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DETAINED

Attorney for Petitioner

**THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF WASHINGTON
SEATTLE, WASHINGTON**

ALEXANDER JIMENEZ-GIL,

Petitioner,

v.

PAMELA BONDI, United States Attorney
General;
KRISTI NOEM, Secretary of U.S.
Department of Homeland Security;
TODD LYONS, Acting Director, U.S.
Immigration and Customs Enforcements;
CAMMILLA WAMSLEY, Seattle Field
Office Director, Immigration and Customs
Enforcement;
BRUCE SCOTT, Warden, Northwest ICE
Processing Center;

Respondents.

Case No.: 2:26-cv-00002

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

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Alexaner Jimenez-Gil is in the physical custody of Respondents at the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington. He is unlawfully detained pursuant

1 mandatory detention policies recently adopted by the Department of Homeland Security (DHS)
2 and the Executive Office for Immigration Review (EOIR).

3 2. Petitioner is charged with having entered the United States without admission or parole.
4 *See* 8 U.S.C. § 1182(a)(6)(A)(i). Based on this allegation, DHS and EOIR will likely deem
5 Petitioner subject to mandatory detention as an “applicant for admission” who is “seeking
6 admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore subject to mandatory detention.

7 3. DHS and EOIR each have nationwide policies mandating the detention of all persons who
8 entered without admission or parole, regardless of whether that person was apprehended upon
9 arrival. On September 5, 2025, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the
10 Board of Immigration Appeals (BIA) held that all persons who have entered the United States
11 without admission or parole are now subject to mandatory detention under § 1225(b)(2)(A).

12 4. In a certified class action pending before this Court, this Court has already declared
13 Respondents’ bond denial policy likely unlawful. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
14 1239 (W.D. Wash. 2025). While Petitioner is not a member of the Bond Denial Class certified in
15 that case, the same reasoning applies to him—he is detained under 8 U.S.C. § 1226(a) and is not
16 subject to mandatory detention under 8 U.S.C. § 1225(b)(2). *See Rodriguez Vazquez v. Bostock*,
17 No. 3:25-CV-05240- TMC, --- F. Supp. 3d ----, 2025 WL 2782499, at *27 (W.D. Wash. Sept. 30,
18 2025).

19 5. Petitioner’s detention based on § 1225(b)(2) violates the plain language of the Immigration
20 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner, who
21 previously entered the United States, had proceedings dismissed, and are now residing in the
22 United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows
23 for release on conditional parole or bond. Indeed, § 1226(a) expressly applies to people who, like

Petitioner, are charged as inadmissible for having entered the United States without admission or parole.

6. Respondents' legal interpretation is also plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

7. Accordingly, Petitioner seeks a writ of habeas corpus. Petitioner seeks immediate release or immediate release upon the payment of an alternative bond amount.

PARTIES

8. Petitioner Alexander Jimenez-Gil was re-arrested by ICE and is presently detained at the Northwest ICE Processing Center in Tacoma, Washington.

9. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. The Immigration Judges who decide removal cases and applications for relief from removal do so as her designees.

10. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security. She is the cabinet-level secretary responsible for all immigration enforcement in the United States and has ultimate custodial authority over Petitioner.

11. Respondent Todd Lyons is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). He is the head of the federal agency responsible for all immigration enforcement in the United States.

12. Respondent Laura Hermosillo is sued in her official capacity as Field Office Director for the Seattle office of Immigration and Customs Enforcement, an agency of the Department of Homeland Security. She is responsible for overseeing ICE operations pertaining to noncitizens within its territorial jurisdiction, such as Petitioner, including detentions, enforcement, and

1 removal operations. She is the immediate legal custodian of Petitioner for purposes of a federal
2 habeas petition.

3 13. Respondent, Bruce Scott, is sued in his official capacity as the Warden of the Northwest
4 ICE Processing Center, the privately-operated immigration detention center where the Petitioner
5 is being detained. Mr. Scott has immediate physical custody of Petitioner.

6
7 **JURISDICTION**

8 14. This Court has jurisdiction over this matter under 18 U.S.C. § 1331 (federal question
9 jurisdiction); 28 U.S.C. § 2241 (habeas corpus); and 28 U.S.C. § 1651 (All Writs Act).

10 15. Further, this Court has jurisdiction under the Suspension Clause of Article I, § 9, cl. 2, of
11 the U.S. Constitution. *See INS v. St. Cyr*, 533 U.S. 289 (2001).

12 16. No other petitions, appeals, or motions regarding habeas corpus have been filed with any
13 other court.

14 **VENUE**

15 17. Venue in the Western District of Washington is appropriate under 28 U.S.C. § 1391(e)(1)
16 because the Petitioner is currently detained in this judicial district.

17 18. Venue is further appropriate under 28 U.S.C. § 1391(e)(1) because the Respondents live,
18 work, and operate within this judicial district and because the actions which gave rise to this
19 Petition took place in Tacoma, Washington, which falls within this judicial district.

20
21 **REQUIREMENTS OF 28 U.S.C. § 2243**

22 19. The Court must grant the petition for writ of habeas corpus or issue an order to show cause
23 (OSC) to the Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243.

1 If an OSC is issued, the Court must require Respondents to file a return “within three days unless
2 for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

3 20. Habeas corpus is “perhaps the most important writ known to the constitutional law . . .
4 affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.”
5 *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The application for the writ usurps the attention and
6 displaces the calendar of the judge or justice who entertains it and receives prompt action from
7 him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir.
8 2000) (citation omitted); *see also Van Buskirk v. Wilkinson*, 216 F.2d 735, 737–38 (9th Cir. 1954)
9 (Habeas corpus is “a speedy remedy, entitled by statute to special, preferential consideration to
10 insure expeditious hearing and determination.”).

11
12 **FACTUAL BACKGROUND**

13 21. Petitioner is a 33-year-old native and citizen of Venezuela.

14 22. Petitioner entered the United States on October 13, 2021, without inspection and was
15 apprehended shortly after his entrance.

16 23. He expressed a fear of return to Venezuela and was served with a Notice to Appear (NTA).
17 He was released by DHS shortly after being apprehended, under an order of supervision.

18 24. Petitioner timely filed an application for asylum with the Portland Immigration Court. On
19 July 3, 2024, upon a joint motion between Petitioner and DHS, his proceedings were terminated
20 without prejudice, and he re-filed his asylum application with United States Citizenship and
21 Immigration Services (USCIS).

25. However, Petitioner was re-detained on November 20, 2025, during a targeted immigration enforcement operation, despite never having committed a crime or violating any other law in the United States. He was still pursuing his claim for asylum with his family.

26. DHS reissued an NTA, again charging Petitioner as removable under 8 U.S.C. § 1182(a)(6)(A)(i) as being present in the United States without being admitted or paroled.

27. Petitioner has a bond hearing scheduled for January 5, 2026.

28. This Petition has been verified by Petitioner. *See* Verification of Petitioner.

LEGAL FRAMEWORK

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

30. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally 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).

31. 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).

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

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

1 34. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal
2 Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208,
3 Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was
4 most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3
5 (2025).

6 35. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in
7 general, people who entered the country without admission or parole were not considered detained
8 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
9 Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
10 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

11 36. Thus, in the decades that followed, most people who entered without admission or parole
12 and were placed in standard removal proceedings received bond hearings, unless their criminal
13 history rendered them ineligible. That practice was consistent with many more decades of prior
14 practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing
15 before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-
16 469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously
17 found at § 1252(a)).

18 37. On July 8, 2025, ICE, “in coordination with” the Department of Justice, announced a new
19 policy that rejected this well-established understanding of the statutory framework and reversed
20 decades of practice.

21 38. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants
22 for Admission,” claims that all persons who entered the United States without admission or parole
23 shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore are subject

1 to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a person is
2 apprehended, and affects those who have resided in the United States for months, years, and even
3 decades.¹

4 39. On September 5, 2025, the BIA adopted this same position in *Matter of Yajure Hurtado*.
5 There, the Board held that all noncitizens who entered the United States without admission or
6 parole are considered applicants for admission who are seeking admission and are ineligible for
7 IJ bond hearings.

8 40. Dozens of federal courts, including this one, have rejected Respondents' new interpretation
9 of the INA's detention authorities.

10 41. The reasoning in *Rodriguez Vasquez* is relevant here. In *Rodriguez Vazquez*, this Court
11 concluded that "the default discretionary bond procedures in section 1226(a) apply to noncitizens
12 who, like Bond Denial Class members, are 'present in the United States without being admitted
13 or paroled' under section 1182(a)(6)(A)" and are not subject to mandatory detention under another
14 section of the statute. 2025 WL 2782499, at *17. In other words, "noncitizens arrested while
15 already present in the United States continue to be governed under the discretionary detention
16 scheme in section 1226." *Id.* at *18 (internal quotation marks removed).

17 42. The *Rodriguez Vazquez* statutory analysis supports the contention that Petitioner, who
18 resided in the United States for months or years prior to his most recent apprehension, is detained
19 under § 1226(a).

22
23 ¹ This policy has now been vacated and deemed unlawful by the U.S. District Court for the Central District of
California. See *Maldonado Bautista v. Santacruz*, 2025 U.S. Dist. LEXIS 262265, No. 5:25-CV-01873-SSS-BFM,
at *6 (C.D. Cal. Dec. 18, 2025).

43. Court after court across the country have determined that detainees similarly situated to Petitioner are detained under § 1226(a). *See, e.g., Bethancourt Soto v. Soto*, No. 25-CV-16200, 2025 WL 2976572, at *7 (D.N.J. Oct. 22, 2025); *Ortiz Donis v. Chestnut*, No. 1:25-CV-01228 JLT SAB, 2025 WL 2879514, at *6–11 (E.D. Cal. Oct. 9, 2025); *Salcedo Aceros v. Kaiser*, No. 25-CV-06924-EMC (EMC), 2025 WL 2637503, at *8–12 (N.D. Cal. Sept. 12, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-CV-326-LM-AJ, 2025 WL 2639390, at *5–10 (D.N.H. Sept. 8, 2025); *Romero v. Hyde*, No. CV 25-11631-BEM, 2025 WL 2403827, at *8 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL 2374411, at *11 (D. Minn. Aug. 15, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *3 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *6–11 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted sub nom. Rocha Rosado v. Figueroa*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Rodriguez v. Perry*, 747 F. Supp. 3d 911, 915–16 (E.D. Va. 2024).

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

45. Subsection 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, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

46. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without admission or parole. *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). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates

1 ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the
2 statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
3 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

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

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

12 49. Petitioner’s initial release from detention shows that he was initially detained under §
13 1226(a). *See Ortega-Cervantes v. Gonzales*, 501 F.3d 1111, 1115 (9th Cir. 2007) (“It is apparent
14 that the [Immigration and Naturalization Service] used the phrase ‘release on recognizance’ as
15 another name for ‘conditional parole’ under § 1226(a).”).

16 50. And regardless of the basis of his initial detention, when the DHS chose to dismiss his
17 removal proceedings, it was aware of his presence in the United States without any form of parole
18 under the INA. The termination of his removal proceedings thus also demonstrates that he has not
19 been “seeking admission” in the time since. *See* 8 C.F.R. § 1239.2(e).

20 51. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people
21 like Petitioner, who lived in the United States for over a year after his proceedings were dismissed.

CLAIMS FOR RELIEF

**COUNT I
Violation of the INA**

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

53. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country, were released on an order of recognizance, had proceedings subsequently dismissed, and were re-arrested and detained. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231, which Petitioner is not.

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

**COUNT II
Violation of Due Process**

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

56. 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).

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

58. The government's detention of Petitioner without providing him the opportunity to be immediately released after determining whether he is a flight risk or danger to others violates his right to due process.

IRREPARABLE INJURY

59. Petitioner has suffered irreparable injury as a result of his detention. He was re-detained, after DHS had once decided to release him from custody under an order of supervision and once agreed to a motion to dismiss his prior proceedings so he could pursue asylum with USCIS. His physical liberty continues to be restrained, and no just cause for doing so can be specified. "It is well established that the deprivation of constitutional rights' unquestionably constitutes irreparable injury." *Melendres v. Arpaio*, 695 F.3d 990, 1002 (9th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). His physical liberty continues to be restrained, and no just cause for doing so can be specified.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner upon immediate payment of an alternative bond amount;
- d. Order that upon Petitioner's release, Respondents must return to Petitioner any personal property, including personal identification documents (other than a passport) and employment authorization documents;

- 1 e. Enjoin Respondents from placing a GPS ankle monitor on Petitioner upon his
2 release, absent clear and convincing evidence that he is a flight risk or a danger to
3 the community and that no other alternatives would mitigate those risks.
- 4 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
5 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
6 law; and
- 7 g. Grant any other and further relief that this Court deems just and proper.

8 Dated: January 2, 2026.

10 /s/ Hilary Smith

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