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6 **UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA**

7 AURELIO TORRES DOMINGUEZ,
8
9 Petitioner,

Case No. 4:26-cv-53

10 v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

11 Jason Streeval, in his official capacity as
Warden of Stewart Detention Center; LaDeon
12 FRANCIS, in his official capacity as Field
Office Director of Enforcement and Removal
Operations, Atlanta Field Office, Immigration
13 and Customs Enforcement; Kristi NOEM, in
her official capacity as Secretary, U.S.
14 Department of Homeland Security; Pamela
BONDI, in her official capacity as U.S.
15 Attorney General,

16 Respondents.

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I. INTRODUCTION

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2 1. Petitioner Aurelio Torres Dominguez is in the physical custody of Respondents at
3 the Stewart Detention Center located in Lumpkin, Georgia. He now faces unlawful detention
4 because the Department of Homeland Security (DHS) and the Executive Office of Immigration
5 Review (EOIR) have concluded Petitioner is subject to mandatory detention.

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

8 3. Based on this allegation in Petitioner’s removal proceedings, DHS denied
9 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
10 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
11 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
12 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
13 therefore ineligible to be released on bond.

14 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
15 Board) issued a precedent decision, binding on all immigration judges, holding that an
16 immigration judge has no authority to consider bond requests for any person who entered the
17 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
18 The Board determined that such individuals are subject to detention under 8 U.S.C. §
19 1225(b)(2)(A) and therefore ineligible to be released on bond.

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

1 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
2 having entered the United States without inspection.

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

6 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released
7 unless Respondents provide a new custody redetermination hearing under § 1226(a) within seven
8 days whereby the Immigration Judge does have jurisdiction over Petitioner's custody
9 redetermination request.

10 II. JURISDICTION

11 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
12 Stewart Detention Center in Lumpkin, Georgia.

13 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
14 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
15 Constitution (the Suspension Clause).

16 10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
17 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

18 III. VENUE

19 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
20 500 (1973), venue lies with the district court having jurisdiction over the custodian of the
21 detainee. In the case at hand, venue is proper with the United States District Court for the Middle
22 District of Georgia, the judicial district encompassing the Stewart Detention Center in Lumpkin,
23 Georgia in Stewart County, Georgia.

1 immediate custodian and is responsible for Petitioner's detention and removal. He is named in
2 his official capacity.

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

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

11 VI. LEGAL FRAMEWORK

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

14 21. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
15 proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a. Individuals detained pursuant
16 to § 1226(a) are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R.
17 §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted
18 of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

19 22. Second, the INA provides for mandatory detention of noncitizens subject to
20 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
21 referred to under § 1225(b)(2).

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

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

2 25. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
3 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
4 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section
5 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1,
6 139 Stat. 3 (2025).

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

12 27. Thus, in the decades that followed, most people who entered without inspection
13 and were placed in standard removal proceedings received bond hearings, unless their criminal
14 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
15 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
16 were entitled to a custody hearing before an Immigration Judge or other hearing officer. *See* 8
17 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that
18 § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

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

1 29. The new policy, entitled “Interim Guidance Regarding Detention Authority for
2 Applicants for Admission,”¹ claims that all persons who entered the United States without
3 inspection shall now be subject to a mandatory detention provision under § 1225(b)(2)(A). This
4 interpretation of the statute applies regardless of when a person is apprehended and affects those
5 who have resided in the United States for months, years, and even decades.

6 30. On September 5, 2025, the BIA adopted this same position in a published
7 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
8 United States without admission or parole are subject to mandatory detention under §
9 1225(b)(2)(A) and are therefore ineligible for bond hearings.

10 31. Since Respondents adopted their new policies, dozens of federal courts have
11 rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected
12 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.²

13 32. Even before ICE or the BIA introduced these nationwide policies, Immigration
14 Judges in the Tacoma, Washington, immigration court stopped providing bond hearings for
15 persons who entered the United States without inspection and who have since resided here.
16 There, the U.S. District Court in the Western District of Washington found that such a reading of
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18 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

19 ² Petitioner is a class member of *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). In
20 *Maldonado Bautista* the court certified the Bond Eligible Class, defined as: All noncitizens in the United States
21 without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will
22 not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), §
23 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.
24 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403, at *9
(C.D. Cal. Nov. 25, 2025).
Courts are obligated to apply the law to all class members, as determined in the binding, final judgment issued in
Maldonado Bautista on December 18, 2025. The Executive Office for Immigration Review is a Defendant in
Maldonado Bautista, and is thus bound by the ruling there, which has the full “force and effect of a final judgment.”
28 U.S.C. § 2201(a). Nevertheless, immigration judges continue to find that they do not have jurisdiction pursuant to
Yajure Hurtado when respondents request custody redetermination hearings pursuant to class membership.

1 the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
2 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
3 1239 (W.D. Wash. 2025).

4 33. Subsequently, several courts have adopted the same reading of the INA's
5 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
6 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
7 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
8 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
9 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
10 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
11 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,
12 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
13 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
14 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
15 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
16 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
17 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
18 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
19 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
20 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
21 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
22 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
23 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.

1 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
2 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
3 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
4 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
5 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
6 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

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

10 35. Section 1226(a) applies by default to all persons “pending a decision on whether
11 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
12 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

13 36. The text of § 1226 also explicitly applies to people charged as being inadmissible,
14 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
15 (E)’s reference to such people makes clear that, by default, such people are afforded a bond
16 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
17 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,
18 the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
19 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025
20 WL 1869299, at *7.

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

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1 38. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
2 recently entered the United States. The statute’s entire framework is premised on inspections at
3 the border of people who are “seeking admission” to the United States. 8 U.S.C.
4 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
5 applies “at the Nation’s borders and ports of entry, where the Government must determine
6 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
7 U.S. 281, 287 (2018).

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

11 FACTS

12 40. Petitioner has resided in the United States since approximately 1997 and lives in
13 Georgia.

14 41. Petitioner was arrested for a minor traffic infraction, after which he was taken into
15 custody by DHS ICE. Petitioner is now detained by DHS at the Stewart Detention Center in
16 Lumpkin, Georgia.

17 42. DHS placed Petitioner in removal proceedings before the Stewart Immigration
18 Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being
19 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States
20 without inspection.

21 43. Petitioner has significant ties to the community. Petitioner was previously married
22 to a U.S. citizen and although they are now divorced, they share two U.S. citizen children – a
23 seventeen (17) year-old and an eight (8) year-old. Apart from the aforementioned recent arrest
24

1 for a traffic offense, the Petitioner has been arrested three other times for traffic offenses, but to
2 the knowledge of undersigned counsel Petitioner has never been arrested for any other reason.
3 As such, Petitioner is neither a flight risk nor a danger to the community.

4 44. Following Petitioner's arrest and transfer to the Stewart Detention Center, ICE
5 issued a custody determination to continue Petitioner's detention without an opportunity to post
6 bond or be released on other conditions.

7 45. Petitioner subsequently requested a bond redetermination hearing before an
8 immigration judge.

9 46. In the experience of undersigned firm, the immigration judge will not consider
10 Petitioner's bond request pursuant to *Matter of Yajure Hurtado* despite the final judgment issued
11 in the *Maldonado Bautista* class action.

12 47. As a result, Petitioner remains in detention. Without relief from this court, he
13 faces the prospect of months, or even years, in immigration custody, separated from his family
14 and community.

15 **CLAIMS FOR RELIEF**

16 **COUNT I**

17 **Violation of the Immigration and Nationality Act**

18 48. Petitioner incorporates by reference the allegations of fact set forth in the
19 preceding paragraphs.

20 49. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
21 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
22 relevant here, it does not apply to those who previously entered the country and have been
23 residing in the United States prior to being apprehended and placed in removal proceedings by
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1 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
2 § 1225(b)(1), § 1226(c), or § 1231.

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

5 **COUNT II**

6 **Violation of the Bond Regulations**

7 51. Petitioner incorporates by reference the allegations of fact set forth in preceding
8 paragraphs.

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

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

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

COUNT III

Violation of Fifth Amendment Right to Due Process

55. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding 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 a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Middle District Court of Georgia 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;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- e. Declare that Petitioner’s detention is unlawful.

1 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
2 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
3 law; and

4 g. Grant any other and further relief that this Court deems just and proper.

5 It is DATED this 12th day of January, 2026.

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Respectfully Submitted,
The Kennedy Immigration Firm, LLC

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