

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

4 Santos Alvinos Lopez Sanchez,

5 c/o Immigrants First PLLC
6 9401 Centreville Rd, Suite 204
7 Manassas, VA 20110

8 Petitioner,

9 v.

10 Todd M. Lyons, Acting Director, Immigration
11 Customs and Enforcement; Kristi NOEM,
12 Secretary, U.S. Department of Homeland
13 Security; the U.S. Department of Homeland
14 Security; Pamela BONDI, U.S. Attorney
15 General, US Department of Justice; Executive
16 Office of Immigration Review; The GEO
17 Group, Superintendent of Karnes County
18 Immigration Processing Center.


19 Respondents.

Civil Action No. 5:26-cv-144

**PETITION FOR WRIT OF
HABEAS CORPUS**

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INTRODUCTION

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2 1. Petitioner, Santos Alvinos Lopez Sanchez (A ) is in the physical
3 custody of Respondents at the Karnes County Immigration Processing Center. He now faces
4 unlawful detention because the Department of Homeland Security (DHS) and the Executive
5 Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory
6 detention.

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

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

15 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
16 Board) issued a precedent decision, binding on all immigration judges, holding that an
17 immigration judge has no authority to consider bond requests for any person who entered the
18 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
19 The Board determined that such individuals are subject to detention under 8 U.S.C. §
20 1225(b)(2)(A) and therefore ineligible to be released on bond.

21 5. Petitioner’s detention on this basis violates the plain language of the Immigration
22 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
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1 previously entered and are now residing in the United States. Instead, such individuals are
2 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
3 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
4 having entered the United States without inspection.

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

8 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released
9 unless Respondents provide a bond hearing under § 1226(a) within seven days.

11 JURISDICTION

12 8. Petitioner is in the physical custody of Respondents. Petitioner has been detained
13 at the Karnes County Immigration Processing Center since October 8, 2025.

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

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

20 VENUE

21 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
22 500 (1973), venue lies in the United States District Court for the Western District of Texas,

1 because Respondents are employees, officers, and agencies of the United States, and because a
2 substantial part of the events or omissions giving rise to the claims occurred in the Western
3 District of Texas.

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5 **REQUIREMENTS OF 28 U.S.C. § 2243**

6 12. The Court must grant the petition for writ of habeas corpus or order Respondents
7 to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an
8 order to show cause is issued, Respondents must file a return “within three days unless for good
9 cause additional time, not exceeding twenty days, is allowed.” *Id.*

10 13. Habeas corpus is “perhaps the most important writ known to the constitutional
11 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
12 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
13 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
14 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
15 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

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17 **PARTIES**

18 14. Petitioner Santos Alvinos Lopez Sanchez is alleged to be a citizen of Honduras
19 who is in immigration detention at the Karnes County Immigration Processing Center, where he
20 had been detained since October 8, 2025. After arresting Petitioner, ICE did not set bond and
21 Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board’s decision in
22 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Petitioner was denied bond by an
23 Immigration Judge due to lack of jurisdiction.

1 15. Respondent Todd M. Lyons is the Acting Director of ICE. In his official capacity,
2 he oversees all ICE operations nationwide, including detention and removal decisions. He is
3 responsible for setting and enforcing ICE policy and may authorize or delay removal of
4 noncitizens in ICE custody.

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

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

12 18. Respondent Pamela Bondi is the Attorney General of the United States. She is
13 responsible for the Department of Justice, of which the Executive Office for Immigration Review
14 and the immigration court system it operates is a component agency. She is sued in her official
15 capacity. The Executive Office for Immigration Review (EOIR) is the federal agency responsible
16 for implementing and enforcing the INA in removal proceedings, including for custody
17 redeterminations in bond hearings.

18 19. Respondent The GEO Group is the private operator of the Karnes County
19 Immigration Processing Center.

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21 **LEGAL FRAMEWORK**

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

1 21. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
2 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
3 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
4 while noncitizens who have been arrested, charged with, or convicted of certain crimes are
5 subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

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

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

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

12 25. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
13 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
14 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
15 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1,
16 139 Stat. 3 (2025).

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

22 27. Thus, in the decades that followed, most people who entered without inspection
23 and were placed in standard removal proceedings received bond hearings, unless their criminal
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1 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
2 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
3 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
4 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
5 “restates” the detention authority previously found at § 1252(a)).

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

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

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

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

21 32. Even before ICE or the BIA introduced these nationwide policies, IJs in the
22 Tacoma, Washington, immigration court stopped providing bond hearings for persons who

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24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 entered the United States without inspection and who have since resided here. There, the U.S.
2 District Court in the Western District of Washington found that such a reading of the INA is
3 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
4 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
5 1239 (W.D. Wash. 2025).

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

1 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
2 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
3 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
4 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
5 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
6 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
7 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
8 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

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

12 35. Section 1226(a) applies by default to all persons “pending a decision on whether
13 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
14 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

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

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

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

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

14 40. Petitioner is being irreparably harmed by his ongoing unlawful detention without
15 a bond hearing.

16 41. The Immigration Court lacks jurisdiction to adjudicate the constitutional claims
17 raised by Petitioner, and any attempt to raise such claims would be futile. *See Flores-Powell*,
18 677 F. Supp. 2d at 463 (holding “exhaustion is excused by the BIA’s lack of authority to
19 adjudicate constitutional questions and its prior interpretation” of the relevant statute).

20 42. There is no statutory requirement for Petitioner to exhaust administrative
21 remedies. Accordingly, there is no requirement for Petitioner to further exhaust administrative
22 remedies before pursuing this Petition. *See Portela-Gonzalez v. Sec’y of the Navy*, 109 F.3d 74,
23 (1st Cir. 1997) (explaining that, where statutory exhaustion is not required, administrative
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1 exhaustion not required in situations of irreparable harm, futility, or predetermined outcome).
2 However, in this case, with the Petitioner making a motion for custody redetermination
3 following his detention that that motion being denied by the Immigration Judge, the Petitioner
4 has truly exhausted all possible administrative remedies.

5
6 **FACTS**

7 43. Petitioner, Santos Alvinos Lopez Sanchez, has resided in the United States since
8 2013. His residence is in Germantown, MD.

9 44. Petitioner has been detained by ICE since October 8, 2025.

10 45. Petitioner is pursuing immigration relief in the form of a Green Card through an
11 Application to Register Permanent Residence of Adjust Status (I-485). He is *prima facie* eligible
12 for this relief because he has an approved I-360, Petition for Amerasian, Widow(er) or Special
13 Immigrant based on being granted Special Immigrant Juvenile Status.

14 46. Petitioner has steady employment as a landscaper and has a fixed address. Upon
15 information and belief, he does not have a criminal record that would make him subject to
16 mandatory detention.

17 47. Following Petitioner's arrest and transfer to the Karnes County Immigration
18 Processing Center, ICE issued a custody determination to continue Petitioner's detention without
19 an opportunity to post bond or be released on other conditions. Petitioner requested a bond
20 hearing, but an Immigration Judge denied bond based on lack of jurisdiction.

21 48. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
22 Petitioner's bond request.

1 49. As a result, Petitioner remains in detention. Without relief from this court, he
2 faces the prospect of months, or even years, in indefinite immigration custody, separated from
3 his family and community.

4
5 **CLAIMS FOR RELIEF**

6 **COUNT I**
7 **Violation of the INA**

8 50. Petitioner incorporates by reference the allegations of fact set forth in the
9 preceding paragraphs.

10 51. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
11 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
12 relevant here, it does not apply to those who previously entered the country and have been
13 residing in the United States prior to being apprehended and placed in removal proceedings by
14 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
15 § 1225(b)(1), § 1226(c), or § 1231.

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

18 **COUNT II**
19 **Violation of the Bond Regulations**

20 53. Petitioner incorporates by reference the allegations of fact set forth in preceding
21 paragraphs.

22 54. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-
23 Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.
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1 Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the
2 agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present
3 without having been admitted or paroled (formerly referred to as [noncitizens] who entered
4 without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323
5 (emphasis added). The agencies thus made clear that individuals who had entered without
6 inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §
7 1226 and its implementing regulations.

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

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

12
13 **COUNT III**
14 **Violation of Due Process**

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

17 58. The government may not deprive a person of life, liberty, or property without due process
18 of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody,
19 detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause
20 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

22 60. The government’s detention of Petitioner without a bond redetermination hearing to
23 determine whether he is a flight risk or danger to others violates his right to due process.
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1 **PRAYER FOR RELIEF**

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

- 3 a. Assume jurisdiction over this matter;
- 4 b. Order that Petitioner shall not be transferred outside the state of Texas while this
5 habeas petition is pending;
- 6 c. Issue an Order to Show Cause ordering Respondents to show cause why this
7 Petition should not be granted within three days;
- 8 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
9 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
10 1226(a) within seven days;
- 11 e. Declare that Petitioner’s detention is unlawful;
- 12 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
13 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under
14 law; and
- 15 g. Grant any other and further relief that this Court deems just and proper.

16 DATED this 13th day of January 2026.

17 */s/Brian Scott Green*
18 Brian Scott Green
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Santos Alvinos Lopez Sanchez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 13th day of January 2026.

s/Brian Scott Green
Brian Scott Green