

4. Mr. Acha has not requested a bond hearing because doing so would be futile under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
5. *Matter of Yajure Hurtado* articulates a new agency policy that all persons who entered the United States without inspection, regardless of how long they have lived in the United States or how far they were apprehended from the border, are deemed applicants for admission and are thus ineligible for a bond hearing under 8 U.S.C. § 1225(b)(2)(A) (stating that an applicant seeking admission shall be detained for a removal proceeding).
6. This Board of Immigration Appeals (“BIA”) decision reflects an ICE memorandum, issued in July 2025, that instructs its attorneys to coordinate with the Department of Justice, the agency housing the Executive Office for Immigration Review (“EOIR”), to reject custody redetermination hearings for applicants who arrived in the United States without documents.¹
7. The agencies’ reading of the Immigration and Nationality Act’s (“INA’s”) detention provisions is a violation of the statute and due process. As this Court recently concluded, § 1225(b)(2)(A) does not apply to individuals like Mr. Acha, who have been present in the United States for years. *See Santos v. Noem*, No. 3:25-CV-01193 SEC P, 2025 U.S. Dist. LEXIS 183412 (W.D. La. Sep. 11, 2025); *Kostak v. Trump*, No. 3:25-1093, 2025 U.S. Dist. LEXIS 167280, at *5 (W.D. La. Aug. 27, 2025). Instead, such individuals are subject to detention under a different statute, § 1226(a), and are eligible for release on bond. *See id.*

¹ *See* “ICE declares millions of undocumented immigrant ineligible for bond hearings,” *The Washington Post* (Jul. 15, 2025) <https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/>

8. Accordingly, Mr. Acha seeks an order of declaratory and injunctive relief and set aside relief under the Administrative Procedure Act requiring that he is provided with a bond hearing before the immigration judge.

JURISDICTION & VENUE

9. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201-2 (declaratory judgment); and United States Constitution Article I, Section 9 (Suspension Clause).
10. The federal district courts have jurisdiction under 28 U.S.C. § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003). In *Jennings v. Rodriguez*, 583 U.S. 281, 292-96 (2018), the Supreme Court again upheld the federal courts' jurisdictions to review such claims.
11. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Mr. Acha is detained within this district.

THE PARTIES

12. Mr. Acha is a citizen of Cameroon who entered the United States in or around September 3, 2024. He is currently detained in Jena, Louisiana.
13. Respondent, Brian Acuna, is the Acting Field Office Director of the ICE Enforcement and Removal Operations Louisiana Field Office, and is the federal agent charged with overseeing all ICE detention centers in Ferriday, Louisiana. Mr. Acuna is a legal custodian of Mr. Acha. He is sued in his official capacity.
14. Kristi Noem is the Secretary of the U.S. Department of Homeland Security ("DHS"). DHS oversees ICE, which is responsible for administering and enforcing the immigration

laws. Secretary Noem is the ultimate legal custodian of Mr. Acha. She is sued in her official capacity.

15. Pamela Bondi is the Attorney General of the United States. She oversees the immigration court system, which is housed within EOIR and includes all IJs and the Board of Immigration Appeals (“BIA”). She is sued in her official capacity.

LEGAL BACKGROUND

16. Relevant to this case, the INA includes two provisions that primarily govern the detention of non-citizens.
17. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are 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).
18. 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 under § 1225(b)(2).
19. 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. 104208, Div. C, §§ 30203, 110 Stat. 3009-546, 3009 582 to 3009583, 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).
20. Following the enactment of the 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).

21. Thus, in the decades that followed, most people who entered without inspection, unless they were subject to some other detention authority, received bond hearings. 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 officers. *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 the detention authority previously found at § 1252(a)).
22. Respondents have enacted a policy that turns this well-established understanding on its head and violates the INA’s statutory scheme.
23. To that end, in July 2025, ICE released a memorandum instructing its attorneys to coordinate with EOIR to reject bond hearings for applicants who arrived in the United States without documents.
24. Thereafter, on September 5, 2025, the BIA published *Matter of Yajure Hurtado*, 29 I&N Dec. 216, which confirms that EOIR is taking the position that noncitizens who entered the United States without admission or parole are ineligible for IJ bond hearings.
25. As *Matter of Yajure Hurtado* is binding on IJs, it represents the widespread position that EOIR is applying across the United States.
26. EOIR’s interpretation defies the INA.
27. The plain text of the provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Mr. Acha.


28. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.”
29. 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 8 U.S.C. § 1182(a)(6)(A)(i) makes clear that, by default, such people are afforded a bond hearing under subsection (a). 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.
30. On the contrary, § 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 heading of § 1225(b) indicates that it specifically applies at the point of “inspection for applicants for admission.”
31. Moreover, EOIR’s interpretation of the INA’s detention framework contradicts the Supreme Court precedent and “render[s] § 1226 unnecessary.” *Santos*, 2025 U.S. Dist. LEXIS 183412, at *10-11 (citing *Jenning*, 583 U.S. at 287).
32. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Mr. Acha.

FACTS

33. Mr. Acha is a 25-year-old native and citizen of Cameroon who arrived in the United States in or around September, 2024. Prior to his arrival, he was beaten and tortured by [REDACTED]
[REDACTED] Shortly after his arrival, he was taken into custody by ICE in the

San Diego area and was subsequently released on parole. He posted a \$5,000 bond and has consistently complied with all conditions of his release, including attending every required ICE check-in.

34. After his release, Mr. Acha established stable residence with his extended family at

 where he lived with his aunt, aunt's mother, aunt's daughter, cousin, and younger brother. During this time, he was an active and supportive member of his household. He regularly assisted with household chores, helped prepare meals, ran errands such as grocery shopping, and provided academic support to his younger brother by helping him with school assignments. Mr. Acha also attended a local Christian church on weekends and participated in a Christian youth fellowship.

35. Mr. Acha filed an application for asylum with the San Diego Immigration Court on September 17, 2024. On July 30, 2025, the Immigration Judge denied his application for asylum. He is currently pursuing an appeal of that decision with the BIA.

36. Mr. Acha obtained a valid work permit in 2025 and obtained employment at Dreyer's Grand Ice Cream through a warehouse position. In addition to maintaining steady employment, Mr. Acha is known within his community as a trusted and compassionate individual who consistently stays out of trouble. He regularly assists individuals from his village in Cameroon who arrive in the United States by helping them adjust to life in a new country or providing emotional support when they feel isolated or homesick.

Mr. Acha is deeply loved by his family and community, and his conduct reflects strong ties to the United States and a clear history of compliance with all legal obligations.

37. Mr. Acha was detained by ICE on or around September 15, 2025, in Silver Spring, Maryland while he attended an ICE check-in appointment. He was later taken to the Jena/La Salle Detention Facility in Jena, Louisiana.
38. Mr. Acha has no arrests, charges, or convictions in the United States.
39. Mr. Acha did not request a bond hearing before the IJ because doing so would be futile considering the holding in *Matter of Yajure Hurtado*, 29 I&N Dec. 2016.

CAUSES OF ACTION

COUNT ONE

Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Bond Hearing

40. Mr. Acha repeats, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
41. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens who are subject to inadmissibility as being present in the United States without admission or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.
42. The application of § 1225(b)(2) to bar Mr. Acha from receiving a bond hearing before an IJ violates the INA.

COUNT TWO

Violation of the Administrative Procedure Act Unlawful Denial of Bond

43. Mr. Acha repeats, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

44. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens who are subject to inadmissibility as being present in the United States without admission or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.
45. The application of § 1225(b)(2) to bar Mr. Acha from receiving a bond hearing before an IJ is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

COUNT THREE

Violation of Due Process

46. Mr. Acha repeats, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
47. 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*, 533 U.S. at 690.
48. Mr. Acha has a fundamental interest in liberty and being free from official restraint. Respondents’ detention of Mr. Acha 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, Mr. Acha respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Declare that the refusal to allow Mr. Acha a bond hearing before an IJ violates the INA, APA, and Due Process;
- (3) Issue a writ of habeas corpus requiring that Respondents release him or provide the bond hearing to which he is entitled within 14 days;
- (4) Set aside Respondents' unlawful detention policy under the APA, 5 U.S.C. § 706(2);
- (5) and order further relief as this Court deems just and appropriate.

Respectfully submitted,

/s/ Maria Clara Pardo

Maria Clara Pardo

Yacub Law Office

12761 Darby Brook Ct, Ste 102

Woodbridge, VA 22192

Tel. 703 553 2347

Fax 703 533 3408

cpardo@yacublaw.com

La. Bar No. 27852

I affirm, under penalty of perjury, that the foregoing statements are true and correct to the best of my knowledge, information, and belief.



Dorothy Ameck Fongum
Petitioner's Aunt

12 | 15 | 2025

Date