

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF MISSISSIPPI**

SOUTHERN DISTRICT OF MISSISSIPPI
FILED

JAN 21 2026

FIDEL SANTOS LAUREANO,

A 

Petitioner/Plaintiff,

v.

RAFAEL VERGARA, Warden,
Adams County Correctional Center,
TODD LYONS, Acting Director, Immigration
and Customs Enforcement, **KRISTI NOEM**,
Secretary of United States Department of
Homeland Security, **MELLISSA HARPER**,
Immigration and Customs Enforcement,
New Orleans Field Office Director,
PAMELA BONDI, United States Attorney General,

Respondents/Defendants

Civil Action No. **5:26-cv-18-DCB-BWR**
BY **ARTHUR JOHNSTON**
DEPUTY

**PETITION FOR WRIT OF
HABEAS CORPUS UNDER 28
U.S.C. § 2241 AND COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

INTRODUCTION

1. Petitioner-Plaintiff Fidel Santos Laureano ("Petitioner") is a citizen of Mexico who entered the U.S. without inspection in approximately 2000 and has resided in the U.S. since then.
2. Immigration and Customs Enforcement ("ICE") officers did not initially apprehend Petitioner upon his entry to the U.S. but subsequently apprehended him in Maryland on January 9, 2026.
3. Petitioner is currently detained by ICE at the Adams County Correctional Center in Natchez, Mississippi. *See ICE Detainee Locator, attached hereto as Exhibit 1.*
4. In July 2025, Acting Director of ICE, Todd M. Lyons, issued an internal directive stating that the agency had "revisited its legal position" and, contrary to decades of previous

practice, concluded that anyone who entered the U.S. without admission or parole should be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See* ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission, A. IMMIGR. LAW. ASS'N Doc. No. 25071607 (July 8, 2025), <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detentionauthority-for-applications-for-admission>; *Mendoza Gutierrez v. Baltasar*, No. 1:25-cv-2720, at *2–3 (D. Colo. Oct. 17, 2025) (discussing the policy change).

5. On September 5, 2025, the Board of Immigration Appeals (“the Board”) issued a precedential decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), that adopted similar reasoning to Acting Director Lyon’s directive and concluded that anyone who entered the U.S. without inspection was subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
6. Prior to this decision, noncitizens like Petitioner who had lived in the U.S. for many years before being apprehended by ICE in the interior of the country were detained pursuant to 8 U.S.C. § 1226(a) and eligible to seek bond hearings before Immigration Judges (“IJs”). Instead, in conflict with nearly thirty years of legal precedent, Petitioner is now considered subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and has no opportunity for release on bond while his removal proceedings are pending.
7. Courts nationwide, including others in this circuit, have overwhelmingly rejected the Government’s argument that § 1225(b)(2)(A) applies to noncitizens like Petitioner who resided in the U.S. for many years before being apprehended in the interior of the country. *See, e.g., Galdamez Martinez v. Noem*, No. SA-25-cv-1373-JKP (W.D. Tex. Nov. 26, 2025); *Rodriguez Lara v. Bondi*, No. SA-25-CA-01581-XR, at *7 (W.D. Tex. Dec. 16,

2025) (relying on “Section 1225(b)(2)’s plain language and the Supreme Court’s interpretation of the relevant statutes” to find that Section 1226(a) governs detention of similarly situated petitioners); *Lopez Arevelo v. Ripa*, No. EP-25-cv-337-KC, at *14 (W.D. Tex. Sept. 21, 2025) (“courts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect.”); *Belsai D.S. v. Bondi*, No. 25-cv-3682 (KMM/EMB), at *10 (D. Minn. Oct. 1, 2025) (collecting cases); *Lopez Santos v. Noem*, No. 3:25-cv-01193 (W.D. La. Sept. 11, 2025); *Orellana Cantarero v. Bondi*, No. 9:25-cv-250 (E.D. Tex. Nov. 20, 2025); *Buenrostro-Mendez v. Bondi*, No. 4-25-cv-3726, at *5 (S.D. Tex. Oct. 7, 2025) (“[a]s 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.”).

8. Petitioner seeks declaratory relief that he is subject to detention under Section 1226(a) and its implementing regulations and asks that this Court either order Respondents to release Petitioner from custody or provide him with a bond hearing. Alternatively, he requests this Court find his continued detention without a bond hearing violates his right to procedural due process under the Fifth Amendment.

CUSTODY

9. Petitioner is currently in the custody of Immigration and Customs Enforcement (“ICE”) the Adams County Correctional Center in Natchez, Mississippi. He is therefore in “‘custody’ of [the DHS] within the meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

10. This court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*
11. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
12. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging both the lawfulness and the constitutionality of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.*
14. Petitioner is “in custody” for the purpose of 28 U.S.C. § 2241 because Petitioner is arrested and detained by Respondents.

VENUE

15. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because a substantial part of the events or omissions giving rise to the claim occurred in the Southern District of Mississippi. Petitioner is currently detained at the Adams County Correctional Center in Natchez, Mississippi.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

16. Administrative exhaustion is unnecessary as it would be futile. *See Carter v. Estelle*, 677 F.2d 427, 446 (5th Cir. 1982) (“it has been held that exhaustion is not necessary where resort to state remedies would be futile, because the necessary delay before entrance to a federal forum which would be required is not justified where the state court’s attitude towards a petitioner’s claims is a foregone conclusion.”); *Fisher v. State of Texas*, 169 F.3d 295, 303 (5th Cir. 1999) (the “futility exception applies when, as here, the highest state court has recently decided the same legal question adversely to the petitioner.”).
17. It would be futile for Petitioner to seek a custody redetermination hearing before an IJ given the Board’s decision in *Matter of Yajure Hurtado*, which holds that anyone who has entered the U.S. without inspection is now considered an “applicant for admission” who is “seeking admission” and therefore subject to mandatory detention under Section 1225(b)(2)(A). 29 I&N Dec. 216 (BIA 2025).¹
18. Additionally, the agency does not have jurisdiction to review Petitioner’s claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v. Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a “futile exercise because the agency does not have jurisdiction to review” constitutional claims);

¹ On November 25, 2025, the U.S. District Court for the Central District of California certified a nationwide class, termed the “Bond Eligible Class,” comprised of: “All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.” *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-1873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). On December 18, 2025, the district court entered a final judgment declaring that all class members are detained pursuant to 8 U.S.C. § 1226(a). *See Maldonado Bautista*, No. 5:25-cv-1873-SSS-BFM, at *2 (C.D. Cal. Dec. 18, 2025). Petitioner is a member of this class but because IJs have reportedly claimed they are not bound by this judgment, Petitioner’s pursuit of a custody redetermination hearing before an IJ would be futile.

Lopez Arevelo, No. EP-25-CV-337-KC, at *12–13 (finding exhaustion not required because neither the IJ nor the Board had jurisdiction to review his constitutional due process claims).

PARTIES

19. Petitioner Fidel Santos Laureano is from Mexico and has resided in the U.S. since approximately 2000. He is currently detained by ICE at the Adams County Correctional Center in Natchez, Mississippi. *See* Exhibit 1.
20. Respondent Pam Bondi is sued in her official capacity as the United States Attorney General. As Attorney General, Ms. Bondi is responsible for the administration and enforcement of the immigration laws of the United States.
21. Respondent Kristi Noem is sued in her official capacity as Secretary of the Department of Homeland Security (“DHS”). As Secretary of DHS, Ms. Noem is responsible for the administration and enforcement of the immigration laws of the United States.
22. Respondent Todd Lyons is sued in his official capacity as Acting Director of Immigration and Customs Enforcement (“ICE”). As the Acting Director of ICE, Mr. Lyons is responsible for the administration and enforcement of the policies and procedures for ICE’s detention of Petitioner at Adams County Correctional Center (“Adams”).
23. Respondent Mellissa Harper is sued in her official capacity as Field Office Director of ICE and Enforcement and Removal (“ERO”) for the New Orleans office. As the Field Office Director of ICE/ERO, Ms. Harper is responsible for the administration and enforcement of the policies and procedures for ICE’s detention of Petitioner at Adams County Correctional Center.
24. Respondent, Rafael Vergara, is the Warden of Adams County Correctional Center. As such, Mr. Vergara is responsible for the operation of the Correctional Center where Mr. Santos Laureano is detained. Because ICE contracts with detention centers such as Adams to house immigration

detainees such as Mr. Santos Laureano, Respondent has immediate physical custody of the Petitioner.

LEGAL BACKGROUND

25. The INA prescribes three basic forms of detention for noncitizens in removal proceedings.
26. First, individuals detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a bond hearing, unless they have been arrested for, charged with, or convicted of certain crimes and are subject to mandatory detention. *See* 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); *see also* 8 C.F.R. §§ 1003.19(a) (immigration judges may review custody determinations made by DHS), 1236.1(d) (same).
27. Second, Section 1225(b) authorizes mandatory detention of certain noncitizens. Section 1225(b)(1) authorizes mandatory detention of noncitizens subject to expedited removal, and Section 1225(b)(2)(A) authorizes mandatory detention “if three conditions are met: (1) the person is an ‘applicant for admission’; (2) the person is ‘seeking admission’; and (3) an ‘examining immigration officer determines’ the person ‘is not clearly and beyond a doubt entitled to be admitted.’” *See Rodriguez Lara*, SA-25-CA-01581-XR, at *7 (quoting Section 1225(b)(2)(A)).
28. Third, the INA authorizes detention of noncitizens who have received a final order of removal, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).
29. For decades, long-term residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country have been detained pursuant to 8 U.S.C. § 1226(a) and entitled to bond hearings before an IJ, unless barred from doing so due to their criminal history. *See Matter of Yajure Hurtado*, 29 I&N Dec. at 225 n.6 (“[F]or years Immigration Judges have conducted bond hearings for aliens who

entered the United States without inspection.”).

30. In July 2025, however, ICE began asserting that all individuals who entered without inspection should be considered “seeking admission” and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See* ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission, A. IMMIGR. LAW. ASS’N Doc. No. 25071607 (July 8, 2025), <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detentionauthority-for-applications-for-admission>; *Mendoza Gutierrez*, No. 1:25-cv-2720, at *2–3 (discussing the policy change).
31. On September 5, 2025, the BIA issued a precedential decision adopting this interpretation, despite its departure from the INA’s text, federal precedent, and existing regulations. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
32. Courts nationwide, including others in this circuit, have overwhelmingly rejected the Government’s argument that § 1225(b)(2)(A) applies to noncitizens like Petitioner who resided in the U.S. for many years before being apprehended in the interior of the country. *See, e.g., Galdamez Martinez v. Noem*, No. SA-25-cv-1373-JKP (W.D. Tex. Nov. 26, 2025); *Rodriguez Lara v. Bondi*, No. SA-25-CA-01581-XR, at *7 (W.D. Tex. Dec. 16, 2025) (relying on “Section 1225(b)(2)’s plain language and the Supreme Court’s interpretation of the relevant statutes” to find that Section 1226(a) governs detention of similarly situated petitioners); *Lopez Arevelo v. Ripa*, No. EP-25-cv-337-KC, at *14 (W.D. Tex. Sept. 21, 2025) (“courts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect.”); *Belsai D.S. v. Bondi*, No. 25-cv-3682 (KMM/EMB), at *10 (D. Minn. Oct. 1, 2025) (collecting cases); *Lopez Santos v. Noem*, No. 3:25-cv-01193 (W.D. La. Sept. 11,

2025); *Orellana Cantarero v. Bondi*, No. 9:25-cv-250 (E.D. Tex. Nov. 20, 2025); *Buenrostro-Mendez v. Bondi*, No. 4-25-cv-3726, at *5 (S.D. Tex. Oct. 7, 2025) (“[a]s 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.”).

ARGUMENT

I. Petitioner is subject to detention under Section 1226(a) and, as such, should be afforded a bond hearing:

33. Under the Supreme Court’s recent decision in *Loper Bright v. Raimondo*, 603 U.S. 369 (2024), this Court should independently interpret the statute and give the Board’s interpretation of Section 1225(b)(2)(A) no weight, as it conflicts with the statute, regulations, and precedent.
34. As described above, the plain language of Section 1225(b)(2)(A) authorizes mandatory detention “if three conditions are met: (1) the person is an ‘applicant for admission’; (2) the person is ‘seeking admission’; and (3) an ‘examining immigration officer determines’ the person ‘is not clearly and beyond a doubt entitled to be admitted.’” *See Rodriguez Lara*, SA-25-CA-01581-XR, at *7 (quoting Section 1225(b)(2)(A)).
35. The Government’s expansive interpretation of Section 1225(b)(2) ignores the legal definition of admission, defined by Congress in the INA as “the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.” 8 U.S.C. § 1101(a)(13)(A). *See Galdamez Martinez*, No. SA-25-CV-01373-JKP, at *11 (finding petitioner was not “seeking admission” at the time of his detention because “he was not seeking entry, much less lawful entry . . . after inspection and authorization.”) (internal quotations omitted); *Rodriguez Lara*, No. SA-25-CA-01581-XR, at *7 (same).

See also Chafila v. Scott, No. 2:25-cv-437, 2025 WL 2688541, at *19 (D. Me. Sept. 21, 2025) (“Construing section 1225(b)(2) to apply to noncitizens already residing in the country would read the word ‘entry’ out of the definitions of ‘admitted’ and ‘admission.’”).

36. Moreover, the Government’s interpretation of “seeking admission” is identical to the definition of “applicant for admission,” which would render the term superfluous and is at odds with basic canons of statutory constructions. *See Becerra Vargas v. Bondi*, No. SA-25-CV-1023-FB, at *8 (Nov. 12, 2025) (report and recommendation) (“Respondents argued that ‘seeking admission’ and being an ‘applicant for admission’ are synonymous. But this argument is contrary to established canons of statutory interpretation that a variation in terms suggests a variation in meaning, and that [w]ords are to be given the meaning that proper grammar and usage would assign them.”) (internal quotations and citations omitted).

37. The statutory context and structure also make clear that Section 1226(a) applies to individuals who have not been admitted and entered without inspection. There are multiple provisions in 8 U.S.C. § 1226(c) that mandate detention for certain inadmissible noncitizens, including Section 1226(c)(1)(A), which applies to noncitizens who have committed or been convicted of certain criminal offenses; Section 1226(c)(1)(D), which applies to noncitizens who are inadmissible for having engaged in specified terrorist activity; and Section 1226(c)(1)(E), which was enacted earlier this year as part of the Laken Riley Act and applies to noncitizens who entered the U.S. without admission and were thereafter charged with, arrested for, convicted of, or admitted committing various offenses. Reading Section 1225(b)(2) to encompass all noncitizens who entered without inspection would render multiple provisions of § 1226 superfluous.

38. Applying Section 1225(b)(2)(A) to Petitioner conflicts with the Supreme Court’s interpretation of Sections 1225 and 1226 in *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *See Rodriguez Lara*, No. No. SA-25-CA-01581-XR, at *8 (quoting *Jennings*). The Supreme Court explained in *Jennings*, “U.S. immigration law authorizes the Government to detain certain aliens seeking admission *into* the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings under § 1226(a).” 583 U.S. at 289 (emphasis added).
39. The legislative history also supports the understanding that Section 1225 only applies to individuals arriving in the U.S. The detention provisions at Section 1226(a) and Section 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. Following IIRIRA, the Executive Office for Immigration Review (“EOIR”) issued regulations clarifying that individuals who entered the country without inspection were not considered detained under § 1225, but rather 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) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination”).
40. The title of Section 1225 – “Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing” – further indicates that Congress intended § 1225 to apply only to noncitizens apprehended upon arrival. *See Dubin v. United States*, 599 U.S. 110, 120-21 (2023) (“This Court has long considered that the title of a statute and

the heading of a section are tools available for the resolution of a doubt about the meaning of a statute.”) (internal quotations omitted).

41. Given the plain language of the statute, the legislative history, and Supreme Court precedent, Petitioner can only lawfully be detained pursuant to Section 1226(a) and should be afforded a bond hearing.

II. Petitioner’s continued detention without a bond hearing violates the procedural due process clause of the Fifth Amendment:

42. The Fifth Amendment’s Due Process Clause prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V.
43. The Supreme Court has repeatedly emphasized that the Constitution generally requires a hearing before the government deprives a person of liberty or property. *Zinerman v. Burch*, 494 U.S. 113, 127 (1990).
44. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors Petitioner’s release. *See Lala Barrios v. Noem*, No. EP-25-CV-488-KC (W.D. Tex. Nov. 10, 2025) (applying the *Mathews* factors to a similarly situated petitioner, finding the balance of factors weighed in favor of granting the petition for habeas corpus, and ordering the government provide the petitioner with a bond hearing).
45. Petitioner’s private interest in freedom from detention is profound. The interest in being free from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom 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.”).
46. Second, the risk of erroneous deprivation is high under the current procedures, and

additional procedures would mitigate this risk. Civil detention is only valid when it is necessary to prevent danger to the community or a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). In this case, Respondents have failed to demonstrate that Petitioner poses a danger or a flight risk. “At its foundation, due process prohibits detaining an individual without justification.” *Mohammed H. v. Trump*, No. 25-cv-1576 (JWB/DTS), 2025 WL 1692739, at *5 (D. Minn. June 17, 2025). The imposition of additional safeguards in the form of Petitioner’s release or a bond hearing would ensure that the government is only detaining those who actually pose a flight risk or a danger to the community. There is therefore a high risk of the erroneous deprivation of Petitioner’s liberty, and there are procedures that could alleviate this risk; as such, the second factor also weighs in favor of Petitioner.

47. The government’s interest in detaining Petitioner without due process is minimal. Immigration detention is civil, not punitive, and may only be used to prevent danger to the community or ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690.
48. Furthermore, the “fiscal and administrative burdens” of providing Petitioner with a bond hearing are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35.
49. As such, the balance of factors weighs in favor of ordering Petitioner’s release or that he be given a bond hearing.

STATEMENT OF FACTS

50. Petitioner is a citizen of Mexico.

51. Petitioner entered the U.S. without inspection in 2000, and he has resided in the U.S. since then.

52. Petitioner was not apprehended by immigration authorities upon entry and was subsequently apprehended in Maryland on January 9, 2026

53. Petitioner is currently detained by ICE at the Adams County Correctional Center in Natchez, Mississippi. Exhibit 1.

54. Petitioner has not been afforded a bond hearing based on ICE's interpretation of the relevant statutes.

55. Without relief from this Court, Petitioner faces the prospect of continued detention.

COUNT I
Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond

56. Petitioner restates and realleges all paragraphs as if fully set forth here.

57. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

58. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

59. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

60. Petitioner's continuing detention is therefore unlawful.

COUNT II
Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19 Unlawful Denial of Release on Bond

61. Petitioner restates and realleges all paragraphs as if fully set forth here.

62. 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 “[d]espite 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. at 10323. The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

63. 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 Fifth Amendment Right to Due Process

64. Petitioner restates and realleges all paragraphs as if fully set forth here.

65. Petitioner’s continued detention without a bond hearing violates his right to procedural due process under the Fifth Amendment of the U.S. Constitution.

66. Considering the *Mathews* factors, Petitioner respectfully requests that this Court order his immediate release from custody or provide him with a bond hearing.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court will:

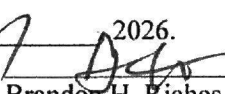
- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner not be transferred outside of this District;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this
Petition should not be granted within three days;
- (4) Declare that Petitioner’s detention is unlawful;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from
custody or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) or

the Due Process Clause within seven days; and

(6) Grant any further relief this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this the 16th day of January, 2026.



Brandon H. Riches
The Riches Law Firm, PLLC
Mississippi Bar # 105273
P.O. Box 1526
Ocean Springs, MS 39566
Cell/WhatsApp:(228) 800-4178
Email: Brandon@Richeslawfirm.com