

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF PENNSYLVANIA**

IVAN OSIPOV,

Petitioner,

v.

ANGELA HOOVER, in her official
capacity as the Warden of Clinton County
Correctional Facility,

MICHAEL ROSE, Field Office
Director of Enforcement and Removal
Operations, Philadelphia Field Office,
Immigration and Customs Enforcement,

Respondents.

Case No. 4:26-CV-00107

**PETITION FOR WRIT OF
HABEAS CORPUS**

28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Ivan Osipov ("Petitioner") is a citizen of Russia who entered the United States on December 11, 2022 pursuant to humanitarian parole granted at the San Ysidro, California port of entry. Petitioner's parole expired naturally on December 10, 2023. Petitioner has resided in the United States for approximately three years, building a life and community ties, before being arrested by Immigration and Customs Enforcement ("ICE") in the interior of the country in Bellefonte, Pennsylvania on September 17, 2025.

2. Respondents are unlawfully detaining Petitioner without providing him a bond hearing. Respondents maintain that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) because he purportedly remains an "applicant for admission." This position is legally incorrect. Petitioner's parole expired naturally—it was not terminated by the government.

Following expiration, Petitioner was present in the United States and is therefore detained under 8 U.S.C. § 1226(a), which entitles him to a bond hearing before an Immigration Judge.

3. Petitioner respectfully requests that this Court issue a writ of habeas corpus ordering his immediate release or, in the alternative, that Respondents provide Petitioner with a bond hearing within seven days at which the government must prove by clear and convincing evidence that Petitioner poses a danger to the community or is a flight risk.

JURISDICTION

4. This Court has jurisdiction over this Petition under 28 U.S.C. § 2241, which vests federal courts with authority to grant writs of habeas corpus to persons held "in custody in violation of the Constitution or laws . . . of the United States." 28 U.S.C. § 2241(c)(3). This Court also has jurisdiction pursuant to 28 U.S.C. § 1331 (federal question) and Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause).

5. The Supreme Court has "held that § 2241 habeas corpus proceedings remain available as a forum for statutory and constitutional challenges to post-removal-period detention." *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001). Federal courts have jurisdiction to review claims challenging the statutory basis for detention, including claims that the government is applying the wrong detention statute. *See Demore v. Kim*, 538 U.S. 510, 517 (2003).

6. This Court has authority to grant declaratory relief pursuant to 28 U.S.C. § 2201 (Declaratory Judgment Act) and to issue all writs necessary in aid of its jurisdiction pursuant to 28 U.S.C. § 1651 (All Writs Act).

VENUE

7. Venue is proper in this District under 28 U.S.C. § 2241 because Petitioner is detained within this District at the Clinton County Correctional Facility, located at 58 Pine Mountain Road, McElhattan, PA 17748. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 494-95 (1973).


8. Venue is also proper under 28 U.S.C. § 1391(e), which provides that civil actions against officers of the United States in their official capacities may be brought in any judicial district in which a defendant resides, a substantial part of the events giving rise to the claim occurred, or the plaintiff resides.

REQUIREMENTS OF 28 U.S.C. § 2243

9. Pursuant to 28 U.S.C. § 2243, "[a] court, justice or judge entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto."

10. The writ of habeas corpus is "the fundamental instrument for safeguarding individual freedom against arbitrary and lawless state action." *Harris v. Nelson*, 394 U.S. 286, 290-91 (1969). As the Supreme Court has emphasized, "[t]he very nature of the writ demands that it be administered with the initiative and flexibility essential to insure that miscarriages of justice within its reach are surfaced and corrected." *Id.*

PARTIES

11. Petitioner Ivan Osipov is a native and citizen of Russia. He is identified by Alien Registration Number  Petitioner is currently detained at the Clinton County Correctional Facility in McElhattan, Pennsylvania.

12. Respondent ANGELA HOOVER is the Warden of the Clinton County Correctional Facility. As the warden of the facility where Petitioner is detained, ANGELA HOOVER is the immediate custodian and is sued in her official capacity.

13. Respondent MICHAEL ROSE, is the Field Office Director of Enforcement and Removal Operations for the Philadelphia Field Office of U.S. Immigration and Customs Enforcement. MICHAEL ROSE, Acting is responsible for the custody and detention of individuals within that Field Office's jurisdiction and is sued in his or her official capacity.

LEGAL FRAMEWORK

14. The Immigration and Nationality Act ("INA") establishes three principal frameworks governing the detention of noncitizens: (1) 8 U.S.C. § 1225(b), which governs arriving aliens and certain individuals subject to expedited removal; (2) 8 U.S.C. § 1226, which governs the detention of noncitizens in standard removal proceedings; and (3) 8 U.S.C. § 1231, which governs post-removal-order detention.

15. Section 1226(a) provides the default detention authority for noncitizens in removal proceedings, authorizing the Attorney General to arrest and detain such individuals "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Under this provision, noncitizens are entitled to a bond hearing before an Immigration Judge.

16. Section 1225(b) applies to "applicant[s] for admission" and individuals apprehended at or near the border. The Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

17. In 1997, after Congress amended the INA through IIRIRA, the relevant agencies issued an interim rule clarifying that "despite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). This regulation confirms that individuals present in the United States—as opposed to arriving at the border—are detained under § 1226(a) and entitled to bond hearings.

STATEMENT OF FACTS

A. Petitioner's Background

18. Petitioner Ivan Osipov was born on [REDACTED] in Ulan-Ude, Russia. Petitioner fled Russia due to well-founded fears of persecution arising from [REDACTED]

[REDACTED]

19. Petitioner experienced significant persecution in Russia due to [REDACTED]

[REDACTED]

20. In October 2022, [REDACTED]
Petitioner fled Russia, fearing [REDACTED] He
traveled through multiple countries before arriving at the United States-Mexico border.

B. Entry and Parole

21. In December 2022, while in Mexico, Petitioner applied for and was granted humanitarian parole (DT Parole) to enter the United States. Petitioner entered the United States lawfully on December 11, 2022 at the San Ysidro, California port of entry pursuant to his parole grant.

22. Petitioner's parole was valid for one year, with an expiration date of December 10, 2023. Petitioner's parole was never terminated by the government—it simply expired by operation of its own terms.

23. Following his entry, Petitioner established himself in the United States. He initially resided in Chicago, Illinois from approximately December 2022 to April 2023. In April 2023, Petitioner relocated to Bellefonte, Pennsylvania, where he has resided continuously.

24. In Pennsylvania, Petitioner enrolled in English as a Second Language ("ESL") courses at Pennsylvania State University and made plans to pursue higher education. He established community ties and received medical treatment for pre-existing conditions, including cerebral palsy, depression, and post-traumatic stress disorder.

C. Detention

25. On September 17, 2025, Immigration and Customs Enforcement officers arrested Petitioner in Bellefonte, Pennsylvania—in the interior of the United States—nearly three years after his lawful entry and nearly two years after his parole had expired.

26. Petitioner has been detained at the Clinton County Correctional Facility since his arrest. As of the filing of this Petition, Petitioner has been detained for approximately 122 days.

27. Petitioner is in removal proceedings before the Elizabeth Immigration Court, with his next hearing scheduled for January 28, 2026 before Immigration Judge Leo A. Finston. Petitioner is charged with removability under INA § 212(a)(7)(A)(i)(I), as an immigrant not in possession of a valid unexpired immigrant visa or other valid entry document. Petitioner intends to seek asylum and withholding of removal based on his well-founded fear of persecution in Russia.

28. The Notice to Appear ("NTA") in Petitioner's case was issued on December 11, 2022—the same day Petitioner was paroled into the United States at the San Ysidro port of entry. The NTA designates Petitioner as an "arriving alien." However, this designation reflected Petitioner's status at the time of his initial presentation at the port of entry in December 2022. It does not reflect Petitioner's status nearly three years later, when he was arrested by ICE in the interior of the United States after having resided in Pennsylvania for over two years.

29. Despite being apprehended in the interior of the United States—years after his entry and long after his parole expired—Respondents have refused to provide Petitioner with a bond hearing, claiming that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2) as an "applicant for admission."

D. Respondents' Unlawful Policy

30. Respondents' denial of a bond hearing is based on recent agency policies, including the July 8, 2025 ICE memo and Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), which purport to apply 8 U.S.C. § 1225(b)(2) mandatory detention to individuals like Petitioner who were apprehended in the interior of the United States.

31. These policies conflict with the plain text of the INA, which applies § 1225(b) to "arriving aliens" at ports of entry—not to individuals who have been present in the United States for years. Federal courts across the country have uniformly rejected the government's new interpretation.

COUNT I

Violation of the Immigration and Nationality Act (8 U.S.C. § 1226(a))

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

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

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

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

36. Petitioner entered the United States on December 11, 2022 pursuant to humanitarian parole. His parole expired on December 10, 2023. Following the expiration of his parole, Petitioner remained in the United States—he was not "arriving" at a port of entry. When Petitioner was arrested on September 17, 2025 in Bellefonte, Pennsylvania, he had been living in the interior of the United States for nearly three years.

37. Although the NTA issued in December 2022 designated Petitioner as an "arriving alien," that designation reflected his status at the time he presented himself at the San Ysidro port of entry. The relevant inquiry for detention purposes is Petitioner's status at the time of his apprehension—not his status years earlier when he first sought admission. By September 2025, Petitioner had been physically present in the United States for nearly three years, had established residence in Pennsylvania, and was apprehended in the interior. He was not "arriving" in any meaningful sense.

38. The expiration of Petitioner's parole does not transform him into an "arriving alien" subject to § 1225(b)(2). Unlike a termination, which is an affirmative government action, expiration is simply the passage of time. Nothing in the INA suggests that a parolee whose parole

expires reverts to the status of an applicant for admission. To the contrary, the parolee is physically present in the United States and is subject to the standard detention provisions of § 1226(a).

39. Courts have uniformly rejected the government's interpretation. *See, e.g., Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873 (C.D. Cal. Nov. 25, 2025) (certifying nationwide class); *Calzado Diaz v. Noem*, No. 3:25-CV-00458, 2025 WL 3628480 (W.D. Pa. Dec. 15, 2025); *Quispe v. Lowe*, No. 3:25-CV-02276, 2025 WL 3537279 (M.D. Pa. Dec. 10, 2025).

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

COUNT II

Violation of the Bond Regulations

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

42. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "despite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (emphasis added).

43. The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before Immigration Judges under 8 U.S.C. § 1226 and its implementing regulations.

44. In the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an Immigration Judge or other hearing officer.

45. Petitioner's situation is analogous. Following the expiration of his parole, Petitioner was present in the United States without having been admitted. Under the 1997 regulations and decades of consistent practice, Petitioner is eligible for a bond hearing.

46. Nonetheless, pursuant to Matter of Yajure Hurtado and the July 2025 ICE memo, Respondents now have a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

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

COUNT III

Violation of the Due Process Clause - Detention Without Hearing

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

49. The Fifth Amendment provides that "[n]o person shall . . . be deprived of life, liberty, or property, without due process of law." U.S. Const. amend. V. This protection extends to all

"persons" within the United States, regardless of immigration status. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

50. Civil immigration detention is constitutionally permissible only when it serves its intended regulatory purpose—ensuring a noncitizen's presence at removal proceedings or effectuating removal. When detention becomes punitive or unreasonably prolonged without adequate procedural safeguards, it violates due process.

51. Petitioner has been detained for approximately 122 days without any individualized determination that continued detention is necessary. Respondents' categorical denial of a bond hearing, without any consideration of Petitioner's individual circumstances—including his strong asylum claim based on documented political persecution, his medical conditions requiring ongoing treatment, his lack of any criminal convictions, and his community ties in Pennsylvania—violates the Due Process Clause.

52. Due process requires, at minimum, that Petitioner receive a bond hearing before a neutral adjudicator at which the government bears the burden of proving by clear and convincing evidence that Petitioner poses a danger to the community or is a flight risk.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully prays that this Court:

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the M.D. Pa. 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 as required by 28 U.S.C. § 2243;
- d. Declare that Petitioner's detention is unlawful;
- e. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner;
- f. In the alternative, order Respondents to provide Petitioner with a bond hearing within seven (7) days before an Immigration Judge, at which Respondents shall bear the burden of proving by clear and convincing evidence that Petitioner's continued detention is justified;
- g. Declare that Petitioner is detained pursuant to 8 U.S.C. § 1226(a), which entitles Petitioner to a bond hearing;
- h. Declare that Respondents' policy of categorically denying bond hearings to individuals in Petitioner's circumstances violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment;
- i. Award Petitioner reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- j. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: January 16, 2026

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