

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS
BROWNSVILLE DIVISION**

HARIM SIFUENTES,	§	
	§	
<i>Petitioner,</i>	§	
	§	
v.	§	Civil Action No.
	§	
KRISTI NOEM, Secretary, U.S. Department	§	
of Homeland Security;	§	
JUAN AGUDELO, Field Office Director	§	
of Enforcement and Removal Operations,	§	
Harlingen Field Office,	§	
Immigration and Customs Enforcement;	§	
CARLOS CISNEROS, Assistant Field	§	
Office Director of Enforcement and	§	
Removal Operations, Harlingen Field Office,	§	
Immigration and Customs Enforcement;	§	
TODD LYONS, Acting Director,	§	
Immigration and Customs Enforcement;	§	
PAMELA BONDI, U.S. Attorney General,	§	
in their official capacities,	§	
	§	
<i>Respondents.</i>	§	

PETITION FOR WRIT OF HABEAS CORPUS

1. On December 16, 2025, immigration judge (IJ) Paul Hable of the Port Isabel Immigration Court denied bond for Petitioner, stating: “No jurisdiction. [Petitioner] entered the United States without being admitted or inspected. See Matter of Hurtado (BIA 2025).” (See Ex 2- And Ex 3-1 and 3-2) Petitioner was

arrested by Border Patrol at the beginning of December 2025 and has been detained since then. This despite his being in the U.S. continuously for a quarter-century and having a valid, unexpired Employment Authorization Document (EAD). Ex 1 Respondents have failed to provide him with either a pre- or a post-deprivation individualized bond hearing to satisfy his strong liberty interest in remaining free of detention.

2. Petitioner, age 51, is married to a U.S. citizen and has five U.S.-citizen children including aged six, a minor child with autism. He files this habeas petition pursuant to 28 U.S.C. § 2241 and respectfully requests an order requiring Respondents to provide him with a prompt bond hearing.

JURISDICTION

3. Petitioner is in the physical custody of Respondents at Port Isabel Service Processing Center (PISPC) in Los Fresnos, Texas. District courts have jurisdiction to consider habeas petitions from non-citizens who challenge the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Garza-Garcia v. Moore*, 539 F.Supp.2d 899, 903-04 (S.D. Tex. 2007) (courts retain jurisdiction over questions of law regarding statutory authority and regulatory framework).

4. This Court has jurisdiction under 28 U.S.C. §§ 2241 (habeas corpus statute), 1331 (federal question), 1651 (All Writs Act), and the U.S. Constitution's Article I, § 9, Cl. 2 (Suspension Clause).

5. This Court may grant relief pursuant to 28 U.S.C. §§ 2241, 2201 (Declaratory Judgment Act), and 1651 (All Writs Act).

VENUE

6. Venue lies in the U.S. District Court for the Southern District of Texas because Petitioner is detained at PISPC. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 498 (1973).

7. Venue is also proper in this Court under 28 U.S.C. § 1391 because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in this district.

PARTIES

8. Petitioner has resided in the U.S. continuously since 1999. He has a valid, unexpired Employment Authorization Document (EAD). On December 1, 2025, Petitioner was arrested at a Border Patrol checkpoint. At the time of filing of this habeas petition, Petitioner is detained in Respondents' custody at Port Isabel Service Processing Center (PISPC) in Los Fresnos, Texas.

9. 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 U.S. Immigration and Customs Enforcement ("ICE"), which is responsible for Petitioner's detention.

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

10. Respondent Juan Agudelo is the Director of the Harlingen Field Office of ICE's Enforcement and Removal Operations division. As such, Respondent Agudelo is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

11. Respondent Carlos D. Cisneros is the Assistant Director of the Harlingen Field Office of ICE's Enforcement and Removal Operations division. As such, Respondent Cisneros is Petitioner's custodian and is responsible for Petitioner's detention. He is sued in his official capacity.

12. Respondent Todd Lyons is the Acting Director of ICE. He is responsible for implementation and enforcement of the INA and oversees ICE's Enforcement and Removal Operations division, which is responsible for Petitioner's detention. He is sued in his official capacity.

13. 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 (EOIR) and the immigration-court system it operates is a component agency. She is sued in her official capacity.

ARGUMENT AND AUTHORITIES

14. This petition concerns two different detention provisions in the INA, 8 U.S.C. § 1226(a) (section 236) and 8 U.S.C. § 1225(b)(2) (section 235). Section 1226(a) permits release from detention on bond, while Section 1225(b)(2) makes detention mandatory.

15. Section 1226(a) applies broadly to anyone who is detained “pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a); *see Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (describing Section 1226(a) as the “default rule” and applicable when an individual is “already in the country”). That provision applies to Petitioner.

16. In contrast with Section 1226, Section 1225(b)(2) applies to “applicant[s] for admission” who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). This provision addresses non-citizens who are “seeking entry into the United States,” not individuals who have resided in the United States for years. *Jennings*, 583 U.S. at 297.

17. Petitioner is a certified-class member in the U.S. District Court for the Central District of California’s case, *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). In *Maldonado Bautista*, (Dkt. 81, 2025 WL 3289861 (Nov. 20, 2025)), the court granted those petitioners’ motion for partial summary judgment because, as here, 8 U.S.C. “§ 1226(a) is the appropriate governing authority over Petitioners’ detention. . . . [The government] endorses an

interpretation of § 1225 that effectively removes § 1226 from existence.” Dkt. 81, at 14-15. As of late November 2025, at least 225 federal district judges have ruled in this way, with only eight ruling in the other direction. *See* Kyle Cheney, “More than 220 judges have now rejected the Trump admin’s mass detention policy.” *Politico* (Nov. 28, 2025), <https://www.politico.com/news/2025/11/28/trump-detention-deportation-policy-00669861>. (Ex 4)

18. *Maldonado Bautista* proceeded to certify a class to which Petitioner belongs: “All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.” Dkt. 82, 2025 WL 3288403, at *9 (Nov. 25, 2025). In an order granting final judgment issued on December 18, 2025, the court stated that its prior order had “declared the DHS Policy unlawful and granted vacatur under the APA.” Dkt. 92, at 12. Moreover, “[a]lthough the [summary judgment] Order does not grant vacatur of *Yajure Hurtado* under the APA, *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable.” Dkt. 92, at 6. Accordingly, the Immigration Judge’s categorical denial of bond in this case “is no longer tenable.”

19. To read Section 1226 as inapplicable to allegedly inadmissible noncitizens who entered the United States without inspection and resided in the U.S. for many years fails to “give independent legal effect to every word and clause in [the] statute.” *United States v. Palomares*, 52 F.4th 640, 644 (5th Cir. 2022); *Aguilar Maldonado v. Olson*, No. 25-cv-3142 (SRN/SGE), 2025 WL 2374411, at *12 (D. Minn. Aug. 15, 2025) (describing the presumption against superfluity when interpreting Section 1226(c) and 1225(b)(2)).

20. The legislative history and relevant administrative guidance also confirm Section 1226(a)’s applicability to Petitioner. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), an amendment that added the new section 1226(c)(1)(E). Under the government’s reading of Section 1225, “there would have been no need for the new section.” *Guerrero Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO, 2025 WL 2716910, at *6 (E.D. Cal. Sept. 23, 2025).

21. Congress enacted the current Section 1226(a) in 1996 and explained then that this provision merely “restates the current provisions in [8 U.S.C. § 1252(a) (1994)] regarding the authority of the Attorney General to arrest, detain, and release on bond a[] [noncitizen] who is not lawfully in the United States.” H.R. Rep. No. 104-469, pt. 1, at 229 (1996).

22. At the same time, Congress enacted new detention provisions as part of the novel expedited-removal scheme applicable to non-citizens arriving in or who recently entered the U.S. *See* 8 U.S.C. § 1225(b)(1)-(2). DHS's predecessor clarified that non-citizens who had entered without inspection would be "eligible for bond and bond redetermination" under Section 1226(a). *See* "Inspection and Expedited Removal of Aliens." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

23. The federal government's longstanding interpretation was that Section 1226(a) applied to non-citizens who entered without inspection and were later apprehended. *See id.*; *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024) (a "longstanding practice of the government . . . can inform a court's interpretation of what the law is") (internal citations omitted). Authority is overwhelming that Petitioner's detention is under Section 1226, not 1225.

24. Moreover, Petitioner has constitutionally protected interests in remaining at liberty during the pendency of his removal proceedings. *See Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (freedom from physical restraint "is the most elemental of liberty interests"). He is separated from her family, including U.S.-citizen spouse and five children, including a 6-year-old with special needs, and his wider community. He would encounter difficulties preparing defenses to removal proceedings while detained that he would not experience at home.

25. Petitioner should have an opportunity to demonstrate to an IJ that he is not a significant flight risk or danger to the community such that a reasonable bond is sufficient to secure his release pending the conclusion of removal proceedings. Respondents' interest in securing Petitioner's attendance at all hearings in his removal proceedings can be adequately protected by a reasonable bond determination and other procedural safeguards.

CLAIMS FOR RELIEF

COUNT ONE Violations of the INA

26. The allegations in the above paragraphs are realleged and incorporated herein.

27. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to Petitioner. He is detained under § 1226(a), under which he is entitled to an individualized bond determination.

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

COUNT TWO Violation of Due Process

29. The allegations in the above paragraphs are realleged and incorporated herein.

30. 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); *see also Mathews v. Eldridge*, 424 U.S. 319 (1976).

31. Petitioner has a fundamental interest in liberty and being free from official restraint. Denying Petitioner a bond hearing and prolonging his detention violates procedural and substantive due process.

RELIEF REQUESTED

32. Petitioner respectfully requests that this Court grant the following relief:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause within three days why this Petition should not be granted;
- (3) Issue a writ of habeas corpus requiring that Respondents provide Petitioner with a prompt individualized bond hearing;
- (4) Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- (5) Grant any other and further relief that this Court deems just and proper.

DATED: December 19, 2025.

Respectfully submitted,

By: /s/ Jaime Diez

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