or word shall be superfluous, void, or insignificant." *TRW Inc. Andrews*, 534 U.S. 19, 31 (2001).

53. The Laken Riley Act's specific amendment to § 1226(c) to cover certain EWI noncitizens demonstrates Congress's understanding that EWI noncitizens arrested in the interior are governed by § 1226, not § 1225.

54. DHS's attempt to rewrite the statutory scheme through agency interpretation contradicts Congress's own recent legislative action.

D. Under § 1226(a), Petitioner Is Bond Eligible

55. Section 1226(a) authorizes discretionary release on bond. ICE's refusal to provide a bond hearing violates the statute and due process.

56. James S. Liebman & Randy Hertz, *Federal Habeas Corpus Practice and Procedure*, confirms that habeas is the essential mechanism to challenge statutorily unauthorized detention, especially where the government misapplies the detention statute (Vol. 1, Ch. 2–4; Vol. 2, Ch. 28–33).

VIII. CLAIMS FOR RELIEF

Count I — Violation of the INA

57. Detaining Petitioner under § 1225(b)(2)(A) is unlawful because Petitioner was not seeking admission at the time of arrest and is an interior arrestee subject to § 1226(a).

58. Respondents' detention of Petitioner is not authorized by statute and exceeds DHS's lawful authority.

Count II — Violation of the Due Process Clause

59. The Due Process Clause of the Fifth Amendment prohibits the government from depriving any person of liberty without due process of law. U.S. Const. amend. V.

60. Due process protects all persons within the United States, regardless of immigration status. "It is well established that the Fifth Amendment entitles

aliens to due process of law in deportation proceedings." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

61. Due process requires notice and "the opportunity to be heard 'at a meaningful time and in a meaningful manner.'" *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (quoting *Armstrong v. Manzo*, 380 U.S. 545, 552 (1965)).

62. While the Supreme Court has recognized that certain categories of arriving aliens may be subject to mandatory detention, see *Jennings v. Rodriguez*, 583 U.S. 281 (2018), Petitioner is not an arriving alien seeking admission at a port of entry or border. Petitioner is a long-term resident of the United States who was arrested in the interior, far from any border.

63. The government's misapplication of § 1225(b)(2)(A) eliminates any opportunity for Petitioner to receive an individualized determination of whether his continued detention is necessary. Under the government's interpretation, Petitioner—along with all other EWI noncitizens regardless of their length of residence, family ties, employment, or lack of criminal history—is subject to categorical mandatory detention without any hearing.

64. This categorical approach violates due process. At a minimum, due process requires an individualized bond hearing at which the government bears the burden of proving by clear and convincing evidence that Petitioner is either a flight risk or a danger to the community. See *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011).

65. Petitioner has been detained for over two months without any individualized assessment of flight risk or danger. He has deep family ties to the United States, including a U.S. citizen daughter. He has no criminal history. He complied with all ICE reporting requirements prior to his arrest. Nothing in the record suggests that he poses a flight risk or danger to the community.

66. The government's refusal to provide any bond hearing violates Petitioner's Fifth Amendment right to due process.

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. ASSUME jurisdiction over this matter;
2. ISSUE a writ of habeas corpus;
3. DECLARE that:
    a. Petitioner's detention under 8 U.S.C. § 1225(b)(2)(A) violates the Immigration and Nationality Act;
    b. Petitioner's detention is properly governed by 8 U.S.C. § 1226(a);
    c. Under § 1226(a), Petitioner is entitled to a bond hearing;
    d. The government's denial of bond violates due process;
4. ORDER that Respondents:
    a. Immediately release Petitioner from custody unconditionally; OR
    b. In the alternative, provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) before an immigration judge within seven (7) days of this Court's order, at which hearing:
    i. The government bears the burden of proof;
    ii. The government must prove by clear and convincing evidence that Petitioner is either a flight risk or a danger to the community; and
    iii. The immigration judge has full authority and discretion to set bond or release Petitioner on conditions of supervision.
5. ISSUE an Order to Show Cause directing Respondents to show cause, within seven (7) days, why the relief requested in this Petition should not be granted;
6. AWARD Petitioner reasonable attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412; and
7. GRANT any other and further relief this Court deems just and proper.

Respectfully submitted,

Dated: December 15, 2025

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EXHIBITS

The following exhibits are attached to and incorporated into this Petition:

Exhibit 1: Order Denying Bond Hearing, Immigration Judge Andrea Cole, dated December 2, 2025

Exhibit 2: Notice to Appear, dated October 09, 2025

Exhibit 3: ICE Interim Guidance Regarding Detention Authority Under 8 U.S.C. § 1225(b), dated July 8, 2025

Exhibit 4: Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA Sept. 5, 2025)

Exhibit 5: Declaration of Carlos Hidalgo-Fernandez in Support of Petition for Writ of Habeas Corpus, executed December 11, 2025

VERIFICATION

I, Martin Reza-Rodriguez, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the facts stated in this petition, based on information reasonably available to me, are true and correct to the best of my knowledge.

Executed on December 15, 2025.

CERTIFICATE OF SERVICE

I hereby certify that on December 12, 2025, a true and correct copy of the foregoing Petition for Writ of Habeas Corpus was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such filing to all counsel of record, including:

United States Attorney's Office
Southern District of Texas
1000 Louisiana St., Suite 2300
Houston, TX 77002

Martin Reza-Rodriguez
Attorney for Petitioner

CERTIFICATE OF INTERESTED PARTIES

Pursuant to Local Rule 3.4, undersigned counsel certifies that, to the best of counsels knowledge, the following is a complete list of interested persons:

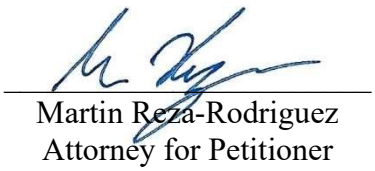
1. Carlos Hidalgo-Fernandez (Petitioner)

2. Grant Dickey, Warden, Joe Corley Detention Facility (Respondent)

3. Patrick Contreras, Houston Field Office Director, ICE (Respondent)

4. Kristi Noem, Secretary, Department of Homeland Security (Respondent)

5. Pamela Bondi, Attorney General of the United States (Respondent)



Martin Reza-Rodriguez
Attorney for Petitioner
Dated: December 15, 2025