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UNITED STATES DISTRIC COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Ibey Chaviano Juvier, [redacted] **Petitioner,** **v.** **Pamela Jo Bondi,** **Attorney General of the** **United States of America,** **Kristi Noem,** **Secretary of the Department of** **Homeland Security, (DHS),** **Todd Lyons,** **Acting Director,** **United States Immigration and** **Customs Enforcement (ICE),** **Field Office Director,** **Miami Field Office,** **United States Immigration and** **Customs Enforcement (ICE),** **WARDEN, Krome North** **Service Processing Center** **Respondents.**	**Civil Action No. 1:26-cv-20405** **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Mr. Chaviano Juvier, is in the physical custody of Respondents at the Krome North Service Processing Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

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

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

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

5. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute

expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

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

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

JURISDICTION

8. Petitioner is in the physical custody of Respondents. Petitioner is detained at Krome North Service Processing Center in Miami, Florida.

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

10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and 28 U.S.C. § 1261, the All Writs Act.

VENUE

11. Venue lies in the United States District Court for the Southern District of Florida, the judicial district in which Petitioner is currently detained. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973). (finding proper venue lies in the judicial district in which Petitioner is currently detained).

12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of Florida.

REQUIREMENTS OF 28 U.S.C. § 2243

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

14. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. Immigr. Naturalization Svc.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

REQUIREMENTS OF 28 U.S.C. § 2243

15. Petitioner, Chaviano Juvier, is alleged to be a citizen of Cuba who has been in immigration detention since early August 2025. After arresting Petitioner, ICE did not set bond and Petitioner is unable to obtain review of his custody by an Immigration Judge (IJ), pursuant to the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

16. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review (EOIR)—and the immigration court system it operates—is a component agency.

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

18. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE), the agency responsible for Petitioner's detention. Mr. Lyons has custodial authority over Petitioner and is sued in his official capacity.

19. Respondent Field Office Director, Miami Field Office, is the Director of the Miami Field Office of ICE's Enforcement and Removal Operations Division, and is the federal official with supervisory authority over the Krome North Service Processing Center. As such, Field Office Director is Petitioner's immediate legal custodian and is responsible for Petitioner's detention and removal. They are named in their official capacity.

20. Respondent Warden of the Krome North Service Processing Center is the Petitioner's actual physical custodian. Respondent Warden is sued in their official capacity.

LEGAL FRAMEWORK

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

22. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally 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* § 1226(c).

23. 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).

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

25. This case concerns the detention provides at §§ 1226(a)(and 1225(b)(2).

26. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) 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 most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

27. Following the enactment of the 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 of Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

28. Thus, 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 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)).

29. On May 15, 2025, the BIA issued *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025) finding that mandatory detention under § 1225(b)(2)(A) applies to individuals who are arrested upon entry, paroled from detention and charged as inadmissible to the United States as noncitizens present without being admitted or paroled and placed in § 1229a removal proceedings, and subsequently rearrested by ICE.

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

31. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention pursuant to § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

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

33. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado* and *Matter of Q. Li*, which adopt the same reading of the statutes as ICE.

34. Even before ICE or the BIA introduced these nationwide policies, IJs at the Tacoma, Washington Immigration Court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 1239 (W.D. Wash. 2025).

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[1] *Available at https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.*

35. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Merino v. Ripa*, Case No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025) (collecting cases); *Boffill v. Field Off. Dir.*, Case No. 25-CV-25179-JB, 2025 WL 3246868, at *2 (S.D. Fla. Nov. 20, 2025) (collecting cases).

36. On November 20, 2025, the District Court for the Central District of California granted declaratory relief to the case's petitioners by declaring "unlawful" the DHS's new detention policy and the BIA's matching conclusion in *Matter of Yajure Hurtado*. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). The court granted petitioners' motion for partial summary judgment and found "the statutory provisions to be unambiguous and consistent with only Petitioners' interpretation, therein rejecting the new attempt to apply § 1225(b)(2)(A) to noncitizens residing within and arrested inside the United States. *Id.* On December 18, 2025, the *Maldonado Bautista* court then entered final judgment in the action. *Maldonado Bautista v. Santacruz*, 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal., Dec. 18, 2025)

37. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Maldonado Bautista* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

38. 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 U.S.C. § 1226(a). These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[noncitizen]."

39. 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). *Id.* As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 770 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. V. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

40. 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.

41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who are otherwise actively seeking admission to the United States. 8 U.S.C. § 1225(b). The statute'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 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).

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

FACTS

43. Petitioner has resided in the United States since 2021 and lives in Live Oak, Florida with his wife and parents.

44. In February 2021, Petitioner entered the United States and turned himself over to immigration authorities in Arizona. Respondents released him on his own recognizance and

required him to check-in with immigration officials regularly. Petitioner complied with the terms of release, reporting to his scheduled check-ins every October. His next scheduled check-in was set for November 13, 2025.

45. In 2021, Petitioner filed an affirmative asylum application, explaining his fear of persecution and harm if he were forced to return to Cuba.

46. On August 10, 2025, Respondents arrested Petitioner following hospitalization after a car accident, despite his pending application for asylum. Petitioner has remained in detention since August and is presently detained at the Krome North Service Processing Center.

47. Petitioner is presently in removal proceedings before the Miami Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia* being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

48. Since his release in 2021, Petitioner has built a life within the United States. He lives with his Lawful Permanent Resident wife and parents, all of whom rely on Petitioner for financial support. His wife has been experiencing high anxiety throughout Petitioner's detention. Petitioner has filed taxes, regularly attends church with his mother, and has been taking an English course to improve his language skills. Petitioner is neither a flight risk nor a danger to the community.

49. Following Petitioner's arrest and transfer to Krome North Service Processing Center, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

50. On December 5, 2025, at a scheduled bond hearing, an Immigration Judge found that they lacked jurisdiction over the matter and denied Petitioner's request for a bond hearing.

51. As a result, Petitioner remains in detention. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

CLAIMS FOR RELIEF

COUNT 1

Violation of the INA

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

53. 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 have been residing 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.

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

CLAIMS FOR RELIEF

COUNT 2

Violation of Due Process

55. Petitioner repeats, realleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

56. 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 restraining—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

58. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Southern District of Florida 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;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

e. Declare that Petitioner's detention is unlawful;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

Dated: January 22, 2026

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