

IN THE UNITED STATE OF DISTRICT COURT
WESTERN DISTRICT OF OKLAHOMA

JOSE LUIS CERVANTES CARRERA,)	
)	
Petitioner,)	
)	
v.)	
)	Case No.
KRISTI NOEM, Secretary of Homeland Security)	
Pamela Bondi, U.S. Attorney General,)	
JOSHUA JOHNSON, Field Office Director for)	
Detention and Removal, U.S. Immigration and)	
Customs Enforcement, Department of Homeland)	
Security and SCARLET GRANT, Warden,)	
Cimarron Correctional Facility,)	
)	
Respondents.)	

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. §2241

1. Petitioner is a citizen and national of Mexico who has resided continuously in the United States since 2018.
2. On October 14, 2025, Petitioner was apprehended by Immigration and Customs Enforcement (ICE) in Oklahoma City, Oklahoma, hundreds of miles from any international border or port of entry and was placed in removal proceedings.
3. The Department of Homeland Security (DHS) initiated removal proceedings and detained Petitioner at Cimarron Correctional Facility, 3200 S. King Hwy, Cushing, OK 74023.
4. On December 11, 2025, Petitioner appeared before an Immigration Judge ("IJ") in Cushing, Oklahoma, Immigration Court for a custody Redetermination Hearing pursuant to 8 C.F.R. § 1003.19.
5. The IJ denied the request for bond, citing a "lack of jurisdiction." The IJ reasoned that under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), Petitioner is classified as an "applicant for admission" under 8 U.S.C. § 1225, rendering him subject to mandatory detention without the possibility of bond.
6. Petitioner has remained in custody for 90 days without a meaningful hearing to determine if his detention is justified by flight risk or danger to the community.

ARGUMENT

The Immigration Court Erred in Denying Jurisdiction as Petitioner is Detained Under 8 U.S.C. § 1226(a), Not § 1225.

The Immigration Judge's conclusion that the court lacks jurisdiction to conduct a bond hearing is a manifest error of law. As a long-term resident of the United States, Petitioner's detention is governed by 8 U.S.C. § 1226(a).

A. *Matter of Yajure Hurtado* Is Inapplicable to Interior Apprehensions.

The BIA's decision in *Matter of Yajure Hurtado* incorrectly attempts to expand the definition of "arriving aliens" to include individuals like Petitioner who have lived in the interior of the U.S. for nearly two decades. However, the statutory scheme of the Immigration and Nationality Act (INA) creates a clear distinction: 8 U.S.C. § 1225 governs those at the threshold of entry, while 8 U.S.C. § 1226 governs the apprehension and detention of aliens already present within the United States.

B. This Court's Precedent Requires a Bond Hearing.

This Court recently addressed this exact legal question and rejected the government's reliance on *Hurtado* to bypass bond hearings. In *Medina-Herrera v. Noem, et al.*, Case No. 5:25-cv-01203 (W.D. Okla. Dec. 2, 2025), this Court held that: "[A]n individual apprehended in the interior of the United States... is detained pursuant to the Attorney General's discretionary authority under 8 U.S.C. § 1226(a)."

Because Petitioner was arrested in the interior and has resided here since 2018, he is a "Section 1226 detainee." Under 8 C.F.R. § 1236.1(d), the Immigration Court maintains explicit jurisdiction to review his custody status.

C. Due Process Prohibits Prolonged Mandatory Detention for Long-Term Residents.

Even if the statute were ambiguous, the "Constitutional Avoidance" doctrine requires this Court to interpret the law in a way that avoids constitutional conflict. Denying a bond hearing to a nineteen-year resident of the United States based on a legal fiction of "seeking admission" violates the Due Process Clause of the Fifth Amendment. *See Zadvydas v. Davis*, 533 U.S. 678 (2001).

CONCLUSION

For the reasons set forth above, the Immigration Court's refusal to exercise jurisdiction over Petitioner's custody status is a violation of the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. Petitioner has been a member of the U.S. community since 2018 and is entitled to an individualized determination of his suitability for release.

Because the law of this District, as established in *Medina-Herrera v. Noem*, Case No. 5:25-cv-01203 (W.D. Okla. Dec. 2, 2025), clearly holds that the Immigration Court maintains jurisdiction under 8 U.S.C. § 1226(a) for interior apprehensions, the Petitioner's continued detention without a hearing is unlawful.

WHEREFORE, Petitioner respectfully requests that this Court grant the Writ of Habeas Corpus and order the Respondents to provide a bond hearing within seven (7) days of the Court's order.

Respectfully submitted,



Myong O. Chung, OBA #16999
920 SW 107th Street, Suite 100
Oklahoma City, OK 73170
Phone: (405) 445-4986
Fax: (405) 653-9853
Attorney for Petitioner
mchunglawoffice@gmail.com

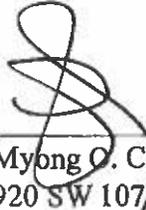
VERIFICATION

STATE OF OKLAHOMA)
)
COUNTY OF OKLAHOMA) SS:

I, Myong O. Chung, declare under penalty of perjury under the laws of the United States of America, pursuant to 28 U.S.C. § 1746, that:

1. I am the attorney of the Petitioner and am authorized to make this verification on his behalf because he is currently in ICE custody.
2. I have read the foregoing Petition for Writ of Habeas Corpus and know the contents thereof.
3. The facts alleged therein are true and correct to the best of my knowledge, information, and belief.

Executed on this 21 day of December, 2025.



Myong O. Chung, OBA #16999
920 SW 107th Street, Suite 100
Oklahoma City, OK 73170
Phone: (405) 445-4986
Fax: (405) 653-9853
Attorney for Petitioner
mchunglawoffice@gmail.com

CERTIFICATE OF SERVICE

I hereby certify that on this 21 day of December, 2025, I caused a true and correct copy of the foregoing **Petition for Writ of Habeas Corpus, Memorandum of Law, and Proposed Order** to be served via Certified Mail, Return Receipt Requested upon the following parties:

United States Attorney's Office: Western District of Oklahoma Civil Process Clerk 210 W. Park Ave., Suite 400 Oklahoma City, OK 73102.

Office of the Attorney General: U.S. Department of Justice 950 Pennsylvania Avenue, NW Washington, DC 20530-0001.

Department of Homeland Security: Office of the Chief Counsel, ICE 125 E. John Carpenter Freeway, Suite 500, Irving, TX 75062.

Scarlet Grant Warden: Cimarron Correctional Facility, 3200 S. King Hwy, Cushing, OK 74023.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on: 12/21/2025

Respectfully submitted,



Myong O. Chung, OBA #16999
920 SW 107th Street, Suite 100
Oklahoma City, OK 73170
Phone: (405) 445-4986
Fax: (405) 653-9853
Attorney for Petitioner
mchunglawoffice@gmail.com