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

JUAN PABLO MANCILLAS-BARRERA

Petitioner,

v.

ROSE THOMPSON, Warden,
Karnes County Immigration Processing Center;

MIGUEL VERGARA, Acting/Director
of the San Antonio Field Office U.S.
Immigration and Customs Enforcement;

TODD LYONS, Acting Director,
Immigration and Customs Enforcement

KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security; and

PAMELA BONDI, Attorney General
of the United States, in their official capacities,

Respondents.

Case No. 5:26-cv-00205

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Juan Pablo Mancillas Barrera is currently detained by the Department of Homeland Security (DHS) at the Karnes County Immigration Processing Center in Karnes City, Texas. **Exh C- ICE Detainee Locator.** Petitioner anticipates DHS will assert he is subject to mandatory detention under 8 U.S.C. § 1225(b) and therefore ineligible for a bond hearing.
2. Petitioner entered the United States in or around February 2007 and has lived here continuously for approximately 19 years. He has been in DHS custody since November 21, 2025, with no foreseeable release date. Both DHS and the Executive Office for Immigration Review (EOIR) have wrongly classified his detention under § 1225(b), despite the statute not applying to his circumstances.
3. Numerous recent federal court decisions have rejected DHS's misapplication of § 1225(b) in similar contexts, recognizing that this provision does not authorize indefinite detention during removal proceedings for individuals already present in the United States.
4. This Court should grant the writ of habeas corpus, order Petitioner's immediate release, and declare that his continued detention violates both the Constitution and the Immigration and Nationality Act. Without such relief, Petitioner will remain in unlawful, indefinite detention.

JURISDICTION

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.* This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article

I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

6. Relief is sought 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).
7. Petitioner challenges the legality of his detention as a violation of constitutional and statutory law. These claims fall squarely within the habeas jurisdiction of federal district courts. The jurisdiction-stripping provisions found at 8 U.S.C. § 1252(a)(2)(A), § 1252(g) and § 1252(b)(9) do not apply.
8. Federal district courts have consistently held that these jurisdictional bars do not preclude habeas review of the proper application of INA detention provisions. *See e.g. Hernandez Fernandez v. Lyons et al*, No. 5:25-CV-00773-JKP, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025), *Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *2-4 (W.D. Tex. Oct. 16, 2025) (finding a case 'falls squarely outside' the jurisdictional bars where Petitioner was only 'challenging whether certain INA provisions require his detention without a bond hearing'); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *4 (W.D. Tex. Sept. 22, 2025) (rejecting government's jurisdictional arguments in nearly identical case).

VENUE

9. Venue is proper with this Court because Petitioner is detained at Karnes County Immigration Processing Center in Karnes City, Texas, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for Writ of Habeas Corpus or issue an order to show

cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

11. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

12. Petitioner Juan Pablo Mancillas Barrera is a native and citizen of Mexico who has resided in the United States since approximately February 2007. He is currently detained at the Karnes County Immigration Processing Center in Karnes City, Texas.
13. Respondent Rose Thompson is the Warden of the Karnes County Immigration Processing Center and he has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.
14. Respondent Miguel Vergara is sued in his official capacity as the Acting Field Office Director of the San Antonio Field Office of U.S. Immigration and Customs Enforcement. Respondent Vergara is a legal custodian of Petitioner and has authority to release him.
15. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.

16. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention / custody. Respondent Noem is a legal custodian of Petitioner.
17. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

18. Petitioner is a 36-year-old native and citizen of Mexico. He entered the United States without inspection on or around February 2007. Petitioner has lived and worked in and around the Seattle, Washington area for the last nineteen years.
19. On November 21, 2025, ICE arrested Petitioner while he was driving to work. Following his arrest, Petitioner was taken to the Northwest ICE Processing Center (NWIPC) in Tacoma, Washington. On November 21, 2025, DHS filed Form I-862, Notice to Appear ("NTA"), against Respondent to initiate removal proceedings. **See Exhibit A - Notice to Appear.**
20. On December 7, 2025, Petitioner was transferred to the Karnes County Immigration Processing Center in Karnes City, Texas where he has remained since that date. **See Exhibit B - Form I-830 Alien Address.**

21. Despite his long-term presence, Petitioner anticipates that DHS is detaining Petitioner under 8 U.S.C. § 1225(b). Petitioner, however, was not apprehended at the border and does not fit the statutory definition of an ‘applicant for admission’ covered by § 1225(b) because, among other things, he was not “seeking admission” at the time of his detention by DHS.
22. Petitioner will not be released by DHS pursuant to the government’s position asserting that neither DHS nor the EOIR have jurisdiction to release him. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
23. As a result, Petitioner now faces unlawful, indefinite detention absent intervention from this court.

LEGAL FRAMEWORK - 8 USC 1226 and 8 USC 1225

24. The Immigration and Nationality Act (INA) lays out three basic forms of detention for noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are 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). 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). Last, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

25. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2). 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 amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025), which added section 1226(c)(1)(A) to the prior statutory framework. Following the enactment of 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). Thus, in the decades that followed, most people who entered the U.S. without inspection—unless they were subject to some other detention authority—received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed to be “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)).
26. In July of 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who entered the United States without inspection or admission. Subsequently, on September 5, 2025 the Board of Immigration Appeals issued its precedent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), in which the Board held that all non-citizens who have not been inspected and admitted are

“applicant(s) for admission” and are thus subject to the mandatory detention provision found in 8 U.S.C. § 1225(b). In the decision, the Board applies highly questionable legal analysis and reasoning to arrive at its holding.

27. This interpretation defies the INA and Petitioner’s right to Due Process pursuant to the Fifth Amendment of the U.S. Constitution. Respondents’ new policy of summarily detaining all noncitizens who entered the U.S. at any time without being admitted or paroled turns well-established legal understanding and procedure on its head and violates the statutory scheme of the Immigration and Nationality Act. This unfounded legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings has already been rejected by “[m]ore than 300 federal judges” in “more than 1,600 cases”¹ who have rejected the application of § 1225(b)(2) to such cases.
28. First, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” 8 USC § 1226(a). These removal hearings are held under § 1229a, which “decid[e] the inadmissibility or deportability of a[] [noncitizen].” 8 USC § 1229a(a)(1).
29. 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). 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.

¹ *Hundreds of judges reject Trump’s mandatory detention policy, with no end in sight*, POLITICO (Jan. 5, 2026), <https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494>

30. By contrast, § 1225(b) provides that “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). “Thus, for § 1225(b)(2)(A) to apply, several conditions must be met—in particular, an “examining immigration officer” must determine that the individual is: (1) an “applicant for admission”; (2) “seeking admission”; and (3) “not clearly and beyond a doubt entitled to be admitted.” *See Martinez v. Hyde*, 2025 WL 2084238, at *6 (D. Mass. July 24, 2025). In other words, this requires (a) having a particular status, namely that of being an “applicant for admission”; (b) an affirmative, present tense act, namely that of “seeking admission”; and (c) a contemporaneous determination in response to said act by an examining immigration official, namely a determination that one is not “entitled to be admitted.”
31. The provision’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 implementing regulations at 8 C.F.R. § 1.2 addresses noncitizens who are presently “coming or attempting to come into the United States.” The statutory and regulatory text’s use of the present and present progressive tenses excludes noncitizens apprehended in the interior, because they are no longer in the process of arriving in or seeking admission to the United States. *See, e.g., Martinez*, 2025 WL 2084238 at *6 (citing the use of present and present progressive tense to support the conclusion that § 1225(b)(2) does not apply to individuals apprehended in the interior). Although the BIA’s reasoning in *Yajure-Hurtado* draws from the Supreme Court’s decision in *Jennings v. Rodriguez*,

583 U.S. 281 (2018) the Supreme Court in *Jennings* recognized the above distinction, stating that § 1225 “applies primarily to aliens seeking entry into the United States.” *Jennings*, at 297. The Supreme Court then notes that § 1226 “applies to aliens already present in the United States.” *Id.* at 303.

32. Second, traditional canons of statutory construction defy Respondents’ position. Under “one of the most *basic* interpretive canons ... [a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]” *Corley v. United States*, 556 U.S. 303, 314 (2009) (emphasis added). “This principle ... applies to interpreting any two provisions in the U.S. Code, even when Congress enacted the provisions at different times.” *Bilski v. Kappos*, 561 U.S. 593, 607–08 (2010). Here, if the Respondents’ position were correct, and § 1225’s mandatory detention provisions apply to *all* inadmissible non-citizens then it would render superfluous provisions of 1226 that apply to certain categories of inadmissible noncitizens. See § 1226(c)(1)(A), (D), (E). See *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *18 (W.D. Wash. Sept. 30, 2025) (“Put another way, section 1226(c)(1)(E)’s mandated detention for inadmissible noncitizens who are implicated in an enumerated crime, including those “present in the United States without being admitted or paroled,” would be meaningless since “all noncitizens who have not been admitted” would already be governed by 1225’s mandatory detention authority.”) (emphasis added). See also *Corley v. United States*, 556 U.S. 303, 314, n.5 (explaining that seemingly conflicting statutes read in isolation can be reconciled if read in their broader context, which includes observing the anti-superfluosity canon).

33. Third, the recent Laken Riley Act amendments lend further support for this unassailable reading of § 1226. “When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.” *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995). In January 2025, Congress passed the Laken Riley Act, Pub. L. 119-1, 139 Stat. 3 (2025), which carved out an *additional* category of noncitizens from 1226(a)’s discretionary detention scheme. This category includes those noncitizens who are deemed inadmissible, including for being “present in the United States without being admitted or paroled,” and who have been arrested, charged with, or convicted of certain crimes. § 1226(c)(1)(E). If § 1226(a) did not apply to noncitizens who are inadmissible for entering without having been admitted, then the added language applying § 1226(c)(1)(E) to those particular inadmissible noncitizens would render Congress’ most recent amendments to the INA as surplusage. “These ‘specific exceptions’ for inadmissible noncitizens who are arrested, charged with, or convicted of the enumerated crimes logically leaves those inadmissible noncitizens not criminally implicated under Section 1226(a)’s default rule for discretionary detention.” *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *19 (W.D. Wash. Sept. 30, 2025). Reading § 1225(b) to cover everyone present without admission would nullify the newly added § 1226(c)(1)(E) and the long-standing authority of § 1226(a). Congress’s decision to target only certain inadmissible non-citizens with specific criminal conduct for mandatory detention under § 1226(c)(1)(E) proves that the general rule under § 1226(a) applies to other inadmissible non-citizens. In sum, the statute can only be interpreted one way: 1225(b)(2)(A) applies to apprehensions at the border, while 1226(a) applies to apprehensions in the interior.

34. Fourth, Respondents' position is also in conflict with the legislative history of Section 1226(a). Upon passing IIRIRA, Congress declared that the new § 1226(a) "restates the current provisions in [the predecessor statute] regarding the authority of the Attorney General to arrest, detain, and release on bond a[] [noncitizen] who is not lawfully in the United States." *See* H.R. Rep. No. 104-469, pt. 1, at 229; *see also* H.R. Rep. No. 104-828, at 210 (same). Similarly, in a 1997 interim rule issued "to implement the provisions of [IIRIRA]," the underlying EOIR federal register notice explains that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled...will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). "Because noncitizens arrested while unlawfully residing in the United States were entitled to discretionary detention under section 1226(a)'s predecessor statute, and Congress declared its scope unchanged by IIRIRA, this background supports the position" that Petitioner "is subject to discretionary detention." *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *23 (W.D. Wash. Sept. 30, 2025)
35. Overwhelmingly, "almost every district court to consider this issue has concluded, 'the statutory text, the statute's history, Congressional intent, and § 1226(a)'s application for the past three decades" support finding that § 1226 applies to these circumstances." *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025) (citing *Pizarro Reyes*, 2025 WL 2609425, at *4). *See also Lopez-Arevelo*, 2025 WL 2691828, at *7 ("In recent weeks, courts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect."); *Rodriguez v. Bostock*, No. 3:25-cv-5240, 2025 WL 2782499, at *1 &

n.3 (W.D. Wash. Sep. 30, 2025) (collecting cases and noting that “[e]very district court to address” the statutory question “has concluded that the government’s position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice”); *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947, at *6 (D. Minn. Oct. 1, 2025) (joining the “chorus” of courts concluding that § 1226 applies).

36. This includes cases resolved in this district. *See e.g. See Granados v. Noem et al*, No. SA-25-CA-01464-XR, 2025 WL 3296314 (W.D.T.X. 11/26/2025), *Aguilar v. Bondi et al*, No. 5:25-CV-01453-JKP, 2025 WL 3471417 (W.D.T.X. 11/26/2025), *Guzman-Tovar v Noem et al*, No. 5:25-CV-1509-JKP, 2025 WL 3471416 (W.D.T.X. 11/25/2025), *Martinez Orellana v. Noem et al*, No. 5:25-CV-1028-JKP, 2025 WL 3471569 (W.D.T.X. 11/24/2025), *Miralrio Gonzalez v. Ortega et al*, No. 5:25-CV-1156-JKP, 2025 WL 3471571 (W.D.T.X. 11/24/2025), *Cardona-Lozano v. Noem et al*, No. 1:25-CV-1784-RP, 2025 WL 3218244 (W.D.T.X. 11/14/2025), *Becerra Vargas v. Noem et al*, No. SA-25-CV-1023-FB (HJB), 2025 WL 3300446 (W.D.T.X. 11/12/2025), *Ortega Munoz v. Noem et al*, No. 1:25-CV-1753-RP, 2025 WL 3218241 (W.D.T.X. 11/07/2025) (decision on a Temporary Restraining Order), *Rojas Vargas v. Bondi et al*, No. 1:25-cv-01699-DAE, 2025 WL 3251728 (W.D.T.X. 11/05/2025) (decision on a Temporary Restraining Order).

DUE PROCESS

37. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003). “To determine whether a civil detention violates a detainee’s due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).” *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL

2598379, at *2 (W.D. Tex. Sept. 8, 2025). Those factors are: (1) “the private interest that will be affected by the official action”; (2) “the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards”; and (3) “the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335, 96 S.Ct. 893.

38. As to the first element, “[t]he interest in being free from physical detention’ is ‘the most elemental of liberty interests.’ ” *Martinez v. Noem*, 2025 WL 2598379, at *2 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004)). Petitioner possesses a cognizable interest in his freedom from detention because he spent eleven years at liberty in the United States. See *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *11 (W.D. Tex. Sept. 22, 2025) (“Because he spent nearly three years at liberty in the United States, Lopez-Arevelo possesses a cognizable interest in his freedom from detention.”)
39. Under the second *Mathews* factor, the Court considers “whether the challenged procedure creates a risk of erroneous deprivation of individuals’ private rights and the degree to which alternative procedures could ameliorate these risks.” *Martinez v. Noem*, 2025 WL 2598379, at *3 (quoting *Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025)).
40. The risk of erroneous deprivation of his liberty under the current procedures is extraordinarily high. Petitioner unquestionably has a due process right to his liberty, which may not be abridged absent adequate procedural protections. The Supreme Court has explained that “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process]

Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Due process requires that immigration detention “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas*, 533 U.S. at 690). Specifically, immigration detention must be reasonably related to the government’s goals of preventing flight and protecting the community from harm, and be accompanied by adequate procedural protections to ensure that those goals are being served. *See Zadvydas*, 533 U.S. at 690-91. There is a high risk that Petitioner has been and will continue to be erroneously deprived of his liberty, without regard to any “reasonable relation” to any legitimate government purpose, and is therefore in violation of his right to substantive due process.

CAUSES OF ACTION

COUNT ONE

Violation of Fifth Amendment Right to Due Process

41. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
42. 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, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).
43. Petitioner has a fundamental interest in liberty and being free from official restraint.
44. The government’s detention of Petitioner without the opportunity to request a bond redetermination hearing to determine whether he is a flight risk or danger to others

violates his right to Due Process pursuant to the Fifth Amendment.

COUNT TWO
Violation of the Immigration and Nationality Act
Unlawful Application of Mandatory Detention under 8 U.S.C. 1225(b)

45. Petitioners repeat, re-allege, and incorporate by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
46. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are present in the U.S. without having been inspected and admitted. Such noncitizens are detained under § 1226(a).
47. The application of § 1225(b)(2) to bar Petitioner from receiving any meaningful review of his detention through a bond redetermination hearing before an immigration judge or other process violates the Immigration and Nationality Act.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays this Honorable Court to grant the following:

- (1) Assume jurisdiction over this matter and maintain jurisdiction to the extent necessary to ensure Respondents' compliance with any order this Court may issue;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (3) Declare that the refusal to allow Petitioners a bond redetermination hearing before an immigration judge violates the INA and the Due Process clause of the Fifth Amendment;
- (4) Issue a Writ of Habeas Corpus requiring that Respondents immediately release the Petitioner, or, in the alternative, provide a custody redetermination hearing before this

District Court where the Government bears the burden to prove by clear and convincing evidence that the detainee poses a danger or flight risk;

- (5) Maintain jurisdiction over the Petitioner until the Respondents have properly complied with any Order of this Court;
- (6) Order further relief as this Court deems just and appropriate.

Respectfully submitted,

/s/ Mark Kinzler

Mark Kinzler, Esq.

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Attorney for Petitioner

Dated: January 16, 2026

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner Juan Pablo Mancillas Barrera 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 16th day of January, 2026.

/s/ Mark Kinzler
Mark Kinzler, Esq.
Oregon State Bar No. 05298-8
Attorney for Petitioner

CERTIFICATE OF SERVICE

Mancillas Barrera v. Thompson
Civil Action No. 5:26-cv-

I hereby certify that on January 16, 2026, I have mailed by United States Postal Service the Petition for Writ of Habeas Corpus by certified mail to the following:

Stephanie Rico
Civil Process Clerk Office of the United States Attorney for the Western District
of Texas
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216-5597

Rose Thompson
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Miguel Vergara
San Antonio Field Office Director of Enforcement and Removal Operations
1777 NE Loop 410
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San Antonio, TX 78217

Todd M. Lyons
Acting Director of Immigration Customs Enforcement
500 12th St SW
Washington, DC 20536

Secretary of Homeland Security Kristi Noem
2707 Martin Luther King Jr., Ave., SE
Washington, DC 20528-0485

U.S. Attorney General Pamela Bondi
950 Pennsylvania Ave NW
Washington, DC 20530

The above respondents were also named in the CM/ECF habeas corpus filing with the Western District of Texas court

/s/ Mark Kinzler

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

JUAN PABLO MANCILLAS-BARRERA

Petitioner,

v.

ROSE THOMPSON, WARDEN, KARNES
COUNTY IMMIGRANT PROCESSING
CENTER; *et al.*,

Respondents.

Civil Action No. 5:26-CA-00205-XR

**ABBREVIATED RESPONSE TO HABEAS PETITION AND REQUEST TO PROCEED
WITHOUT ORAL ARGUMENT**

Federal Respondents provide the following timely response to Petitioner's habeas petition.¹ Any allegations that are not specifically admitted herein are denied. Petitioner is not entitled to the relief sought, including attorney's fees under the Equal Access to Justice Act ("EAJA").² The legal issues presented in this Petition for Writ of Habeas Corpus ("Petition") concern the statutory authority for U.S. Immigration and Customs Enforcement's ("ICE") detention of Petitioner, whether Petitioner is entitled to a bond hearing. While reserving all rights, including the right to appeal, Respondents submit this abbreviated response to preserve the legal issues and to conserve judicial and party resources.

Respondents acknowledge that this Court's prior rulings concerning similar challenges to the government policy or practice at issue in this case, and the common question of law between

¹ The Department of Justice represents only federal employees in this action.

² *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023).

this case and those rulings, would control the result in this case should this Court follow its legal reasoning in its prior decisions. *See Navarro v. Bondi et al*, No. 5:25CV1468-FB (W.D. Tex. Dec. 2, 2025); *Moradi v. Thompson et al*, No.5:25CV1470-OLG (W.D. Tex. Dec. 18, 2025); *Reyes v. Thomspon et al*, No.5:25CV1590-XR (W.D. Tex. Dec. 12, 2025); *Acosta-Balderas v. Bondi et al*, No.5:25CV1629-JKP (W.D. Tex. Dec. 11, 2025); *Tisighe v. De Anda-Ybarra et al*, 3:25CR593-KC (W.D. Tex. Dec. 5, 2025); *Chauhan v. Noem et al*, 3:25CV574-DB (W.D. Tex. Dec. 8, 2025); *Gvedashvili v. Mooneyham et al*, 6:25CV552-ADA-DTG (W.D. Tex. Dec. 22, 2025); While Respondents respectfully disagree with those decisions, the factual and legal issues presented in the instant habeas petition do not differ in any material fashion from those presented in *Navarro v. Bondi*, *Moradi v. Thompson*, *Reyes v. Thomspon*, *Acosta-Balderas v. Bondi et al*, *Tisighe v. De Anda-Ybarra et al*, *Chauhan v. Noem et al*; and *Gvedashvili v. Mooneyham et al* namely, both the instant petition and the cases cited primarily concern whether an alien who is present in the United States without admission is properly subject to mandatory detention (*i.e.*, detention without the prospect of release on bond) during the pendency of his administrative removal proceedings pursuant to 8 U.S.C. § 1225(b). This Court should incorporate the filings in *Navarro v. Bondi*, *Moradi v. Thompson*, *Reyes v. Thomspon*, *Acosta-Balderas v. Bondi et al*, *Tisighe v. De Anda-Ybarra et al*, *Chauhan v. Noem et al* and *Gvedashvili v. Mooneyham et al* into the record of this habeas action.

Should the Court prefer to receive a more exhaustive opposition brief, Respondents respectfully request leave to file such a brief upon the Court's request.

Discussion

Petitioner principally seeks an order from this Court directing ICE to immediately release Petitioner from ICE detention. Petitioner argues that Petitioner's detention is governed by INA § 236, 8 U.S.C. § 1226, that Petitioner is being unlawfully detained and deprived of a bond hearing, and that the detention violates the Fifth Amendment to the United States Constitution, 8 U.S.C. § 1226, and the Administrative Procedures Act ("APA")³.

Respondents contend that Petitioner's detention is governed by INA § 235, 8 U.S.C. § 1225, because as an alien who entered without inspection or parole was and remains an applicant for admission. As such, Petitioner is subject to mandatory detention and not entitled to a bond hearing before the immigration judge. Respondents further contend Petitioner should be required to exhaust their administrative remedies before bringing a habeas challenge in federal court.

Respondents further rely upon *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025). There, the BIA examined the plain language of § 1225, the INA's statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub L. No. 104-208, and DHS's prior practices. After doing so, the BIA held that "under a plain language reading of section

³ Petitioner did not pay the filing fee for non-habeas claims. *See Ndudzi v. Castro*, No. SA-20-CV-0492-JKP, 2020 WL 3317107 at *2 (W.D. Tex. June 18, 2020) (citing 28 U.S.C. § 1914(a)). "When a filing contains both habeas and non-habeas claims, 'the district court should separate the claims and decide the [non-habeas] claims' separately from the habeas ones given the differences between the two types of claims. *Id.* (collecting cases and further noting the "vast procedural differences between the two types of actions"). Given the differences, the Court should either sever the non-habeas claims or dismiss them altogether without prejudice if severance is not warranted. *Id.* at *3.

235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the respondent, who are present in the United States without admission.” 29 I&N Dec. at 225. Respondents contend this Court should rule the same.

Respondents acknowledge that questions of law in this case, and the challenges to the government’s policy and practice, substantially overlap with those at issue in the litigation cited above. Accordingly, while preserving all rights, Respondents incorporate by reference the legal arguments it presented in those cases. Should the Court apply the same reasoning it did in those cases to this one, the legal principles espoused in those cases would likely result in the same outcome here. Because of this, Respondents submit that further briefing on the issues addressed in those cases is not a good use of judicial or party resources. In its current posture and based upon the Court’s prior rulings, the Court can decide this matter without delay. If, however, the Court prefers a full opposition brief in this matter, Respondents will provide a brief upon the Court’s request.

Should this Court order release of Petitioner, Respondents request that the release order specify a date for release expressed by a calendar day instead of hours. Respondents further request that a time for release not be set. Releases from detention facilities carry unique security considerations for each person being released. It requires coordination within the detention facility and with the Petitioner, their family and/or their counsel. Setting an exact time for release beyond the calendar date can unduly burden the already complicated process.

Conclusion

Respondents appreciate the Court’s consideration of this abbreviated response and respectfully request that the Court deny this Petition.

Dated: January 28, 2026

Respectfully submitted,

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