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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

Carlos Rigoberto PERALTA ESPINOZA, *Petitioner*, v. Tony NORMAND, Warden of Folkston ICE Processing Center in his official capacity, *Respondent*.	**HEARING REQUESTED** Case No.:

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

INTRODUCTION

1. Petitioner Carlos Rigoberto Peralta Espinoza (A[redacted] is a native and citizen of Ecuador who has resided in the United States for around three years after entering without inspection. Around September 2025, he was detained at an immigration check-in. He has no criminal history. U.S. Immigration and Customs Enforcement ("ICE") detained Mr. Peralta Espinoza and later transferred him to the Folkston ICE Processing Center in Folkston, Georgia.

2. DHS has determined that Mr. Peralta Espinoza is detained under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), pursuant to a July 2025 DHS policy and the BIA's

decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under this interpretation, Immigration Judges are stripped of jurisdiction to conduct custody redeterminations, and individuals like Mr. Peralta Espinoza are categorically denied bond hearings despite decades of contrary agency and judicial practice.

3. Mr. Peralta Espinoza's detention under § 1225(b)(2)(A) violates the text and structure of the INA and its implementing regulations. Federal courts across the country have rejected DHS's new interpretation of § 1225(b)(2) and have held that detention of people detained at the border and later released, as well as long-time residents apprehended in the interior years later, is governed by § 1226(a). These courts recognize that applying § 1225(b)(2) to such individuals.

4. Most importantly, this Court has already determined that individuals like Mr. Peralta Espinoza are eligible for bond because they are detained pursuant to § 1226(a), and thus this Court ordered that immigration courts subject to this court's jurisdiction hold bond hearings to determine whether such individuals are eligible for discretionary bond. *Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025), *report and recommendation adopted sub nom. Aguirre Villa v. Normand*, No. 5:25-cv-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025).

5. Mr. Peralta Espinoza respectfully requests that this Court: (a) declare that his detention is governed by § 1226(a) and that he is therefore eligible for bond; (b) order Respondent to provide him with an immediate bond hearing before an Immigration Judge applying § 1226(a); and (c) if Respondent fails to provide such a hearing within a reasonable time, order his release from custody under appropriate conditions of supervision.

JURISDICTION AND VENUE

6. Mr. Peralta Espinoza is currently in the physical custody of Respondent at the Folkston ICE Processing Center in Folkston, Georgia.

7. This Court has jurisdiction under 28 U.S.C. § 2241 (*habeas corpus*), 28 U.S.C. § 1331 (*federal question*), 28 U.S.C. § 1651 (*All Writs Act*), 28 U.S.C. §§ 2201–2202 (*Declaratory Judgment Act*), 5 U.S.C. § 702 (*APA*), and Article I, Section 9, Clause 2 of the United States Constitution (*Suspension Clause*). Mr. Peralta Espinoza is presently in custody under color of the authority of the United States and challenges his custody as in violation of the Constitution, laws, or treaties of the United States.

8. Federal district courts have jurisdiction under § 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. See, e.g., *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003). The Supreme Court has repeatedly upheld such jurisdiction, most recently in *Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018).

9. Venue is proper in the Southern District of Georgia, Waycross Division, pursuant to 28 U.S.C. §§ 1391 and 2241(d), because Petitioner is detained within this District at the Folkston ICE Processing Center.

PARTIES

10. Petitioner Carlos Rigoberto Peralta Espinoza is a native and citizen of Ecuador unlawfully detained at the Folkston ICE Processing Center in Folkston, Georgia. He is not subject to a final order of removal. Under DHS's July 2025 policy and the BIA's decision in *Matter of Yajure Hurtado*, Immigration Judges no longer have jurisdiction to redetermine custody for individuals like Mr. Peralta Espinoza. As a result, he has been categorically denied access to a bond hearing.

11. Respondent Tony Normand is the warden of the Folkston ICE Processing Center and controls the detention center where Petitioner is confined under the authority of ICE. Mr. Normand has direct physical custody of Petitioner and is his immediate custodian. Mr. Normand is sued in his official capacity.

FACTS

12. Petitioner Carlos Rigoberto Peralta Espinoza is a native and citizen of Ecuador unlawfully detained at the Folkston ICE Processing Center in Folkston, Georgia. ICE has held him in custody since September 2025 when he was detained at a routine ICE check-in despite no violations of his terms of release. He has been present in the country since around 2022.

13. Mr. Peralta Espinoza has no criminal history. He has never been convicted of any crime that would subject him to mandatory detention under INA § 1226(c). He is not subject to a final order of removal.

14. Historically, individuals like Mr. Peralta Espinoza were detained under INA § 236(a), 8 U.S.C. § 1226(a), which provides for release on bond or conditional parole. After the BIA's decision in *Matter of Q. Li*, however, any noncitizen detained at the United States border after entering without inspection was an "applicant for admission" under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), and deemed ineligible for bond. This was later extended to anyone who entered without inspection, regardless of whether they were detained at the border or hundreds of miles from the border and regardless of whether they were first apprehended decades from their initial entry in *Matter of Yajure Hurtado*.

15. As a result of this policy and decision, Immigration Judges lack jurisdiction to conduct custody redeterminations for individuals like Mr. Peralta Espinoza. He has been

categorically denied the opportunity to seek bond, despite his strong community ties and absolutely no criminal record.

16. Federal district courts across the country, like this one, have rejected *Matter of Q. Li*'s and *Matter of Yajure Hurtado*'s mandate of § 1225(b)(2) for individuals like Mr. Peralta Espinoza, finding instead that detention of individuals like him is under § 1226(a). Nonetheless, ICE continues to hold him without access to a bond hearing.

LEGAL FRAMEWORK

17. Under 8 U.S.C. § 1226(a), individuals are generally entitled to discretionary bond determinations when detained. See 8 C.F.R. §§ 1003.19(a), 1236.1(d). Certain noncitizens who are arrested, charged with, or convicted of specified crimes are subject to mandatory detention until removal proceedings are concluded under 8 U.S.C. § 1226(c).

18. By contrast, 8 U.S.C. § 1225(b) applies to noncitizens encountered at the border. According to that provision, "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained." 8 U.S.C. § 1225(b)(2)(A). Thus, unless the noncitizen is paroled into the country under 8 U.S.C. § 1182(d)(5)(A) for "urgent humanitarian reasons or significant public benefit," such an individual is subject to mandatory detention and is ineligible for release on bond. *Jennings*, 583 U.S. at 288.

19. The U.S. Supreme Court has recognized that while "U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (2)," "[i]t also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c)." *Id.* at 289.

20. Following enactment of these statutes, EOIR issued regulations clarifying that

individuals who entered the country without inspection but who were apprehended in the interior were not detained under § 1225, but instead 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) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled…will be eligible for bond and bond redetermination."). For nearly three decades, this was the consistent practice.

21. In *Matter of Q. Li*, the BIA upended years of precedent and understanding of which noncitizens were considered detained under § 1225 versus § 1226. In that case, the noncitizen was arrested and detained under § 1225 at the border and was subsequently paroled into the United States. 29 I. & N. Dec. at 66. She was subsequently re-detained and denied bond because she was deemed to be an "applicant for admission" under § 1225, and her parole, which is the only exception to mandatory detention under § 1225, was later revoked when she was served with a Notice to Appear, thus returning her to her status under § 1225. *Id.*

22. In July 2025, DHS abruptly adopted a new interpretation expanding on *Q. Li* and requiring detention under § 1225(b)(2)(A) for all noncitizens charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i). On September 5, 2025, the BIA issued *Yajure Hurtado*, 29 I&N Dec. 216, adopting DHS's view and holding that all noncitizens present in the United States without admission are "applicants for admission" subject to mandatory detention under § 1225(b)(2)(A). As a result, any individual who entered the country without inspection is ineligible for bond.

23. This Court has already rejected this interpretation, finding instead that individuals like Mr. Peralta Espinoza are eligible for bond because they are detained pursuant to § 1226(a) and therefore eligible for release on discretionary bond. *Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025), *report and recommendation adopted sub nom. Aguirre*

Villa v. Normand, No. 5:25-cv-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025).

24. Over 300 district courts have also rejected this position and have granted habeas petitions for petitioners like Mr. Peralta Espinoza. *See, e.g.*, *Rodriguez Vazquez v. Bostock*, Civ. No. 3:25-cv-05240, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, Civ. No. 1:25-cv-11571, 2025 WL 1869299 (D. Mass. July 7, 2025), *Garcia v. Hyde*, Civ. No. 25-11513 (D. Mass. July 14, 2025); *Rosado v. Bondi*, Civ. No. 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez-Benitez v. Francis*, Civ. No. 25-5937, 2025 WL 2371588, ---F. Supp.3d ---- (S.D.N.Y. Aug. 13, 2025); *Dos Santos v. Lyons*, Civ. No. 1:25-cv-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, Civ. No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Escalante v. Bondi,* Civ. No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025); *O.E. v. Bondi*, Civ. No. 25-cv-3051, 2025 WL 2235056 (D. Minn. Aug. 3, 2025); *Arrazola-Gonzalez v. Noem*, Civ. No. 5:25-cv-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Garcia Jimenez v. Kramer*, Civ. No. 25-cv-3162, 2025 WL 2374223 (D. Neb. Aug. 15, 2025); *Mayo Anicasio v. Kramer*, Civ. No. 4:25-cv-3158, 2025 WL 2374224 (D. Neb. Aug 14, 2025); *Rodriguez de Oliveira v. Joyce*, Civ. No. 2:25-cv-00291, 2025 WL 1826118 (D. Me. July 2, 2025); *Leal-Hernandez v. Noem*, Civ. No. 1:25-cv-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Campos*, Civ. No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Romero v. Hyde*, Civ. No. 25-11631, --- F. Supp. 3d ----, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Doe v. Moniz*, Civ. No. 1:25-cv-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Herrera Torralba*, Civ. No. 2:25-cv-01366, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Kostak v. Trump*, Civ. No. 3:25-1093, 2025 WL 2473136 (W.D. La. Aug. 27, 2025); *Simpiao v. Hyde*, Civ. No. 1:25-cv-11981-JEK, 2025 WL 2607925 (D. Mass Sept. 9, 2024); *Garcia Cortes v. Noem*, Civ. No. 1:25-cv-02677, 2025 WL 2652990 (D. Colo. Sept. 16, 2026); *Jimenez v. Warden*, Civ. No. 25-cv-326,

2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Cuevas Guzman v. Andrews*, Civ. No. 1:25-cv-01015, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Velasquez Salazar v. Dedos*, Civ. No. 1:25-cv-00835, 2025 WL 2676729 (D.N.M. Sept., 17, 2025); *Hasan v. Crawford*, 1:25-cv-1408, 2025 WL 2682255 (E.D. Va., Sept. 19, 2025);); *Singh v. Lewis*, Civ. No. 4:25-cv-96, 2025 WL 2699219 (W.D.Ky., Sept. 22, 2025); *Beltran Barrera v. Tindall*, Civ. No. 3:25-cv-541, 2025 WL 2690565 (W.D.Ky., Sept. 19, 2025); *Chogllo Chafla v. Scott*, 2025 WL 2688541, (D.Me., Sept. 21, 2025); *Chiliquinga Yumbillo v. Stamper*, Civ. No. 2:25-cv-00479 (D.Me., Sept. 19, 2025).

25. The government's interpretation defies the INA's text and structure. Section 1226(a) explicitly applies to individuals charged as inadmissible after entry without inspection. Congress reinforced this point in 2025 by amending § 1226(c) through the Laken Riley Act to exclude from bond eligibility certain noncitizens who entered without inspection and committed crimes. If Congress had intended all such individuals to be subject to mandatory detention under § 1225(b)(2)(A), it would not have needed to create these specific carve-outs. Construing § 1225(b)(2)(A) as the government suggests renders § 1226(c)(1)(E) superfluous, in violation of the canon against surplusage. See *Corley v. United States*, 556 U.S. 303 (2009).

26. This approach is consistent with Eleventh Circuit precedent. In *Ortiz-Bouchet v. U.S. Attorney General*, 714 F.3d 1353 (11th Cir. 2013), the court held that noncitizens already present in the United States seeking to adjust status were not "applicants for admission." The Supreme Court has likewise recognized that mandatory detention under § 1225(b) applies "at the Nation's borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is inadmissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

27. Therefore, the mandatory detention provisions of § 1225(b)(2) do not apply to Mr. Peralta Espinoza who was apprehended within the United States years after his initial entry and

thousands of miles from the border. He is detained under § 1226(a) and is eligible for a bond hearing.

CLAIMS FOR RELIEF

COUNT I

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

28. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

29. The mandatory detention provision of § 1225(b)(2) does not apply to noncitizens like Mr. Peralta Espinoza who were apprehended inside the United States years after their initial entry. Such individuals are detained under § 1226(a) and are eligible for release on bond, as this Court has already found.

30. Respondent's decision to detain Mr. Peralta Espinoza under § 1225(b)(2)(A) unlawfully denies him access to a bond hearing in violation of the INA.

COUNT II

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19

31. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

32. For decades, both Congress and the agencies charged with implementing the INA have recognized that individuals who were detained after entering without inspection are detained under § 1226(a) and eligible for bond, as reflected in implementing regulations at 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

33. Despite this clear regulatory framework, Respondent has unlawfully detained Mr. Peralta Espinoza by misapplying § 1225(b)(2).

34. Because Petitioner's detention has been unaccompanied by the procedural protections that such a significant deprivation of liberty requires, including access to a bond hearing, his continued detention violates the INA, its implementing regulations, and the Due Process Clause of the Fifth Amendment.

COUNT III

Violation of the Fifth Amendment Due Process

35. Petitioner realleges and incorporates by reference each and every allegation contained in the preceding paragraphs as if set forth fully herein.

36. Under the Fifth Amendment of the Constitution, no person shall be deprived of liberty without due process of law. Freedom from imprisonment and government custody lies at the core of the liberty protected by the Due Process Clause. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). The protections of the Due Process Clause extend to all persons within the United States, regardless of immigration status. *Id.* at 693.

37. Respondent's detention of Mr. Peralta Espinoza under § 1225(b)(2), without the possibility of release on bond or a meaningful custody redetermination, violates his right to due process under the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Carlos Alejandro Peralta Espinoza that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order Respondent to show cause why the writ should not be granted within **three days**, pursuant to 28 U.S.C. § 2243;

3. Grant a writ of habeas corpus declaring that Petitioner's detention is governed by INA § 236(a), 8 U.S.C. § 1226(a), and ordering Respondent to provide him with an immediate bond hearing before an Immigration Judge applying § 1226(a);
4. In the alternative, order Petitioner's immediate release from custody under reasonable conditions of supervision if Respondent fails to provide such a bond hearing within a reasonable period of time;
5. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
6. In the event the Court determines a genuine dispute of material fact exists regarding Petitioner's entitlement to habeas relief, schedule an evidentiary hearing pursuant to 28 U.S.C. § 2243;
7. Enter preliminary and permanent injunctive relief enjoining Respondent from further unlawful detention of Petitioner;
8. Declare that Petitioner's detention violates the INA;
9. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
10. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
11. Grant such further relief as this Court deems just and proper.

Dated: December 30, 2025

Respectfully submitted,

/s/ Thomas Evans

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