

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

JUAN CARLOS DERAS ARANA,)	
<i>Petitioner,</i>)	Civ. No.
)	
-against-)	EMERGENCY PETITION
)	FOR WRIT OF HABEAS
PAUL ARTETA, Sheriff, Orange County,)	CORPUS AND
KENNETH GENALO, New York City Field)	COMPLAINT FOR
Office Director, U.S. Immigration and)	DECLARATIVE AND
Customs Enforcement; KRISTI NOEM,)	INJUNCTIVE RELIEF
U.S. Secretary of Homeland Security;)	
PAMELA BONDI, U.S. Attorney General,)	
<i>Respondents.</i>)	

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

Petitioner respectfully petitions this Honorable Court for a writ of habeas corpus to remedy Petitioner’s unlawful detention by Respondents, as follows:

INTRODUCTION

1. Petitioner Juan Carlos Deras Arana (“Mr. Deras”) challenges his unlawful detention by Respondents at 110 Wells Farm Road, Goshen, New York. Petitioner is neither a flight risk nor a danger to the community. He now faces unlawful detention because the Department of Homeland Security (“DHS”) and the Executive Office of Immigration Review (“EOIR”) have concluded that he is subject to mandatory detention.

2. Mr. Deras is charged with, inter alia, having entered the United States without admission or inspection. See 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Mr. Deras's Form I-862 Notice to Appear ("NTA"), DHS denied Mr. Deras release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement ("ICE") employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals ("BIA") issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The BIA determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. In 2025, the United States District Court for the Central District of California held that *Yajure Hurtado* violated the plain language of the Immigration and Nationality Act ("INA"), and granted declaratory relief to the petitioner, finding that he is properly detained under 8 U.S.C. § 1226(a) and is therefore eligible for release on bond. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403 C.D. Cal. Nov. 25, 2025). Shortly thereafter, the Central District of California granted class certification to noncitizens like Mr. Deras, who entered without inspection or admission and were improperly classified by DHS and the EOIR as aliens seeking admission and denied access to a custody redetermination hearing.

6. Despite the plain language of *Maldonado Bautista*, the EOIR persisted throughout November and December 2025 in denying custody redetermination hearings to individuals charged with inadmissibility under § 1182(a)(6)(A)(i).

7. Certain immigration courts have recently begun granting custody redetermination hearings to individuals within the class certified by the court in *Maldonado Bautista*, but this change is far from uniform across the EOIR system, and many courts, in particular those in Texas and Louisiana, have persisted in denying custody hearings to individuals such as Mr. Deras.

8. Mr. Deras currently has a custody redetermination hearing scheduled in the New York, New York Immigration Court on January 14, 2026.

9. This morning, ICE advised Mr. Deras that he is to be transferred to a new jurisdiction imminently. It is more likely than not ICE will him to Texas or Louisiana.

10. The New York, New York Immigration Court will not retain administrative control over the matter of Mr. Deras's detention if he is transferred to a facility other than Orange County Jail or Brooklyn Metropolitan Detention Center.

11. DHS's detention of Mr. Deras based on his classification as an alien seeking admission violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Mr. Deras who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 1226(a), that allows for release on conditional parole or bond. The latter statute expressly applies to people who, like Mr. Deras, are charged as inadmissible for having entered the United States without inspection.

12. Respondents' recent reinterpretation of the legal authority for detention is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Mr. Deras.

13. Accordingly, Mr. Deras seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

PARTIES

14. Petitioner Juan Carlos Deras Aranas, a citizen of Guatemala, has lived in the United States for approximately 24 years. Prior to his detention on December 26, 2025, he was residing in Westchester County, New York. He is currently detained at 110 Wells Farm Road in Goshen, New York.

15. Respondent Paul Arteta is named in his official capacity as the Sheriff of Orange County, New York. In this capacity, he is responsible for the administration of Orange County Jail, where Mr. Deras is detained pursuant to the jail's contract with ICE. He is therefore Mr. Deras's direct custodian.

16. Respondent Kenneth Genalo is named in his official capacity as Field Office Director for the New York City field office of ICE. In this capacity, Respondent Genalo is responsible for the administration and management of ICE Enforcement and Removal Operations ("ERO") in New York City and exercises control over Mr. Deras's custody. He is therefore a legal custodian of Mr. Deras.

17. Respondent Kristi Noem is named in her official capacity as United States Secretary of Homeland Security. In this capacity, Respondent Noem is responsible for the

administration of federal immigration law pursuant to 8 U.S.C. § 1103(a). She routinely conducts business in the Southern District of New York, and she is legally responsible for pursuing Mr. Deras's detention and removal. As such, she is a legal custodian of Mr. Deras.

18. Respondent Pamela Bondi is named in her official capacity as United States Attorney General. In this capacity, Respondent Bondi is the most senior official in the U.S. Department of Justice and as such has the authority to interpret the immigration laws and adjudicate removal cases. The Attorney General delegates this responsibility to the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. She routinely conducts business in the Southern District of New York, and she is legally responsible for pursuing Mr. Deras's detention and removal. Therefore she is a legal custodian of Mr. Deras.

JURISDICTION AND VENUE

19. This action arises under the Fifth and Fourteenth Amendments to the United States Constitution.

20. This Court has subject matter jurisdiction under 28 U.S.C. § 2241, Art. I 9, cl. 2 of the United States Constitution, 28 U.S.C. § 1331, and 28 U.S.C. § 1361. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. 1651.

21. The United States has waived sovereign immunity for this action for declaratory and injunctive relief against its agencies' officers, who are sued in their official capacities. *See* 5 U.S.C. § 702.

22. Venue is proper in this District under 28 U.S.C. § 1391 because Petitioner is detained in this district.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

23. There is no statutory requirement that a habeas petitioner exhaust his administrative remedies before challenging his immigration detention. Since Congress is silent on the issue, courts have applied a judicially created requirement that, generally, a petitioner must exhaust his administrative remedies before seeking federal court intervention. *See Monestime v. Reilly*, 704 F.Supp.2d 453, 456. (S.D.N.Y.2010) (“A habeas petitioner generally must exhaust administrative remedies before seeking federal court intervention.”)

24. However, courts may waive a judicially created exhaustion requirement where pursuing administrative remedies would be futile or where the agency has predetermined the issue before it. *Monestime*, 704 F.Supp.2d at 456 (“[E]xhaustion is not required where it would be futile or where the agency has predetermined the issue before it.”); *see also Cave v. E. Meadow Union Free Sch. Sch. Dist.*, 514 F.3d 240, 249 (2d Cir. 2008) (“The exhaustion requirement is excused when exhaustion would be futile because the administrative procedures do not provide an adequate remedy.”).

STATEMENT OF FACTS

25. Mr. Deras is a 46-year-old native and citizen of Guatemala. He entered the United States without inspection in about 2002. On July 15, 2017 DHS initiated removal proceedings

against Mr. Deras in the New York, New York Immigration Court. On April 11, 2023, Mr. Deras and DHS jointly moved to dismiss the removal proceedings against him without prejudice, and the Immigration Court granted the parties' motion. Mr. Deras was not detained during the pendency of those proceedings.

26. On December 26, 2025 DHS / ICE arrested Mr. Deras and once more initiated removal proceedings against him by filing a Notice to Appear ("NTA") in the New York, New York Immigration Court. Upon information and belief, the NTA in his current proceedings is substantively indistinguishable from the NTA filed by DHS to initiate his proceedings in 2017.

27. DHS / ICE has taken the position that Mr. Deras is detained pursuant to 8 U.S.C. § 1225(b)(2)(A), as an alien seeking admission.

28. DHS / ICE never took this position prior with respect to Mr. Deras prior to December 2025, and did not seek to detain him during his original removal proceedings, which were conducted from 2017 to 2023.

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 im. 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).

34. 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).

35. 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).

36. 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” 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)).

37. 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.

38. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ 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.

39. 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.

40. Since Respondents adopted their new policies, dozens of 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.

41. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

42. 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.

43. 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].”

44. 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). 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.

45. 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.

46. 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.

47. § 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).

48. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

CLAIMS FOR RELIEF
COUNT I
Violation of the INA

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

50. 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 and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

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

COUNT II
Violation of the Bond Regulations

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

53. 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. 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.

54. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

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

COUNT III
Violation of Due Process

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

57. 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).

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

59. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates [his/her/their] right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending adjudication of this Petition;
- (3) Declare Petitioner's ongoing prolonged detention by Respondents to be unconstitutional and a violation of the INA, its implementing regulations, the APA, and the *Accardi* doctrine;
- (4) Order Petitioner's immediate release;
- (5) Award Petitioner his costs and reasonable attorney fees; and
- (6) Order such other relief as this Court may deem just and proper.

Respectfully submitted,

Dated: New York, New York
January 12, 2026

/s/ Edgar Loy Fankbonner
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I submit this verification on behalf of Petitioner because I am Petitioner's attorney. I have discussed with Petitioner the events described in the Petition and I am familiar with his immigration history and the filings therein. On this basis, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and upon information and belief.

Dated: New York, New York
January 12, 2026

/s/ Edgar Loy Fankbonner
Attorney for Petitioner