UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI

HECTOR MAYA CRISTOBAL,

A#

Petitioner/Plaintiff,

v.

RAFAEL VERGARA, Warden, Adams County Correctional Center, **TODD LYONS**, Acting Director, Immigration and Customs Enforcement, **KRISTI NOEM,** Secretary of United States Department of Homeland Security, **MELISSA HARPER,** Immigration and Customs Enforcement, New Orleans Field Office Director, **PAMELA BONDI**, United States Attorney General,

Respondents/Defendants

Civil Action No. 5:25-CV-171-DCB-RPM

ORAL ARGUMENT REQUESTED

PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND COMPLAINT FOR INJUNCTIVE AND DECLARATORY RELIEF

SOUTHERN DISTRICT OF MISSISSIPPI
FILED
DEC 29 2025
ARTHUR JOHNSTON
BY DEPUTY

BACKGROUND

Petitioner, Mr. Hector Maya Cristobal, hereby petitions this Court for a writ of habeas corpus as well as for an injunction to remedy Petitioner's unlawful detention and to enjoin Petitioner's continued unlawful detention by the Respondents. Due to the government's change in policy, Petitioner will be held without the possibility of a bond hearing. Mr. Maya Cristobal asks this Court to order his release or, in the alternative, order immigration officials to set a bond amount. Mr. Maya Cristobal also hereby requests that a hearing be set on this matter. In support of this petition and complaint for injunctive relief, Petitioner alleges as follows:

PARTIES

1. Petitioner, Mr. Maya Cristobal, is a native and citizen of Mexico who entered the United States in 2023, as a minor child, without inspection and without detection. He has maintained continuous presence in the United States since entering. On July 23, 2025, Petitioner was detained by immigration officials and is currently being held at the Adams County Correctional Center in Natchez, MS. Petitioner has an approved Juvenile Visa petition due to being adjudicated an abused, abandoned, or neglected child by a state court. On May 11, 2022, USCIS adjudicated the petition, approving it and granting Petitioner deferred action, preventing his removal from the United States.
2. Respondent Pam Bondi is sued in her official capacity as the United States Attorney General. As Attorney General, Ms. Bondi is responsible for the administration and enforcement of the immigration laws of the United States.
3. Respondent Kristi Noem is sued in her official capacity as Secretary of the Department of Homeland Security ("DHS"). As Secretary of DHS, Ms. Noem is responsible for the administration and enforcement of the immigration laws of the United States.
4. Respondent Todd Lyons is sued in his official capacity as Acting Director of Immigration and Customs Enforcement ("ICE"). As the Acting Director of ICE, Mr. Lyons is responsible for the administration and enforcement of the policies and procedures for ICE's detention of Petitioner at Adams County Correctional Center ("Adams").
5. Respondent Melissa Harper is sued in her official capacity as Field Office Director of ICE and Enforcement and Removal ("ERO") for the New Orleans office. As the Field Office Director of ICE/ERO, Ms. Harper is responsible for the administration and enforcement of

the policies and procedures for ICE's detention of Petitioner at Adams County Correctional Center.

6. Respondent, Rafael Vergara, is the Warden of Adams County Correctional Center. As such, Mr. Vergara is responsible for the operation of the Correctional Center where Mr. Maya Cristobal is detained. Because ICE contracts with detention centers such as Adams to house immigration detainees such as Mr. Maya Cristobal, Respondent has immediate physical custody of the Petitioner.

JURISDICTION

7. This action arises under the Constitution of the United States, 28 U.S.C. § 2241(c)(1), and the Immigration and Nationality Act, as amended ("INA"), 8 U.S.C. § 1101 *et seq*. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution ("Suspension Clause"), and 28 U.S.C. § 1331, as the Petitioner is presently in custody under color of the authority of the United States, and such custody is in violation of the Constitution, laws, or treaties of the United States. *See Zadvydas v. Davis*, 533 U.S. 678, 688 (2001) ("We conclude that § 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention."); *see also, Demore v. Kim*, 538 U.S. 510 (2003) (evaluating mandatory detention for pre-removal detainees for the "brief period necessary" to complete removal proceedings); *INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (at its historical core, the writ of habeas corpus has served as a means of reviewing the legality of executive detention, and it is in that context that its protections have been strongest."); *Clark v. Martinez*, 543 U.S. 371 (2005) (holding that *Zadvydas* applies to aliens found inadmissible as well as removable).

8. Further, this action also arises pursuant to 28 U.S.C. § 1331, federal question jurisdiction, as this Court has power to issue a federal injunction to force the ICE and the Correctional Center to release Mr. Maya Cristobal so that he will not have to endure the continued burden of unreasonable detention.

VENUE

9. Venue lies in the Southern District of Mississippi, because Mr. Maya Cristobal is currently detained in the territorial jurisdiction of this Court, at the Adams County Correctional Center. 28 U.S.C. § 1391.

LEGAL BACKGROUND

10. The Immigration and Nationality Act ("INA") prescribes three basic forms of detention for noncitizens in removal proceedings.

11. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge ("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).

12. 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 referred to under § 1225(b)(2).

13. Last, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).
14. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
15. 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. 104—208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 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).
16. Following 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).
17. 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 officer. *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 "restates" the detention authority previously found at § 1252(a)).
18. Respondents' new policy turns this well-established understanding on its head and violates the statutory scheme.

19. Overwhelmingly, courts have rejected the interpretation offered by Respondents that § 1225(b)(2) requires the detention of all noncitizens living in the country who are "inadmissible" because they entered the United States without inspection.[1]

20. Despite these findings from federal courts, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without documents.

21. A May 22, 2025, unpublished BIA decision confirms that the Executive Office for Immigration Review (EOIR) is taking this same position that noncitizens who entered the United States without admission or parole are ineligible for immigration judge bond hearings.

22. This is now a widespread position adopted by EOIR applying across the United States.

23. This interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

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

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[1] *See, e.g.*, Lopez Benitez v. Francis, No. 25-Civ-5937, 2025 WL 2371588, *9 (S.D.N.Y. Aug. 13, 2025); Martinez v. Hyde, No. CV 25-11613-BEM, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025); Gomes v. Hyde, No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025); Garcia v. Noem, No. 25-cv-02180-DMS-MMP, 2025 WL 2549431, at *6 (S.D. Cal. Sept. 3, 2025); Lopez-Campos v. Raycraft, No. 2:25-cv-124862025 WL 2496379, at *8 (E.D. Mich. Aug. 29, 2025); Kostak v. Trump, No. 3:25-cv-01093-JE-KDM, Doc. 20 at 7 (W.D. La. Aug. 27, 2025); Benitez v. Noem, No. 5:25-cv-02190-RGK-AS, Doc. 11 at 5 (C.D. Cal. Aug. 26, 2025); Leal-Hernandez v. Noem, No. 1:25-cv-02428-JRR, 2025 WL 2430025, at *10 (D. Md. Aug. 24, 2025); Romero v. Hyde, No. 25-11631-BEM, 2025 WL 2403827, at *13 (D. Mass. Aug. 19, 2025); Arrazola-Gonzalez v. Noem, No. 5:25-cv-01789-ODW, 2025 WL 2379285, at *2 (C.D. Cal. Aug. 15, 2025); Maldonado, 2025 WL 2374411, at *13; dos Santos v. Noem, No. 1:25-cv-12052-JEK, 2025 WL 2370988, at *8 (D. Mass. Aug. 14, 2025).

25. 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 such people 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.

26. By contrast, § 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).

27. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole.

FACTS

28. Petitioner Maya Cristobal has resided in the United States since 2023 and lived in Florida and worked in Alabama before being detained and transported to Natchez, MS.

29. Despite DHS acknowledging that: (a) the Petitioner is a member of a vulnerable population; (b) Petitioner was awarded the benefits of SIJS, including deferred action from removal; and (c) the Petitioner is required to be physically present for adjustment of status to permanent residence, the Respondents detained Mr. Maya Cristobal without cause. The Respondents intend to remove Mr. Maya Cristobal from the United States thereby unlawfully stripping Mr. Maya Cristobal of his SIJ status in defiance of the intent of Congress to protect vulnerable children who have been victims of abuse, abandonment or

neglect. The Petitioner remains detained by the Respondents at the Adams County Detention Center.

30. The Petitioner has been classified as a "Special Immigrant Juvenile" ("SIJ") by the United States Citizenship and Immigration Service ("USCIS") on the basis of an approved self-petition after an underlying family court proceeding that resulted in the requisite "predicate order." Upon SIJ approval, the Petitioner was granted deferred action from removal. **[*See* Exhibit A, I-360 Approval and Grant of Deferred Action]** Neither benefit has been properly rescinded or lawfully revoked in any way nor has the Petitioner violated his status or any law which might justify the Respondents' harsh treatment.

31. The Petitioner has been awaiting an available visa number for a substantial time and has remained physically present as contemplated under the statute because a Juvenile Court has determined it is in the best interest of the Petitioner that he remain in the United States based on a history of abuse, abandonment or neglect.

32. Mr. Maya Cristobal was detained during a worksite enforcement operation. Mr. Maya Cristobal claims no other arrests or criminal history.

33. He was placed into removal proceedings to appear before an immigration judge (IJ) and was charged with having entered the United States without inspection and being present without valid immigration documents. 8 U.S.C. § 1182(a)(6)(A)(i). His case with the immigration court was terminated on August 29, 2025. **[*See* Exhibit B, Order of the IJ].**

34. DHS appealed the decision of the immigration court on September 29, 2025. No briefing or further action has taken place on this appeal.

35. On December 16, 2025 an Immigration judge denied bond based on a lack of jurisdiction pursuant to *Matter of Yajure Hurtado*.

36. ICE has not granted release or set a bond amount for the Petitioner, despite there being no danger to the community or flight risk.

Recent Federal District Court Decisions Confirming Petitioner's Position

37. Numerous federal district courts, including in the Fifth Circuit, have reached conclusions consistent with Petitioner's position. For example, in *Covarrubias v. Vergara*, the court found that "Section 1226, not Section 1225, applie[d]" to the detention of a noncitizen who had been living in the United States for almost 24 years. No. 5:25-CV-112, 2025 WL 2950097, at *1, *3 (S.D. Tex. Oct. 8, 2025). In the court's view, "the statutory text, the statute's history, Congressional intent, and § 1226(a)'s application for the past three decades support application of Section11226." *Id.* at *3 (citation modified).

38. Other district courts within the Fifth Circuit have found likewise. *See Cruz Gutierrez v. Thompson*, 4:25-cv-4695, 2025 WL 3187521 (S.D. Tex. Nov. 14, 2025) (Hanks, J.); *Buenrostro-Mendez v. Bondi*, 25-cv-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025) (Rosenthal, J.); *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at *5 (W.D. La. Sept. 11, 2025) (holding that § 1226 applied to the detention of noncitizen who had been in the United States for 20 years); *Kostak v. Trump*, No. 3:25-cv-1093, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025) (holding that § 1226 applied to detention of noncitizen who "was already present in the United States").

39. The same is true outside the Fifth Circuit. For example, immigration judges in the Tacoma, Washington, stopped providing bond hearings for persons who entered the United States without inspection, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that Section 1226(a), not Section 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States.

Rodriguez Vazquez, 779 F. Supp. 3d at 1247. Other courts have reached the same conclusion, rejecting Respondent's erroneous interpretation of the INA both prior to and since ICE implemented its July 8, 2025, interim guidance. *See, e.g.*, *Gomes v. Hyde*, 2025 WL 1869299, at *8; *Martinez*, 2025 WL 2084238; *Lopez Benitez*, 2025 WL 2371588; *Garcia Jimenez v. Kramer*, No. 4:25-cv-03162-JFB-RCC, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Aguilar Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v Noem*, 5:25-cv-01789-ODW-DFM, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Jacinto v. Trump, et al.*, 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 (D. Neb. August 19, 2025); *Leal-Hernandez v. Noem*, 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Campos*, 2025 WL 2496379; *Herrera Torralba v. Knight*, 2:25-cv-03166-RFB-DJA, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Doe v. Moniz*, 2025 WL 2576819 (D. Mass. Sept. 5, 2025).

40. The BIA's decision in *Yajure Hurtado* has not slowed the steady flow of decisions rejecting the Respondents' position. *See, e.g., Mosqueda v. Noem, 2025 WL 2591530* (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Aceros v. Kaiser*, No. 25-CV-06924-EMC (EMC), 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Beltran Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Singh v. Lewis*, 2025 WL 2699219 (W.D. Ky. Sept. 22, 2025); *A.A. v. Olson*, No. 25-cv-03381-JWB-DJF, 2025 WL 2886729 (D. Minn. Oct. 8, 2025); *Alejandro v. Olson*, 1:25-cv-2027, 2025 WL 2896348 (S.D. Ind. Oct. 11, 2025); *Merino v. Ripa*, No. 25-23845-CIV, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025); *Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779 (N.D. Ill.

Oct. 16, 2025); *Miguel v. Noem*, 1:25-cv-11137, 2025 WL 2976480 (N.D. Ill. Oct. 21, 2025); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 WL 2977650 (D. Colo. Oct. 22, 2025); *Martinez-Elvir v. Olson*, No. 3:25-CV-589-CHB, 2025 WL 3006772 (W.D. Ky. Oct. 27, 2025); *Ayala Amaya v. Bondi*, No. 25-CV-16428-ESK, 2025 WL 3033880 (D.N.J. Oct. 30, 2025); *Tumba Huamani v. Francis*, No. 25-CV-8110 (LJL), 2025 WL 3079014 (S.D.N.Y. Nov. 4, 2025); *Reyes Arizmendi v Noem*, No. 25 C 13041, 2025 WL 3089107 (N.D. Ill. Nov. 5, 2025).

The class action decision in *Maldonado Bautista*

41. On November 20, 2025, the court in Maldonado Bautista v. Santacruz, No. 5:25-CV-07873-SSS-BFM (C.D. Cal. Nov. 20, 2025), also rejected the government's position, finding that individuals who entered the United States without inspection are detained under Section 1226(a) and are therefore entitled to a bond hearing. Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). Maldonado Bautista is a nationwide class action, and the court granted class certification on November 25, 2025, applying its earlier summary judgment decision to the now-certified class. See id. at *9. On December 18, 2025, upon motion from Petitioners seeking clarification as to the scope of the prior order, the Court entered a final judgment pursuant to Fed. R. Civ. P. 54(b). The Court further clarified that, although the underlying complaint did not challenge Matter of Yajure Hurtado because it was filed before that decision was issued, "Yajure Hurtado is no longer controlling: the legal conclusion underlying the decision is no longer tenable." Id. The Court also vacated the July 8, 2025 DHS memo. Id.; see infra ¶¶ 39-40.

42. The *Maldonado Bautista* court's final judgment leaves no room for argument that it found that the respondent and other class members must be considered for bond release:

> In light of this Court's Order granting Partial Summary Judgment and Class Certification against Respondents in the instant action [Dkt. No. 93], judgment is hereby ENTERED in favor of Petitioners and members of the Bond Eligible Class as follows:
>
> The Court:
>
> 1. DECLARES that the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2). 2. DECLARES that, pursuant to Defendants' regulations, see 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), are not subject to mandatory detention under § 1225(b)(2), and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.
>
> 2. DECLARES that, pursuant to Defendants' regulations, see 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), are not subject to mandatory detention under § 1225(b)(2), and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.

Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485, at *1 (C.D. Cal. Dec. 18, 2025) (Final Judgment).

43. Thus, because Petitioner is plainly a member of the nationwide class, he is entitled to a bond hearing under 8 U.S.C. § 1226(a).

44. This does not resolve Petitioner's claim, however, because the government has already filed a notice of appeal of the Court's December 18, 2025, decision and further litigation is anticipated. Given that Petitioner has already been detained for more than five months without a bond hearing, Petitioner still seeks habeas relief from this court.

CAUSES OF ACTION

COUNT 1

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of a Bond Hearing

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

46. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

47. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. *See* 5 U.S.C. § 706(2).

COUNT 2

Violation of Procedural Due Process

48. Petitioner repeats, re-alleges, and incorporates by reference paragraphs 1 to 36 as if fully set forth herein.

49. 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, 121 S.Ct. 2491, 150 L.Ed.2d. 653 (2001).

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

51. The government's detention of Petitioner without the possibility for 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 respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Declare that the Petitioner's inability to seek a bond redetermination hearing before an immigration judge violates the INA, APA, and Due Process;

c. Issue a writ of habeas corpus requiring that Defendants release Petitioner;

d. Set aside Respondents' unlawful detention policy under the APA, 5 U.S.C. § 706(2);

e. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 241(d), 5 U.S.C. § 504, or any other applicable law; and

f. Order further relief as this court deems just and appropriate.

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

Respectfully submitted this the 23rd day of December, 2025.

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