

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF TEXAS

JOSE FERNANDO MATUTE GRANADOS,

Petitioner,

v.

Bret BRADFORD, Field Office Director of
Enforcement and Removal Operations, Houston
Field Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Warden
SANCHEZ, Warden of IAH SECURE ADULT
DETENTION FACILITY,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28 U.S.C. §
2241 AND ORDER TO SHOW CAUSE
WITHIN THREE DAYS**

1 **INTRODUCTION**

2 1. Petitioner, JOSE FERNANDO MATUTE GRANADOS, is in the physical
3 custody of Respondents at the IAH Secure Adult Detention Facility. He now faces unlawful
4 detention because the Department of Homeland Security (DHS) and the Executive Office of
5 Immigration Review (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
7 released 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 IAH Secure Adult Detention Facility in Livingston, Texas.

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 Texas, 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 Texas.

1
2 **REQUIREMENTS OF 28 U.S.C. § 2243**

3 13. The Court must grant the petition for writ of habeas corpus or order Respondents
4 to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
5 order to show cause is issued, Respondents must file a return “within three days unless for good
6 cause additional time, not exceeding twenty days, is allowed.” *Id.*

7 14. Habeas corpus is “perhaps the most important writ known to the constitutional
8 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
9 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
10 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
11 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
12 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

13 **PARTIES**

14 15. Petitioner, Jose Fernando Matute Granados, is alleged to be a citizen of
15 Honduras. He entered the United States without inspection on or about June 2019. Petitioner has
16 been in immigration detention since October 26, 2025. After arresting Petitioner near Port
17 Lavaca, Texas, ICE did not set bond and Petitioner is unable to obtain review of his custody by
18 an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
19 2025).

20 16. Respondent Brett Bradford is the Director of the Houston Field Office of ICE’s
21 Enforcement and Removal Operations division. As such, Brett Bradford is Petitioner’s
22 immediate custodian and is responsible for Petitioner’s detention and removal. He is named in
23 his official capacity.

1 17. Respondent Kristi Noem is the Secretary of the Department of Homeland
2 Security. She is responsible for the implementation and enforcement of the Immigration and
3 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms.
4 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

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

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

15 21. Respondent Warden Sanchez is employed as the Warden of the IAH Secured
16 Adult Detention Facility, where Petitioner is detained. Warden Sanchez has immediate physical
17 custody of Petitioner. They are sued in the official capacity.

18 **LEGAL FRAMEWORK**

19 22. The INA prescribes three basic forms of detention for the vast majority of
20 noncitizens in removal proceedings.

21 23. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
22 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
23 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
24

1 while noncitizens who have been arrested, charged with, or convicted of certain crimes are
2 subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

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

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

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

9 27. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
10 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
11 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
12 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1,
13 139 Stat. 3 (2025).

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

19 29. Thus, in the decades that followed, most people who entered without inspection
20 and were placed in standard removal proceedings received bond hearings, unless their criminal
21 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
22 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
23 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)

1 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
2 “restates” the detention authority previously found at § 1252(a)).

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

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

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

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

18 34. Even before ICE or the BIA introduced these nationwide policies, IJs in the
19 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
20 entered the United States without inspection and who have since resided here. There, the U.S.
21 District Court in the Western District of Washington found that such a reading of the INA is
22 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not

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

1 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
2 1239 (W.D. Wash. 2025).

3 35. Subsequently, court after court has adopted the same reading of the INA's
4 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
5 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
6 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
7 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
8 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
9 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
10 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,
11 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
12 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
13 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
14 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
15 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
16 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
17 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
18 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
19 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
20 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
21 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
22 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
23 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.

1 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
3 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
4 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
5 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

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

9 37. Section 1226(a) applies by default to all persons “pending a decision on whether
10 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
11 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

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

20 39. Section 1226 therefore leaves no doubt that it applies to people who face charges
21 of being inadmissible to the United States, including those who are present without admission or
22 parole.

1 40. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
2 recently entered the United States. The statute’s entire framework is premised on inspections at
3 the border of people who are “seeking admission” to the United States. 8 U.S.C.
4 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
5 applies “at the Nation’s borders and ports of entry, where the Government must determine
6 whether a [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
7 U.S. 281, 287 (2018).

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

11 **FACTS**

12 42. Petitioner has resided in the United States since 2019 and lives in Houston, Texas.

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

17 44. Petitioner was first transferred to ICE Custody on or around October 15, 2024.
18 Immigration Judge Brisack found that Petitioner was not a flight risk nor a danger to the
19 community and set bond at \$11,000. Petitioner paid the bond and was released from ICE
20 Custody on or about November 27, 2024.

21 45. Since Petitioner was released on bond, he has complied with all orders of the
22 immigration court, appeared at his scheduled court dates, and has not been in any type of
23 criminal trouble.

1 46. On or about October 25, 2025, while out on bond, Petitioner was on his way home
2 from work. Petitioner was a passenger in a vehicle that was pulled over by police for a traffic
3 stop. The officer requested identification from the passengers in the vehicle. Petitioner provided
4 the officer with his work permit. The officer degradingly alleged Petitioner's documents were
5 "fake" and proceeded to get in contact with ICE. Petitioner was re-detained by ICE.

6 47. Since his re-detention, Petitioner has not been charged him with any new
7 violations of the INA. Petitioner has not been given notice or the reasons of his bond revocation.
8 Petitioner is now detained at the IAH Secure Adult Detention Center.

9 48. Following Petitioner's arrest and transfer to IAH Secure Adult Detention Facility,
10 ICE issued a custody determination to continue Petitioner's detention without an opportunity to
11 post bond or be released on other conditions.

12 49. Petitioner subsequently requested a bond redetermination hearing before an IJ but
13 the IJ denied the request for lack of jurisdiction.

14 50. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
15 Petitioner's bond request.

16 51. As a result, Petitioner remains in detention. Without relief from this court, he
17 faces the prospect of months, or even years, in immigration custody.

18 **CLAIMS FOR RELIEF**

19 **COUNT I**
20 **Violation of the INA**

21 52. Petitioner incorporates by reference the allegations of fact set forth in the
22 preceding paragraphs.

23 53. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
24 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As

1 relevant here, it does not apply to those who previously entered the country and have been
2 residing in the United States prior to being apprehended and placed in removal proceedings by
3 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
4 § 1225(b)(1), § 1226(c), or § 1231.

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

7 **COUNT II**
8 **Violation of the Bond Regulations**

9 55. Petitioner incorporates by reference the allegations of fact set forth in preceding
10 paragraphs.

11 56. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-
12 Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.
13 Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the
14 agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present
15 without having been admitted or paroled (formerly referred to as [noncitizens] who entered
16 without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323
17 (emphasis added). The agencies thus made clear that individuals who had entered without
18 inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §
19 1226 and its implementing regulations.

20 57. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and
21 practice of applying § 1225(b)(2) to individual like Petitioner.

22 58. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
23 detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

24 **COUNT III**

Violation of Due Process

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

60. 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).

61. Petitioner has a fundamental interest in liberty and being free from official restraint.

62. The government’s detention of Petitioner violates his right to due process because Petitioner was re-detained while out on bond; Petitioner was not violating any of his bond conditions; Petitioner was not given any notice of his bond revocation and; the government did not charge him with any new Immigration Violations.

63. Furthermore, the government’s detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

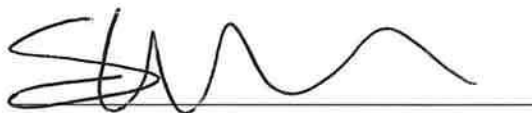
PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Southern District of Texas while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

- 1 d. Issue a Writ of Habeas Corpus requiring that Respondents immediately release
2 Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to
3 8 U.S.C. § 1226(a) within seven days;
- 4 e. Declare that Petitioner’s detention is unlawful;
- 5 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
6 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under
7 law; and
- 8 g. Grant any other and further relief that this Court deems just and proper.

9 DATED this 22nd day of December, 2025.

10 

11 Summer Justine Cevallos
12 S.D. of Texas Federal ID No. 3932339
13 State Bar No. 24114799
14 EOIR VV827383
15 Cevallos Law Firm, P.C.
16 P.O. Box 231082
17 Houston, Texas 77223
18 Ph: (832) 421-8605
19 Fax: (832) 201-9484
20 *Attorney for Petitioner*