

Aaron J. Aisen, Esq.
Aisen Law, PLLC
1967 Wehrle Drive
Suite 3 – PMB 225
Buffalo, New York 14221
Attorney for Petitioner

Maria Ganotice-Olis, Esq.
Wildes & Weinberg P.C.
515 Madison Ave, Fl 6
New York, New York 10022
(212) 753-3468
Attorney for Petitioner, *pending pro hac vice admission*

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

CESAR CONTRERAS-RUIZ,
A 

Civil Action No.: 5:26-cv-227

Petitioner,

-against-

ROSE THOMPSON, WARDEN, KARNES
COUNTY IMMIGRATION
PROCESSING CENTER; TODD M.
LYONS, ACTING DIRECTOR,
IMMIGRATION AND CUSTOMS
ENFORCEMENT; KRISTI NOEM,
SECRETARY, U.S. DEPARTMENT OF
HOMELAND SECURITY; PAMELA
BONDI, U.S. ATTORNEY GENERAL;
IN THEIR OFFICIAL CAPACITIES,

Respondents.

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

INTRODUCTION

1. This is a petition for writ of habeas corpus, challenging the illegal and unconstitutional detention of Petitioner, Cesar Contreras-Ruiz (“Petitioner” or “Mr. Contreras”), a native

and citizen of Mexico who entered the United States without inspection over twenty (20) years ago. The action arises under the Constitution, the Immigration and Nationality Act of 1952, as amended (“INA”) and 28 U.S.C. § 2241.

2. Petitioner has been detained in the custody of Immigration and Customs Enforcement (“ICE”) since November 4, 2025, when he was apprehended by Enforcement and Removal Operations (“ERO”) in Queens, New York. On the same date, he was placed in removal proceedings by service of a Notice to Appear (“NTA”), charging him with removability pursuant to § 212(a)(6)(A)(i) of the INA, as an alien present in the United States without being inspected or paroled. *See* Exhibit “A.” He is presently being held at the Karnes Country Immigration Processing Center, in Karnes City, Texas. His removal proceedings are currently pending at the Pearsall Immigration Court.
3. Petitioner’s continued unlawful detention is contrary to statute, the Constitution, and longstanding precedent and policy in the administration of U.S. immigration laws. As such, Petitioner asks this Court to find his continued detention to be unlawful and order his immediate release.

JURISDICTION AND VENUE

4. Pursuant to 28 U.S.C. § 2241, district courts have jurisdiction to hear habeas petitions by noncitizens who challenge the lawfulness of their detention under federal law. *Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 699 (2001); *Velasco Lopez v. Decker*, 978 F.3d 842, 850 (2d Cir. 2020). 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).

5. The Court may grant relief pursuant to 28 U.S.C. § 2241; the Declaratory Judgment Act, 28 U.S.C. § 2201; the APA, 5 U.S.C. §§ 702, 706; the All Writs Act, 28 U.S.C. § 1651; Federal Rule of Civil Procedure 65; and the Court's inherent equitable powers.
6. Venue is proper in the United States District Court for the Western District of Texas, as Petitioner is presently detained at the Karnes County Immigration Processing Center, in Karnes, Texas, which is within this District, and specifically the San Antonio Division.

PARTIES

7. Petitioner is a native and citizen of Mexico, who was arrested by ICE on November 4, 2025. Petitioner is currently detained at Karnes County Immigration Processing Center, and is therefore in the custody, and under the direct control, of Respondents and their agents. After arresting him, ICE did not set bond and have presumably deemed him subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) given the EOIR's precedent in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
8. Respondent Rose Thompson is named in her official capacity as the Warden of the Karnes County Immigration Processing Center, where Petitioner is currently detained. As such, Warden Thompson has immediate physical custody of Petitioner pursuant to the facility's contract with ICE to detain noncitizens, and is a legal custodian of Petitioner.
9. Respondent Todd Lyons is the Acting Director of ICE. In this capacity, he has responsibility for administration of the immigration laws pursuant to 8 U.S.C. 1101, and he is a legal custodian of Petitioner.
10. Respondent Kristi Noem is the Secretary of DHS. She too has responsibility for the administration of the immigration laws pursuant to 8 U.S.C. § 1103 and is a legal custodian of Mr. Contreras.

11. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States. She has responsibility for the administration of the immigration laws pursuant to 8 U.S.C. §1103 and is legal custodian of Petitioner.

FACTS

12. Petitioner is a citizen and national of Mexico who entered the United States without authorization by crossing the United States-Mexico border into Arizona in November 2004. At the time of his entry, Petitioner was approximately nineteen years old. He was not apprehended by and did not otherwise make any contact with U.S. immigration officers at the time of his entry into the country; this was Petitioner's sole entry into the United States; and he has not departed since that time. He is married and has three (3) U.S. citizen children, including one child with significant developmental and physical disabilities.
13. On November 4, 2025, Petitioner was detained by ICE in Queens, New York, where he has continuously resided since arriving in the United States over two decades ago. A bond amount was not set by ICE at the time of Petitioner's detention. Petitioner was initially held at a detention center in Brooklyn, New York and removal proceedings at the Varick Street Immigration Court were commenced against him through the issuance and filing of a Notice to Appear (NTA) dated November 4, 2025. *See* Exhibit "A."
14. Petitioner was subsequently transferred to the Karnes County Immigration Processing Center by ICE, and accordingly venue of his removal proceedings was changed to the Pearsall Immigration Court in Texas. As relief from removal, the Petitioner has filed an Application for Cancellation of Removal, Form EOIR-42B, based on the exceptional and extremely unusual hardship that his three (3) U.S. citizen children, will face if he is forced to return to his native Mexico. *See* Birth Certificates of U.S. citizen children at Exhibit

“B.” Notably, Petitioner meets all statutory requirements for Non-Permanent Resident Cancellation of Removal as he has resided in the U.S. for over twenty (20) years; has no disqualifying criminal convictions; and has three qualifying relative children, one of whom is significantly physically and developmentally disabled.

15. On December 9, 2025, Petitioner, through counsel, moved for custody redetermination by filing the appropriate motion with the Pearsall Immigration Court. In support of custody determination, extensive documentation was provided, establishing the good moral character of the Petitioner, his longstanding and strong ties to his community in New York, the hardship that his family is facing without his presence and that he is clearly not a flight risk. The Court thereafter scheduled Petitioner for a custody hearing on December 18, 2025. At the conclusion of that hearing, Immigration Judge (“IJ”) Thomas Crossan Jr. issued an order denying bond, stating that “[Petitioner] is an applicant for admission and is subject to mandatory detention” and *Matter of Yajure Hurtado* remains binding notwithstanding the then-issued orders in *Maldonado Bautista v. Santacruz Jr. et al.*, Docket No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025). See IJ’s Order at Exhibit “B.” IJ Crossan explicitly stated in his Order, “Until and unless the Bautista court issues a class-wide declaratory judgment or injunction, the Bautista court’s opinion and partial grant of summary judgment does not constitute a judgement.” *Id.* Later that evening, the District Court issued new orders in *Maldonado Bautista* making clear that class-wide declaratory judgment had been entered. See *Maldonado Bautista v. Santacruz Jr. et al.*, Docket No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025). The IJ’s Order made clear that the Court did not consider the merits of the bond redetermination request.

16. In accordance with the IJ's prior Order, a Motion to Reconsider the bond redetermination was filed with the Court on December 30, 2025. Despite the IJ's previous assertions in his first Order with respect to bond, on January 12, 2026, IJ Crossan denied reconsideration of the prior bond denial solely based on *Matter of Yajure Hurtado* not having been enjoined by the *Maldonado Bautista* orders, notwithstanding the actual holding of and relief ordered by the District Court. *See* IJ's January 12, 2026 Order at Exhibit "C."

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act

17. Petitioner repeats and realleges all prior paragraphs stated above as though fully set forth herein.
18. Section 235(b)(2)(A) of the Act renders a noncitizen "who is an applicant for admission" and is determined to be "an alien seeking admission [who] is not clearly beyond a doubt entitled to be admitted" subject to mandatory detention during the pendency of removal proceedings. *See* INA § 235(b)(2)(A).
19. Noncitizens not subject to mandatory detention under Section 235(b)(2)(A) or other provisions under the Act (such as for criminal removability or inadmissibility, or upon designation as an "arriving alien") are detained pursuant to Section 236(a) of the Act, which affords eligibility for discretionary release through custody hearings before an IJ. *See generally* INA § 236(a). In order to demonstrate that he or she merits bond, the noncitizen generally must establish that he or she is not a danger to the community, not a national security risk, and is not a flight risk. *See Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006) ("[A]n Immigration Judge must consider whether an alien who seeks a change in custody

status is a threat to national security, a danger to the community at large, likely to abscond, or otherwise a poor bail risk.”); *see also Matter of Urena*, 25 I&N Dec. 140, 141 (BIA 2009) (“The alien bears the burden of proving that his release would not pose a danger to property or persons.”).

20. Under longstanding practice, the government had interpreted Section 236(a) of the Act as applying to noncitizens who had entered the United States without inspection and were apprehended subsequent to their entry in the interior of the country. In fact, regulations that were drafted by EOIR following the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) made clear that, in general, individuals who entered the country without inspection were not considered detained under Section 235 and that they were instead detained Section 236(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) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination”). This understanding was based on the language of the Act itself; Section 235(b)(2)(A) only applies to “applicant[s] for admission” who are “seeking admission,” and thus because noncitizens who entered without inspection were not deemed as “seeking admission” this provision did not apply to them.
21. On September 5, 2025, the Board of Immigration Appeals (“the Board”) issued a precedential decision upending years of established practice by holding that Immigration Judges lack the authority to adjudicate bond requests for noncitizens who are present in the United States without admission. *See generally Matter of Yajure Hurtado*, 29 I. & N. Dec.

216 (BIA 2025). The Board claimed that “the plain language of the INA” meant that noncitizens who enter the United States without inspection are inherently “applicants for admission” who are “seeking admission” and that finding otherwise would constitute a “legal conundrum.” *Id.* at 221.

22. The Board’s sudden reinterpretation of Section 235(b)(2)(A) lacks support under both a statutory interpretation scheme and based on an assessment of Congressional intent. With regard to the former, the entire framework of this provision of the Act is premised on inspections at the border of individuals who are “seeking admission” to the United States. INA § 235(b)(2)(A). As previously emphasized by the United States Supreme Court, “[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.” *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958) (superseded by statute). Regarding the latter, the ongoing legislative activities of Congress relating to the detention provisions of the Act manifest a Congressional intent that flies in the face of the Board’s professed interpretation. As recently as January 2025, Congress enacted subparagraph (E) in the Laken Riley Act to exclude certain noncitizens who entered without inspection from Section 236(a)’s default discretionary bond provision. Subparagraph (E)’s reference to persons inadmissible under § 1182(6)(A), i.e., persons inadmissible for entering without inspection, makes clear that, by default, such people are afforded a bond hearing under Section 236(a). A basic canon of divining congressional intent is the precept that an interpretation should not render an act of Congress void or nugatory. *See, e.g., Costello v. INS*, 376 U.S. 120, 132 (1964) (“If Congress had wanted the relation-back doctrine of s 340(a) to apply to the deportation provisions of s 241(a)(4),

and thus to render nugatory and meaningless for an entire class of aliens the protections of 241(b)(2), Congress could easily have said so.”); *Diaz v. Robert Ruiz, Inc.*, 808 F.2d 427, 427 n.2 (5th Cir. 1987) (“To hold, as plaintiffs suggest . . . would, in most instances, render nugatory congressional intent . . .”); *Matter of S-P-*, 21 I&N Dec. 486, 489 (BIA 1996)(superseded by statute) (“Such a rigorous standard would largely render nugatory the Supreme Court’s decision”). The Board’s reinterpretation of Section 235(b)(2)(A) can thus only be deemed valid if all subsequent acts of Congress restricting the contours of discretionary bond eligibility for individuals who entered without inspection are entirely ignored.

23. This Court has repeatedly rejected the new interpretation of Section 235(b)(2)(A) of the Act by both ICE and the EOIR. *See, e.g., Ibarra Silva v. Bondi, et al.*, No. 1:25-CV-2155-DAE, 2026 WL 90060 (W.D. Tex. Jan. 12, 2026); *Mendoza-Menjivar v. Bondi, et al.*, No. 1:25-CV-2060-DAE, 2026 WL 89964 (W.D. Tex. Jan. 12, 2026); *Guillen-Mora v. Acting Dir. Todd M. Lyons et al.*, No. SA-25-CA-01864-XR, 2026 WL 94656 (W.D. Tex. Jan. 9, 2026); *Fabian-Granados v. Bondi, et al.*, No. 1:25-CV-2068-DAE, 2026 WL 90061 (W.D. Tex. Jan. 8, 2026); *Pineda v. Noem*, No. SA-25-CV-1518-XR, 2025 WL 3471418 (W.D. Tex. Dec. 2, 2025); *Granados v. Noem*, No. SA-25-CV-1464-XR, 2025 WL 3296314 (W.D. Tex. Nov. 26, 2025). Petitioner does not believe that there are any material differences between the instant case and these preceding orders of the Court, particularly with regard to the legal basis for detention and the relief sought.
24. This Court’s consistent rejection of the Board’s reinterpretation of Section 235(b)(2)(A) has been mirrored in hundreds of other District Court orders around the country. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025);

Diaz Martinez v. Hyde, No. CV 25-11613-BEM, 792 F. Supp. 3d 211, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025).

25. Accordingly, Section 235(b)(2)(A)'s mandatory detention provision related to "applicant[s] for admission" who are "seeking admission" does not apply to individuals like Petitioner who had already entered and were residing in the United States at the time of apprehension.

COUNT TWO

Violation of Fifth Amendment Due Process Clause

26. Petitioner repeats and realleges all prior paragraphs stated above as though as though fully set forth herein.

27. The Fifth Amendment provides that "[n]o person" shall be "be deprived of life, liberty, or property, without due process of law." As such, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Moreover, "[t]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

28. Respondents' unlawful mandatory detention of Petitioner without consideration for release on bond or access to a bond hearing on the merits violates his due process rights.

COUNT THREE

Violation of the Administrative Procedure Act

29. Petitioner repeats and realleges all prior paragraphs stated above as though as though fully set forth herein.
30. The mandatory detention provision at Section 235(b)(2) of the Act does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection. Such noncitizens are detained under Section 236(a), unless they are subject to another detention provision, such as Section 235(b)(1) or 236(c).
31. The application of Section 235(b)(2) to Petitioner by Respondents is arbitrary, capricious, and not in accordance with law, and thus violates the APA. *See* 5 U.S.C. § 706(2).

PRAYER FOR RELIEF

WHEREFORE, Mr. Contreras prays that the Court grant the following relief:

- A. Assume jurisdiction over this matter;
- B. Issue an order to show cause to be returned within three days;
- C. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court pending the resolution of this case;
- D. Issue a writ of habeas corpus ordering the immediate release of Mr. Contreras from the DHS detention facility, either on his own recognizance or under parole, bond or reasonable conditions of supervision;
- E. In the alternative, Petitioner requests a bond hearing within seven days with the burden on the government to show by clear and convincing evidence that he is a flight risk and/or

danger to persons or property and that no alternatives to detention exist to mitigate that risk.

- F. Award Petitioner costs and reasonable attorneys' fees as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412, or other statute;
- G. Granting such other and further relief as the Court deems just and proper.

Dated: January 16, 2026
Buffalo, New York

Respectfully submitted,

/s/ Aaron J. Aisen
Aaron Aisen, Esq.
Aisen Law, PLLC
1967 Wehrle Drive
Suite 3 – PMB 225
Buffalo, New York 14221
aaisen@ecbavlp.com
Attorney for Petitioner

/s/
Maria Ganotice-Olis, Esq.
Wildes and Wineberg P.C.
515 Madison Ave, Fl 6
New York, New York 10022
(212) 753-3468
mia@wildeslaw.com
Attorney for Petitioner,
Pro Hac Vice Application Pending

28 U.S.C. § 2242 VERIFICATION STATEMENT

I submit this verification on behalf of Petitioner because I am one of Petitioner's attorneys. I verify that the statements made in this Verified Petition for a Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED: January 16, 2026
New York, New York

/s/ Maria Ganotice-Olis
Maria Ganotice-Olis, Esq.
515 Madison Ave, Fl 6
New York, New York 10022
(212) 753-3468
mia@wildeslaw.com
Attorney for Petitioner, *pending Pro*
Hac Vice admission