UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

Jorge Luis Ibarra Monreal, Petitioner, V. KRISTI NOEM, Secretary of the United States Department of Homeland Security; PAMELA BONDI, United States Attorney General; MIGUEL VERGARA, San Antonio Field Office Director for Enforcement and Removal, U.S. Immigration and Customs Enforcement, Department of Homeland Security; BOBBY THOMPSON, Warden, South Texas Detention Complex, Pearsall, Texas; UNITED STATES DEPARTMENT OF HOMELAND SECURITY; UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Respondents.	§ § § § § § § § § § § § § § § § § § §	Civil Case No. 5:26-cv-104

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

1. The U.S. Department of Homeland Security ("DHS") and the U.S. Department of Justice ("DOJ") have recently reversed decades of settled immigration practice by denying immigration bond hearings to individuals like Petitioner, who was arrested inside the United States. This reversal is based on the Board of Immigration Appeals' precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), issued on September 5, 2025.

2. Under longstanding practice, individuals arrested inside the United States are subject to detention under 8 U.S.C. § 1226, which generally allows for release on bond during removal proceedings. However, following *Matter of Yajure Hurtado*, DHS and DOJ are classifying such individuals as subject to 8 U.S.C. § 1225, which does not provide for bond hearings, based solely on their initial entry without inspection—often years or decades ago. This misclassification is contrary to nearly 30 years of law and practice post-IIRIRA and is being applied uniformly, including in Texas.

3. As a result, DHS is unlawfully detaining Petitioner without the possibility of release or a bond hearing, despite legal requirements for such under §1226. Multiple federal courts nationwide, including in Texas, have ruled against this interpretation. See, e.g., *Rojas Vargas v. Bondi*, No. 1:25-cv-01699-DAE (W.D. Tex. Nov. 5, 2025); *Gonzalez Guerrero v. Noem*, No. 1:25-CV-1334-RP (W.D. Tex. Oct. 27, 2025); *Hernandez-Ramiro v. Bondi,* No. 5:25-cv-01207-XR (W.D. Tex. Oct 15, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-CV-112 (S.D. Tex. Oct. 8, 2025); *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726 (S.D. Tex. Oct. 7, 2025). DHS and DOJ continue to violate statutory, regulatory, and constitutional rights through this policy. Petitioner brings this action to prevent unlawful deprivation of liberty without due process.

4. Additionally, DOJ and DHS are willfully defying federal court orders. On December 18, 2025, in *Maldonado Bautista v. Noem,* 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), a district court granted final judgment declaring that noncitizens members of the Bond Eligible Class are not subject to mandatory detention and are entitled for release on bond by immigration officers or a custody determination hearing before an Immigration Judge. The district court further vacated DHS's policy that classified noncitizens arrested within the United States as "applicants for admission" under 8 U.S.C. § 1225(b). The Bond Eligible Class consists of all noncitizens in the United States without lawful status who entered or will enter without inspection, were not or will not be apprehended upon arrival, and are not or will not be subject to mandatory detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time of DHS's initial custody determination. Nonetheless, in other cases, the Immigration Judges working for the DOJ claim they still have no jurisdiction because the federal court ruling did not vacate *Matter of Yajure Hurtado*, it is not binding, and is still in the appeal process.

5. Therefore, Petitioner Jorge Luis Ibarra Monreal, through counsel, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to challenge his unlawful detention without bond by Immigration and Customs Enforcement (ICE) at the South Texas Detention Complex in Pearsall, Texas. Petitioner seeks immediate release on a reasonable bond and conditions. This petition raises constitutional claims and pure questions of law, over which this Court has jurisdiction.

I. INTRODUCTION

6. Petitioner, a Mexican citizen, has resided in the U.S. since May 2019. His spouse is a U.S. citizen who filed an I-130 Petition, and it was approved. They have three children, all of

whom are U.S. citizens. Petitioner has had stable employment and no criminal convictions. On December 27, 2025, Texas State Troopers conducted a traffic stop of his half-brother, who was driving both of them to work. Petitioner was a passenger in the vehicle. The troopers allegedly stated that his half-brother overtook another car dangerously. The troopers then requested the IDs of both of them and verified their legal status in the U.S. The Petitioner's half-brother is a U.S. citizen. Moments later, Immigration and Customs Enforcement (ICE) arrived at the scene and detained the Petitioner. He has been in ICE custody since.

7. On September 5, 2025, the Board of Immigration Appeals (BIA) issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), a controversial decision in which they interpreted § 1225(b) to mandate detention for all "applicants for admission," including EWIs who are long-term residents apprehended in the interior years after entering the country. The BIA's interpretation violates the INA and the Fifth Amendment due process rights.

8. On December 18, 2025, in *Maldonado Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), a district court granted final judgment declaring that noncitizens members of the Bond Eligible Class are not subject to mandatory detention and are entitled for release on bond by immigration officers or a custody determination hearing before an Immigration Judge. The district court further vacated DHS's policy that classified noncitizens arrested within the United States as "applicants for admission" under 8 U.S.C. § 1225(b). The Bond Eligible Class consists of all noncitizens in the United States without lawful status who entered or will enter without inspection, were not or will not be apprehended upon arrival, and are not or will not be subject to mandatory detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time of DHS's initial custody determination.

Nonetheless, in other cases, the Immigration Judges working for the DOJ claim they still have no jurisdiction because the federal court ruling did not vacate *Matter of Yajure Hurtado*, it is not binding, and is still in the appeal process.

9. In light of this unlawful practice, the Petitioner cannot seek release before ICE or a bond redetermination hearing before an IJ or the BIA because they claim noncitizens, such as Petitioner, are subject to mandatory detention. The only alternative for the Petitioner is that this court order his release on a reasonable bond and conditions because the DOJ/EOIR is defying federal court orders and not granting due process and fair proceedings to noncitizens who entered without inspection.

II. JURISDICTION AND VENUE

10. Petitioner is in the physical custody of the Respondents in the South Texas Detention Complex in Pearsall, Texas.

11. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101–1537.

12. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question).

13. This Court has jurisdiction under 28 U.S.C. § 2241 to review the lawfulness of Petitioner's detention, as this petition raises constitutional claims (Fifth Amendment due process violations) and pure questions of law (whether the DOJ/EOIR is defying federal court orders and whether the BIA's interpretation of 8 U.S.C. § 1225(b) under *Matter of Yajure Hurtado*, and applied to the Petitioner, is erroneous when detention is governed by 8 U.S.C. § 1226(a) rather than § 1225(b)).

14. Venue is proper as Petitioner is detained in Pearsall, Texas, within the Western District of Texas.

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. There is no statutory exhaustion requirement for habeas corpus petitions under 28 U.S.C. § 2241.

16. There are no administrative remedies available to the Petitioner under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In this precedential decision issued on September 5, 2025, the Board of Immigration Appeals (BIA) held that, based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1225(b)(2)(A), immigration judges lack authority to hear bond requests or grant bond to noncitizens who are present in the United States without admission or parole. These individuals are classified as "applicants for admission," subjecting them to mandatory detention during removal proceedings, regardless of how long they have resided in the country (e.g., even after two years, as previously allowed under some regulations like 8 C.F.R. § 1003.1(d)(3)(i)). As a result, the IJ lacks jurisdiction to hear Petititioner's request for a bond redetermination hearing.

17. Although the District Court in *Maldonado Bautista v. Noem,* 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), granted final judgment on December 18, 2025, and declared that noncitizens members of the Bond Eligible Class are entitled for release on bond by ICE or a custody redetermination hearing before an IJ, the EOIR has refused to comply with these orders. Reports from class counsel indicate that the Department of Justice has instructed IJs to ignore the court's judgment, leading to widespread denials of bond hearings on erroneous grounds such as that the district court did not vacate *Matter of Yajure Hurtado*. See

Northwest Immigrant Rights Project, Practice Advisory: Seeking Bond Hearings for Maldonado Bautista Class Members (Dec. 3, 2025). Pursuing a bond request before the IJ would thus be futile, resulting in further unnecessary detention and prejudice to Petitioner's liberty interests.

IV. PARTIES

18. Petitioner, Jorge Luis Ibarra Monreal, is a Mexican citizen currently in ICE Custody at the South Texas Detention Complex in Pearsall, Texas.

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

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

21. Respondent Miguel Vergara is the Director of the San Antonio Field Office of ICE's Enforcement and Removal Operations division; however, on information and belief, the DHS is rotating its Field Office Director without publishing a schedule of rotation. As such, Miguel Vergara or his unknown, unannounced provisional replacement is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He or his acting counterpart is named in his or her official capacity.

22. Respondent, Bobby Thompson, or his counterpart, the Warden of the South Texas Detention Complex, is employed by the private, for-profit detention corporation contracted by

the Government as an agent to confine immigrants at South Texas Detention Complex, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

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

24. Respondent Immigration and Customs Enforcement is the federal agency, branch of DHS, responsible for the enforcement of the INA, apprehension of non-citizens in the U.S., and detention and removal of noncitizens.

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

V. LEGAL FRAMEWORK

26. The INA prescribes forms of detention for noncitizens in removal proceedings.

27. 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an 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), Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

28. The INA also 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).

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

30. 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. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

31. Following the 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)[1].

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

33. In *Jennings v. Rodriguez*, the Department of Homeland Security (DHS) explicitly acknowledged that individuals who have already entered the United States and are not apprehended within 100 miles of the border or within 14 days of entry are subject to

[1] https://www.justice.gov/sites/default/files/eoir/legacy/2005/01/12/fr03ja97P.pdf

discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b). During oral argument on November 30, 2016, then–Solicitor General Ian Gershengorn stated: "If they are not detained within 100 miles of the border or within 14 days… then they are under 1226(a) and not 1226(c)" and further clarified, in response to a question concerning "an alien who has come into the United States illegally without being admitted [and] who takes up residence 50 miles from the border," the Government responded, "The answer is they are held under 1226(a) and that they get a bond hearing…" Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. ___ (2018) (No. 15-1204).[2] DHS reiterated that such individuals "would be held under 1226(a)" and cited the administrative record to support that position. *Id.* These statements reflect DHS's prior litigation stance that § 1226(a) governs detention for noncitizens who have entered and are residing in the United States, a position directly contrary to the agency's current interpretation applying § 1225(b)(2)(A) to such individuals. Having prevailed in *Jennings* after taking this position, they should be estopped from taking the contrary position now simply because their political or litigation interests have changed.

34. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[3] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

[2] https://www.supremecourt.gov/oral_arguments/argument_transcripts/2016/15-1204_k536.pdf
[3] https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission

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

36. Since Respondents adopted their new policies, several federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

37. A growing number of federal courts have rejected DHS, ICE, and EOIR's recent interpretation of the INA's detention provisions. These courts have consistently held that § 1226(a), not § 1225(b)(2), governs the detention authority applicable in long-resident EWIs, such as the present cases. For example, courts in Massachusetts, Arizona, New York, Minnesota, California, and Nebraska have reached this conclusion. See: *Gomes v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM (D. Mass. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF (N.D. Cal. Aug. 21, 2025); *Palma Perez v. Berg*, No. 8:25CV494 (D. Neb. Sept. 3, 2025).

38. Federal Judges in this Western District of Texas have also turned down the government's creative argument. See *Rojas Vargas v. Bondi*, No. 1:25-cv-01699-DAE (W.D. Tex. Nov. 5, 2025); *Gonzalez Guerrero v. Noem*, No. 1:25-CV-1334-RP (W.D. Tex. Oct. 27, 2025); *Hernandez-Ramiro v. Bondi,* No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025).

39. These decisions reflect a clear judicial consensus, including in Texas, that the government's reliance on § 1225(b)(2) is misplaced in cases involving long-resident EWIs whose immigration status lawfully falls under § 1226(a).

40. On December 18, 2025, in *Maldonado Bautista v. Noem,* 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), a district court granted final judgment declaring that noncitizens members of the Bond Eligible Class are not subject to mandatory detention and are entitled for release on bond by immigration officers or a custody determination hearing before an Immigration Judge. The district court further vacated DHS's policy that classified noncitizens arrested within the United States as "applicants for admission" under 8 U.S.C. § 1225(b). The Bond Eligible Class consists of all noncitizens in the United States without lawful status who entered or will enter without inspection, were not or will not be apprehended upon arrival, and are not or will not be subject to mandatory detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time of DHS's initial custody determination.

41. Courts have uniformly rejected DHS, ICE, and EOIR's new interpretation because it defies the INA. As the Federal Courts explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

42. 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, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

43. The text of § 1226 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). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at 7.

44. 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.

45. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States and were not free to mingle with the general population after being free from official restraint. 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). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

46. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who entered the U.S. without inspection and have resided here for years.

VI. FACTS

47. Petitioner entered the U.S. on or about May 2019, and has resided continuously in the Austin, TX area. Before detention, he lived with his wife and three children, all of whom are

U.S. citizens. He has had no arrests throughout. Petitioner has worked in the same place, Muse Customs LLC, since he entered the U.S. Petitioner is a hard worker and an exemplary resident of Texas.

48. On December 27, 2025, Texas State Troopers conducted a traffic stop of his half-brother, who was driving both of them to work. Petitioner was a passenger in the vehicle. The troopers allegedly stated that his half-brother overtook another car dangerously. The troopers then requested the IDs of both of them and verified their legal status in the U.S. The Petitioner's half-brother is a U.S. citizen. Moments later, Immigration and Customs Enforcement (ICE) arrived at the scene and detained the Petitioner. He has been in ICE custody since.

49. On September 5, 2025, the BIA issued a novel decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that EWIs (like Petitioner) are "applicants for admission" subject to mandatory detention under INA § 235(b)(2)(A), despite their long-term residence and interior apprehension. This decision ignores legislative history, longstanding agency practice, and federal court precedent limiting § 1225(b) to recent border arrivals. See: *Rojas Vargas v. Bondi*, No. 1:25-cv-01699-DAE (W.D. Tex. Nov. 5, 2025); *Gonzalez Guerrero v. Noem*, No. 1:25-CV-1334-RP (W.D. Tex. Oct. 27, 2025); *Hernandez-Ramiro v. Bondi,* No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025).

50. On December 18, 2025, in *Maldonado Bautista v. Noem,* 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), a district court granted final judgment declaring that noncitizens members of the Bond Eligible Class are not subject to mandatory detention and are entitled for release on bond by immigration officers or a custody determination hearing before an Immigration Judge. The district court further vacated DHS's policy that

classified noncitizens arrested within the United States as "applicants for admission" under 8 U.S.C. § 1225(b). The Bond Eligible Class consists of all noncitizens in the United States without lawful status who entered or will enter without inspection, were not or will not be apprehended upon arrival, and are not or will not be subject to mandatory detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time of DHS's initial custody determination. Nonetheless, in other cases, the Immigration Judges working for the DOJ claim they still have no jurisdiction because the federal court ruling did not vacate *Matter of Yajure Hurtado*, it is not binding, and is still in the appeal process.

51. Therefore, the Petitioner is ineligible to request a bond redetermination hearing before the IJ or the BIA because they claim they do not have jurisdiction. There are no administrative remedies available to pursue.

52. Petitioner's detention causes ongoing irreparable harm. Petitioner has significant positive equities: a U.S. citizen spouse who filed an I-130 Petition and it was approved on August 9, 2025; three U.S. citizen minor children; almost 7 years of U.S. residence; stable employment (employed with the same employer since he entered the U.S.), and no criminal arrests. The only negative equity is entering without inspection. The Petitioner has a viable pathway to lawful status through a I-601a wavier and consular processing.

VII. REQUEST FOR RELEASE

In *Campuzano v. Noem*, No. 1:25-CV-1715-DAE (W.D. Tex. January 6, 2026), the Federal Judge stated:

> "Respondents contend that although the only relief available to Petitioner through habeas is release from custody, he "has no claim to any lawful status in the United States that would permit him to reside lawfully in the United States upon release." (Dkt. # 15 at 2, 4, citing 28 U.S.C. § 2241; *DHS v. Thuraissigiam*, 591 U.S. 103, 118–19 (2020).) To the extent that Respondents intend to argue that release is not proper solely

> because Petitioner lacks lawful status, that argument is without merit. See *Zadvydas v. Davis*, 533 U.S. 678, 701, 692–93 (2001) (providing for the release via a habeas corpus proceeding for deportable noncitizens who establish the unreasonableness of their continued detention and noting the protections that exist for noncitizens already in the country even when their presence is unlawful); *Johnson v. Guzman Chavez*, 594 U.S. 523, 529 (2021) (citing *Zadvydas*); see also *Osorio-Martinez v. Att'y Gen. United States of Am.*, 893 F.3d 153, 175 (3d Cir. 2018) ("Nothing in our precedent suggests that the lack of lawful permanent resident status, potential inadmissibility, or the happenstance that visas are not currently available is dispositive in assessing an [noncitizen's] entitlement to habeas review."). Under the circumstances of this case, Petitioner's detention is unlawful and habeas relief is proper. *Estupinan Reyes*, 2025 WL 3654265, at *4; *Davila Mercado*, 2025 WL 3654268, at *7; see *Vargas Bondi*, 2025 WL 3300446, at *5 (discussing why the appropriate habeas relief is release rather than a bond redetermination hearing)."

This case is similar to *Campuzano*, where the Petitioner was being held under a mandatory detention provision. The only relief available through habeas, in this matter, is release rather than a bond redetermination hearing.

Even assuming *arguendo* that a bond hearing is required, Petitioner warrants immediate release. See *Zadvydas*, 533 U.S. at 701 (detention presumptively unreasonable after six months, but courts may order release earlier for due process violations). Petitioner poses no danger to the community and is not a flight risk, as evidenced by the attached supporting documents.

Petitioner has no criminal record. He has resided in the United States since May 2019 and has maintained stable employment. His wife is a U.S. citizen who filed an I-130 Petition, and it was approved by USCIS on August 9, 2025. They have three U.S. citizen children (Ex. E, birth certificates, and marriage certificate). Critically, Petitioner had hired attorney Cynthia V. De Los Santos, who was in the process of filing an I-601a waiver. Once the waiver is approved, the Petitioner will travel abroad to Mexico to consular process. He has a strong basis for remaining in the U.S. and obtaining legal status in the near future. The Petitioner has strong positive equities and should be allowed to remain in the U.S. while his waiver is processed.

These ties demonstrate Petitioner's incentive to appear for proceedings and lack of risk. Immediate release on his own recognizance or reasonable bond with conditions (e.g., electronic monitoring) is appropriate, especially given Respondents' unlawful detention policy.

Furthermore, immediate release is warranted in this case because noncitizens are not receiving due process and fair proceedings in immigration court. As the attached evidence elucidates, DHS and EOIR are working together under the current administration. Posts from DHS and DOJ reveal that instead of calling immigration judges by such title, they are calling them "Deportation Judges," which undermines fair proceedings and due process in immigration Court. Moreover, even when a final federal judgment from the district court in California has been rendered, EOIR has been refusing to hold bond hearings for EWI, finding lack of jurisdiction because Matter of Yajure Hurtado has not been vacated. But they are well aware that the policy of mandatory detention for EWIs was declared unlawful in a nationwide final judgment. Lastly, attorneys admitted in this Western District have provided written letters stating that they have experienced a lack of due process or fair proceedings in EOIR.

VIII. CLAIMS FOR RELIEF

A. Violation of the INA

53. Petitioner incorporates by reference the law and allegations of fact set forth in the preceding paragraphs.

54. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizen EWIs who are long-time residents of the U.S. and who are subject to that ground of inadmissibility. As relevant here, it does not apply to those who entered without inspection years ago. Such noncitizens, as Petitioner, are detained under § 1226(a), and shall be released on bond.

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

B. Violation of Bond Regulations

56. Petitioner incorporates by reference the law and allegations of fact set forth in preceding paragraphs.

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

58. Nonetheless, pursuant to *Matter of Yajure Hurtado*, DHS, ICE, and EOIR have a policy and practice of unlawfully applying § 1225(b)(2) to individuals like Petitioner, who are instead detained under § 1226(a).

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

C. Violation of Federal Court Orders

60. Petitioner incorporates by reference the law and allegations of fact set forth in preceding paragraphs.

61. The DOJ and DHS have failed to comply with the federal court order in *Maldonado Bautista v. Noem,* 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), where a district court granted final judgment declaring that noncitizens members of the Bond Eligible Class are not subject to mandatory detention and are entitled for release on bond by immigration officers or a custody determination hearing before an Immigration Judge. And the Petitioner is a class member in *Maldonado Bautista*. He is a noncitizen without lawful status detained at the South Texas Detention Complex who (1) entered the United States without inspection, (2) was not apprehended upon arrival, and (3) is not subject to mandatory detention pursuant to 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

62. Nonetheless, in other cases, the Immigration Judges working for the DOJ claim they still have no jurisdiction because the federal court ruling did not vacate *Matter of Yajure Hurtado*, it is not binding, and is still in the appeal process.

D. Violation of Due Process

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

64. 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 protected by the Due Process Clause." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

66. The government's detention of Petitioner without an opportunity to bond violates his right to due process.

VIII. RELIEF REQUESTED

67. 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 Western 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 under 28 U.S. Code § 2243;

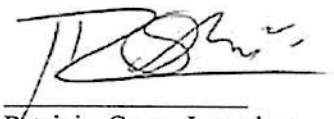
(d) A writ of habeas corpus ordering the immediate release of the Petitioner on a reasonable bond and conditions;

(e) A declaration that Petitioner detention is unlawful;

(f) Grant any other and further relief that this Court deems just and proper.

68. I declare under penalty of perjury that I am the petitioner's attorney, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Respectfully submitted, January 12, 2026.



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INDEX OF DOCUMENTS

Exhibit	
A	**DHS Posts on X**
B	**DOJ Posts on X**
C	**Comments from Members of the Texas Bar regarding EOIR in Central Texas**
D	**Letters from Attorneys Licensed to Practice in the WDTX**
E	**Not a Flight Risk Evidence and Not a Danger to the Community** - Passport - Texas IDs - Birth Certificates of Four Children who are U.S. citizens - DACA status approval notice for Mexican citizen child - I-485 receipt notice for Mexican citizen child (pending application) - Employer letter (40 years of stable employment) - Warranty Deed of Property - Federal Income Tax Returns - Texas Property Tax Payments

CERTIFICATE OF SERVICE

I, Patricio Garza Izaguirre, certify that on this date a true and correct copy of this **EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**, and all the attached documents described in the index above, were served to the following by the CM/ECF system:

1. KRISTI NOEM, Secretary of the United States Department of Homeland Security;
2. PAMELA BONDI, United States Attorney General;
3. MIGUEL VERGARA, San Antonio Field Office Director for Enforcement and Removal, U.S. Immigration and Customs Enforcement, Department of Homeland Security;
4. BOBBY THOMPSON, Warden, South Texas Detention Complex, Pearsall, Texas;
5. UNITED STATES DEPARTMENT OF HOMELAND SECURITY;
6. UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT;
7. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

On January 12, 2026

Patricio Garza Izaguirre
Attorney for the Petitioner

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