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**UNITED STATES DISTRICT COURT  
FOR THE EASTERN DISTRICT OF PENNSYLVANIA**

\_\_\_\_\_  
RODRIGUEZ-BAUTISTA, Jaxell Isacc )  
(A ~~XXXXXXXXXX~~) )  
Petitioner, )  
)  
v. )  
)  
Warden, Philadelphia Federal )  
Detention Center, Philadelphia, PA )  
)  
Respondent. )  
\_\_\_\_\_ )

Civil Case No.:

**PETITION FOR WRIT  
OF HABEAS CORPUS**

**INTRODUCTION**

1. Petitioner, Jaxell Isacc RODRIGUEZ-BAUTISTA (“Mr. Rodriguez-Bautista”), has been residing in the United States May 19, 2022. He was detained by Customs and Border Patrol and paroled on May 20, 2022 out of custody. He is currently twenty-five years old and resides with his mother and his girlfriend in Philadelphia, PA. He filed for asylum affirmatively on May 17, 2023.

2. Mr. Rodriguez-Bautista was taken into detention by immigration authorities on Friday, December 26, 2025 when he attended his Immigration and Customs Enforcement (“ICE”) regular check-in. He has had no arrests other than at the border in 2022 when he entered the United States. He has never been charged with any crime or convicted of any crime and there have been no change in his circumstances of release that would support his re-detention by the Department of Homeland Security (“DHS”). Therefore, he was re-detained due to the interceding DHS interpretation of their detention authority under 8 USC §§ 1225 and 1226. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) (“*Matter of Hurtado*”).
3. Mr. Rodriguez-Bautista is currently detained at Philadelphia Federal Detention Center, Philadelphia, PA by immigration authorities. He is not currently subject to removal hearing as no Notice to Appear has been filed with the Executive Office for Immigration Review (Immigration Courts), thus rendering his ongoing detention illegal. *See Demore v. Kim*, 538 U.S. 510, 528 (2003) (“Such detention necessarily serves the purpose of preventing deportable criminal aliens from fleeing prior to or during their removal proceedings, thus increasing the chance that, if ordered removed, the aliens will be successfully removed.”); *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001) (noting that detention serves the purpose of “assuring the alien's presence at the moment of removal.”).

4. Petitioner was purposely detained at his regular ICE check-in on December 26, 2025 with no apparent plans for his release. To remedy this illegal detention, Mr. Rodriguez-Bautista should not be required to request a bond redetermination hearing with the Immigration Court because ICE's actions here violate the law and Petitioner's constitutional rights. The authority for ICE officers to arrest and detain noncitizens derives primarily from 8 U.S.C. §§ 1226 and 1357, and Section 1226 further authorizes, *during the pendency of formal removal proceedings*, the continued detention of the arrested noncitizen. No such proceedings are currently pending against the Petition.
5. Additionally, the government has apparently relied solely on its new interpretation of detention under 8 USC §§ 1225 and 1226. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) ("*Matter of Hurtado*") to take Mr. Rodriguez-Bautista in, an interpretation that has been soundly rejected by hundreds of courts across the country. *See infra, fn. 2*.
6. Section 1225(b)(2)(A) states that an applicant for admission shall be detained for a removal proceeding. It is the position of both DHS and the Executive Office for Immigration Review ("EOIR"), which houses both the BIA and immigration judges, that 8 U.S.C. § 1225(b)(2)(A) applies to all individuals who arrived in the United States without documents, regardless of how long

they have lived in the United States and regardless of how far they were from the border when they were apprehended. *See Matter of Hurtado* at 216.

7. However, § 1225(b)(2)(A) does not apply to individuals, like Petitioner, who are present in the United States for a significant period of time—in this case three and a half years. Instead, such individuals are subject to detention under a different statute, 8 U.S.C. § 1226(a), and eligible for release.
  8. Earlier in July 2025, 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 had arrived in the United States without documents. *See ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA (July 8, 2025), <https://shorturl.at/XF71Y> (“Lyons Memo”).<sup>1</sup>
  9. EOIR applied this amended reasoning in a May 15, 2025 BIA decision, *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), finding that a noncitizen who had entered the United States without documents was ineligible for bond, despite not being placed in expedited removal proceedings. *Matter of Hurtado* followed.
- Nonetheless, virtually all courts throughout the country have rejected the

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<sup>1</sup> “ICE Says Many In Immigration Detention No Longer Qualify For Bond Hearings,” *CBS News* (Jul. 15, 2025) <https://www.cbsnews.com/news/ice-immigration-detention-bond-hearings/>; “ICE declares millions of undocumented immigrants ineligible for bond hearings,” *The Washington Post* (Jul. 15, 2025) <https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/>

government's unlawful reversal of nearly three decades of settled immigration practice regarding the scope of mandatory detention pursuant to 8 U.S.C. §§ 1225 and 1226.<sup>2</sup>

10. Nonetheless, Respondents continue to maintain that noncitizens who entered the United States without inspection, even years prior such as Mr. Rodriguez-Bautista and were previously released from immigration custody are subject to mandatory detention, because they are deemed to be on-going applicants for admission within the meaning of 8 U.S.C. § 1225(b)(2)(A).

11. This interpretation of the relevant law is a violation of the statute and due process. As such, Petitioner seeks an order of declaratory and injunctive relief to be released from custody and to set aside relief under the Administrative Procedure Act requiring that he be released immediately from ICE custody.

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<sup>2</sup> Notable recent decisions of the approximately 177 decisions rejecting the government's position on detention for uninspected entrants to the United States include: *Ruiz Mejia v. Noem*, No. 1:25-cv-1227, 2025 WL 3041827 (W.D. Mich. Oct. 31, 2025); *Hernandez Lopez v. Hardin*, No. 2:25-CV-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025); *J.G.O. v. Francis*, No. 25-CV-7233, 2025 WL 3040142 (S.D.N.Y. Oct. 28, 2025); *Puerto-Hernandez v. Lynch*, No. 1:25-cv-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025); *J.A.C.P. v. Wofford*, No. 1:25-cv-01345, 2025 WL 3013328 (E.D. Cal. Oct. 27, 2025); *Nava Hernandez v. Baltazar*, No. 1:25-CV-03094-CNS, 2025 WL 2996643 (D. Colo. Oct. 24, 2025); *Rodriguez Carmona v. Noem*, No. 1:25-cv-1131, 2025 WL 2992222 (W.D. Mich. Oct. 24, 2025); *De Fatima Lomeu v. Soto*, No. 25cv16589, 2025 WL 2981296 (D.N.J. Oct. 23, 2025); *Del Cid v. Bondi*, No. 3:25-CV-00304, 2025 WL 2985150 (W.D. Pa. Oct. 23, 2025); *Bethancourt Soto v. Soto*, No. 25-CV-16200, --- F. Supp. 3d ---, 2025 WL 2976572 (D.N.J. Oct. 22, 2025); *Maldonado de Leon v. Baker*, No. 25-3084, 2025 WL 2968042 (D. Md. Oct. 21, 2025); *Contreras-Cervantes v. Raycraft*, No. 2:25-CV-13073, 2025 WL 2952796 (E.D. Mich. Oct. 17, 2025); *Pablo Sequen v. Albarran*, No. 25-CV-06487-PCP, --- F. Supp. 3d ---, 2025 WL 2935630 (N.D. Cal. Oct. 15, 2025); *Alejandro v. Olson*, No. 1:25-CV-02027, 2025 WL 2896348 (S.D. Ind. Oct. 11, 2025); *Rico-Tapia v. Smith*, --- F. Supp. 3d ---, 2025 WL 2950089 (D. Haw. Oct. 10, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-CV-112, 2025 WL 2950097 (S.D. Tex. Oct. 8, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Giron Reyes v. Lyons*, --- F. Supp. 3d ---, 2025 WL 2712427 (N.D. Iowa Sept. 23, 2025).

### **JURISDICTION AND VENUE**

12. This Court has jurisdiction under 28 U.S.C. § 2241 (federal habeas statute); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 2201-2 (declaratory judgment); United States Constitution Article I, Section 9 (Suspension Clause).

13. Venue properly lies within the Eastern District of Pennsylvania, 28 U.S.C. § 1391, because this is a civil action in which Respondents are agencies of the United States, Petitioner is detained in this District, and a substantial part of the events or omissions giving rise to this action occurred in the District.

### **PARTIES**

14. Petitioner, Jaxell Isacc Rodriguez-Bautista, resides in Philadelphia, Pennsylvania with his partner, his mother and her partner. He is currently detained at the Philadelphia Federal Detention Center in Philadelphia, PA by ICE.

15. Respondent, Warden of the Philadelphia Federal Detention Center in Philadelphia, PA, is the immediate custodian of Mr. Rodriguez-Bautista and is sued in their official capacity.

### **LEGAL BACKGROUND**

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

17. 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, 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, 8 U.S.C. § 1226(c).

18. 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 at a port of entry referred to under § 1225(b)(2).

19. 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).

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

21. 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).

22. Following enactment of the IIRIRA, EOIR drafted new regulations establishing 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).

23. Thus, in the three decades that followed, most people who entered without inspection—unless they were subject to some other detention authority—received bond hearings to reconsider their detention when ICE declined to release them from initial custody unilaterally. 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. 8 U.S.C. § 1252(a) (1994); *see* 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)).

24. Respondents’ new 2025 policy turns this well-established understanding on its head and violates the long-standing statutory scheme that has been followed for almost thirty years.

25. Indeed, the government’s legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings was

rejected as early as April 2025, prior to the issuance of either the ICE Memorandum in July 2025 or the more recent BIA decision *Matter of Hurtado* in September 2025 by District Court judges across the country, including a District Court in the Western District of Washington, rejecting the application of § 1225(b)(2) to cases such as Mr. Rodriguez-Bautista. *Rodriguez v. Bostock*, No. 3:25-CV-05240- TMC, 2025 WL 1193850, at \*12 (W.D. Wash. Apr. 24, 2025).

26. The memorandum issued by ICE in July 2025 instructing its prosecuting 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 even years prior such as Mr. Rodriguez-Bautista. See *ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA (July 8, 2025), <https://shorturl.at/XF71Y> (“Lyons Memo”).<sup>3</sup>

27. The September 5, 2025 decision by the BIA, *Matter of Hurtado*, 29 I&N Dec. 216 (BIA 2025) confirms that EOIR is taking this same position that noncitizens who entered the United States without admission or parole are ineligible for immigration judge bond hearings.

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<sup>3</sup> “ICE Says Many In Immigration Detention No Longer Qualify For Bond Hearings,” *CBS News* (Jul. 15, 2025) <https://www.cbsnews.com/news/ice-immigration-detention-bond-hearings/>; “ICE declares millions of undocumented immigrants ineligible for bond hearings,” *The Washington Post* (Jul. 15, 2025) <https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/>

28. These legal interpretations by ICE and EOIR defy the INA as numerous federal courts around the United States have determined. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner, Mr. Rodriguez-Bautista.

29. 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].”

30. The text of § 1226 also explicitly applies to people charged as inadmissible, including those who entered without inspection (“EWI”). 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to EWIs 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.

31. 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 actively “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A).

32. 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

33. Petitioner, Jaxell Isacc Rodriguez-Bautista, is a 25-year-old national and citizen of Nicaragua. His date of birth is . He entered the United States without inspection May 19, 2020 and was detained by Customs and Border Patrol before being paroled out of custody the next day on May 20, 2022. He currently resides with his mother, her partner and his girlfriend in Philadelphia, PA. He works in a warehouse and filed for asylum affirmatively on May 17, 2023 having never been placed in removal proceedings. He has checked in regularly with ICE, as he was doing on December 26, 2025 when he was illegally taken into custody.

34. Mr. Rodriguez-Bautista has a pending affirmative asylum application pending the United States Citizenship and Immigration Services currently. He does not have a removal hearing scheduled. He has a work authorization card pursuant to his pending asylum application. He has no criminal conviction or any criminal charges pending. There have been no changes in circumstances since his initial release in May 2022 that would support a change in his custody status. None the less, he was

detained by ICE on Friday, December 26, 2025—the day after Christmas--without explanation or a legal basis in violation of his due process, the INA and the APA.

**CAUSES OF ACTION COUNT ONE**

***Violation of 8 U.S.C. § 1226(a)***  
***Unlawful Detention***

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

36. 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 grounds of inadmissibility because they previously entered the country without being admitted or paroled such as Mr. Rodriguez-Bautista. Such noncitizens are detained under § 1226(a), as evidenced by his prior release from DHS custody, unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

37. Mr. Rodriguez-Bautista is not currently in removal proceedings. ICE's detention authority stems from their authority to seek the removal of noncitizens. As Mr. Rodriguez-Bautista is not being removed, ICE does not have the authority to arrest and detain him in their custody.

38. The detention of Mr. Rodriguez-Bautista and the application of § 1225(b)(2) to Petitioner to trigger his re-detention violates the Immigration and Nationality Act.

### **COUNT TWO**

#### ***Violation of the Administrative Procedure Act Unlawful Arrest, Detention and Denial of Bond***

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

40. 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 as Mr. Rodriguez-Bautista. Such noncitizens are detained under § 1226(a), as evidenced by his prior release from DHS custody, unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

41. The application of § 1225(b)(2) to permit the re-detention of Mr. Rodriguez-Bautista is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. 5 U.S.C. § 706(2).

### **COUNT THREE**

#### ***Violation of Procedural Due Process***

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

43. 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).

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

45. The government’s unlawful detention of Petitioner without seeking his removal violates his Due Process.

46. The government’s unlawful redetention of Petitioner without justification or authority violates his Due Process.

### **PRAYER FOR RELIEF**

**WHEREFORE**, Petitioner respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Declare that the detention Petitioner is unlawful and violates the INA and Due Process;

- (3) Declare that the re-detention Petitioner is unlawful and violates the INA, the APA and Due Process;
- (4) Issue a writ of habeas corpus requiring that Defendants release Mr. Rodriguez-Bautista immediately;
- (5) Set aside Respondents' unlawful detention policy under the APA, 5 U.S.C. § 706(2);
- (6) Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412(d), 5 U.S.C. § 504, or any other applicable law; and
- (7) Order further relief as this Court deems just and appropriate.

Dated: December 31, 2025

Respectfully Submitted,

*/s/ Stephen J. Antwine*  
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**CERTIFICATE OF SERVICE**

I, Stephen Antwine, hereby certify that this document, Complaint, filed through the ECF system will be sent electronically on this day to the registered participants as identified on the Notice of Electronic Filing (NEF).

Dated: December 31, 2025

/s/ Stephen J. Antwine  
Stephen J. Antwine