

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
EL PASO DIVISION**

JUAN PABLO GONZALEZ
MUNOZ,

Petitioner,

V.

WARDEN, ERO El Paso Camp East Montana; MARY DE ANDA-YBARRA, Field Office Director of the El Paso Field Office U.S. Immigration and Customs Enforcement; TODD M. LYONS, Acting Director of U.S. Immigration and Customs and Enforcement; KRISTI NOEM, Secretary of U.S. Homeland Security; and DAREN K. MARGOLIN, Director of Executive Office of Immigration Review,

Respondents.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Juan Pablo Gonzalez Munoz is in the physical custody of Respondents at the ERO El Paso Camp East Montana in El Paso, Texas. He is a citizen of Mexico and lawfully entered the United States on November 29, 2009, with a B-2 visitor's visa. Although Petitioner never departed the United States after

his entry in 2009, Department of Homeland Security (DHS) records reflect that he left the country in November 2011. On that basis, Respondents assert that Petitioner entered the United States without inspection. He now faces unlawful detention because the DHS and the Executive Office for Immigration Review (EOIR) have concluded that Petitioner is subject to mandatory detention.

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

3. Based on this charge of inadmissibility, DHS denied Petitioner release from immigration custody, consistent with a new 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 for release on bond.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) 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 Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and, therefore, are ineligible

for release on bond.

5. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act (INA). Even assuming for argument that Petitioner departed the United States and returned, Section 1225(b)(2)(A) does not apply to individuals 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. On November 25, 2025, the U.S. District Court for the Central District of California certified a nationwide Bond Eligible Class, defined as: 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. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, 2025 U.S. Dist. LEXIS 231977, at *4 (C.D. Cal. Nov. 25, 2025) (Sykes,

J.) The district court issued class-wide declaratory relief holding that DHS's policy is unlawful and declaring that class members are detained under § 1226(a) and entitled to bond hearings. *See id.* at *26 (extending same declaratory relief granted to petitioners to the class as a whole).

8. Following the district court's grant of class-wide declaratory relief, Immigration Judges across the country continued to deny bond hearings to members of the Bond Eligible Class and were instructed to continue asserting that *Matter of Yajure Hurtado* remained good law. *See Maldonado Bautista*, No. 5:25-cv-01873-SSS-BFM, Order on Application for Reconsideration or Clarification, ECF No. 92 at 8–9 (Dec. 18, 2025).

9. On December 18, 2025, the *Maldonado* court issued a consolidated order and entered final judgment vacating DHS's July 8, 2025, mandatory detention policy, and declaring that Bond Eligible Class members are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2), and are entitled to consideration for release on bond. *Maldonado Bautista*, 2025 U.S. Dist. LEXIS 262265, at *87–88.

10. Although Respondents assert that Petitioner is a member of the Bond Eligible Class, and on that basis, he may be granted relief, he seeks individual habeas relief that the *Maldonado* court did not—and could not—award on a class-wide basis. *See id.* at *79 n.23 (clarifying that class relief did not include habeas relief and noting that any class-wide order “forc[ing] government compliance would run afoul

of § 1252(f)(1).”); *see also* 8 U.S.C. § 1252(f)(1) (prohibiting class-wide injunctive relief that would “enjoin or restrain the operation” of certain provisions of the Immigration and Nationality Act, including §§ 1225 and 1226). Furthermore, Petitioner is not detained in the Central District of California and can only seek habeas relief before this Court. *Rumsfeld v. Padilla*, 542 U.S. 426, 446 (2004) (emphasizing that habeas jurisdiction “lies in only one district: the district of confinement.”)

11. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released from unlawful detention or, in the alternative provided a bond hearing before the Immigration Court.

JURISDICTION

12. This action arises under the U.S. Constitution and the INA, 8 U.S.C. § 1101 *et seq.*

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

14. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the U.S. District Court for the Western District of Texas, the judicial district in which Petitioner currently is detained.

16. 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 Western District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

17. 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.*

PARTIES

18. Petitioner Juan Pablo Gonzalez Munoz is a native and citizen of Mexico. He lawfully entered the United States with a B-2 visitor’s visa on November 29, 2009. Based on DHS records, the government asserts that he left the United States and re-entered without inspection. He has been in immigration detention since October 29, 2025. He sought custody redetermination on November 19, 2025,

December 17, 2025, and January 15, 2026. The Immigration Judges denied Petitioner bond each time, citing a lack of jurisdiction based exclusively on the BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner is in custody and under the direct control of Respondents and their agents.

19. Respondent Warden of ERO El Paso Camp East Montana is the warden that oversees the operations of the ERO El Paso Camp East Montana, where Petitioner is detained. Respondent has immediate physical custody of Petitioner and is sued in his/her official capacity. At the time of this filing, the Warden's name is not publicly available.

20. Respondent Mary De Anda-Ybarra is the Director of the El Paso Field Office of ICE's Enforcement and Removal Operations division. As such, she is a legal custodian of Petitioner, is responsible for Petitioner's detention and removal, and has authority to release him. She is named in her official capacity.

21. Respondent Todd M. Lyons is the Acting Director of ICE, which is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens. Respondent Lyons has control over the actions of Respondent Ripa of the Miami Field Office for ICE and ICE in general. Respondent Lyons is a legal custodian of Petitioner and is sued in his official capacity.

22. Respondent Kristi Noem is the DHS Secretary. She is responsible for

the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner and is sued in her official capacity.

23. Respondent Daren K. Margolin is the Director of EOIR, which is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings. Respondent Margolin is sued in his official capacity.

LEGAL FRAMEWORK

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

25. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. *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* 8 U.S.C. § 1226(c).

26. 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).

27. 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).

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

29. 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 most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

30. 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 and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

31. 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 Immigration Judge 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)).

32. 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.

33. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be subject to mandatory detention under § 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.

34. On September 5, 2025, the BIA adopted the same position in a published decision, *Matter of Yajure Hurtado*. There, the Board 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 Immigration Judge bond hearings.

35. Since Respondents adopted their new policies, this Court and many others have rejected Respondents’ new interpretation of the INA’s detention authorities and the BIA’s reasoning in *Matter of Yajure Hurtado*, which adopts the

same reasoning in DHS's policy. *See, e.g., Luna v. Warden*, No. EP-25-CV-00565-DCG, 2025 U.S. Dist. LEXIS 269677, at *12 (W.D. Tex. Dec. 29, 2025) (Guaderrama, J.); *Mendoza-Menjivar v. Bondi*, No. 1:25-CV-2060-DAE, 2026 WL 89964, at *5 (W.D. Tex. Jan. 12, 2026) (Ezra, J.) (collecting cases); *see also Patel v. McShane*, No. 25-5975, 2025 U.S. Dist. LEXIS 228258, at *1 (E.D. Pa. Nov. 20, 2025) (noting "at least 282" recent district court decisions rejecting the government's interpretation of § 1225); *Mendes v. Hyde*, No. 25-cv-627-JJM-AEM, 2025 U.S. Dist. LEXIS 251341, at *1–2 (D.R.I. Dec. 5, 2025) (emphasizing that "[a]t least 225 judges have ruled in more than 700 cases" rejecting DHS's interpretation of § 1225(b)(2)) (citation omitted).

36. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As this Court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to individuals like Petitioner, who the government claims is present without admission or parole. *See, e.g., Luna*, 2025 U.S. Dist. LEXIS 269677, at *14 (concluding § 1226(a) governed detention of individual living in the United States since 1999). 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]."

37. 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). As one district court explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

38. 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.

39. 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. 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).

40. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing

in the United States at the time they were apprehended.

FACTS

41. Petitioner Juan Pablo Gonzalez Munoz is 40 years old and has resided in the United States for at least 16 years, since his lawful entry in November 29, 2009.¹ Prior to detention, he was living in West Palm Beach, Florida.

42. On October 29, 2025, Petitioner was stopped by police as he was riding his bicycle home from work. The officers questioned him about his immigration status and contacted ICE. Petitioner has been in ICE custody since that time and is now detained at ERO El Paso Camp East Montana in El Paso, Texas.

43. Petitioner is currently in standard removal proceedings before the El Paso Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

44. Petitioner is married and has two minor children, ages 7 and 12. His children were born in the United States. His family relies greatly on his support and presence. Prior to detention, Petitioner worked as a waiter for a restaurant in Palm Beach, Florida, and his wife and children are completely dependent on his income. Petitioner has no known criminal history, and he is neither a flight risk nor a danger

¹ Even accepting DHS's 2011 departure record as accurate, Petitioner had resided in the United States for many years by the time ICE apprehended him in West Palm Beach, Florida in October 2025.

to the community.

45. Since ICE detained Petitioner in October 2025, he has made three requests for bond redetermination, all of which have been denied for lack of jurisdiction. *See* Exhibit B, Bond Denials. On November 19, 2025, the Immigration Judge denied Petitioner bond find lack of jurisdiction under *Matter of Yajure Hurtado*. *Id.*

46. On December 17, 2025, the Immigration Judge similarly denied bond for lack of jurisdiction under *Matter of Yajure Hurtado* finding that Petitioner was charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and noting there was insufficient evidence to support Petitioner's assertion that he last entered the United States with a B-2 visitor's visa. *Id.* Based on these finding, the Immigration Judge concluded that Petitioner was a *Maldonado Bautista* class member but held that the class-wide declaratory judgment in *Maldonado Bautista* was not a binding final judgment on the parties. *Id.*

47. On January 15, 2026, after a final class-wide judgment was entered in *Maldonado Bautista*, the Immigration Judge again denied Petitioner bond for lack of jurisdiction. This time the Immigration Judge found that *Maldonado Bautista* "is not self-executing and does not compel future agency action of EOIR." *Id.* The Immigration Judge held that without "habeas or other remedy ordered, [the] Court remains bound by *Matter of Yajure Hurtado*." *Id.*

48. While numerous judges have issued hundreds of decisions holding that § 1226 applies to individuals like Petitioner, Respondents seemingly ignore sound judicial reasoning and continue to misapply § 1225. *See Mendoza-Menjivar*, 2026 WL 89964, at *5 (acknowledging that habeas challenge to § 1225 detention “is not a novel question” and reaching the same conclusion as “almost every district court to consider this issue.”) (citation and internal quotation omitted).

49. At the same time, Immigration Judges continue to deny bond based on *Matter of Yajure Hurtado*. This is precisely what occurred when Petitioner sought bond hearings on three separate occasions.

50. Under these circumstances and to prevent further unlawful detention, Petitioner submits that the appropriate remedy is immediate release. *See Vargas Bondi*, No. SA-25-CV-1023-FB (HJB), 2025 WL 3300446, at *5 (W.D. Tex. Nov. 12, 2025), *R&R adopted sub nom. Vargas v. Bondi*, No. SA-25-CV-1023-FB, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025) (ordering immediate release because remanding for a bond hearing would require the immigration judge to take action that BIA precedent forecloses); *Amm v. Bobby Thompson, Warden, S. Tex. ICE Processing Ctr.*, No. SA-25-CV-1210-FB (HJB), 2025 U.S. Dist. LEXIS 232689, at *17 (W.D. Tex. Nov. 18, 2025) (same); *Pineda v. Noem*, No. SA-25-CA-01518-XR, 2025 U.S. Dist. LEXIS 253622, at *13 (W.D. Tex. Dec. 2, 2025) (finding immediate release an appropriate remedy in § 1225 habeas challenge).

51. In the alternative, the Court should order Respondents to provide Petitioner with a bond hearing in accordance with the statutory processes required under § 1226 and the implementing regulations.

52. Petitioner remains in unlawful detention because Respondents continue to apply an impermissibly broad reading of § 1225 to him. 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 I

Violation of the INA | 8 U.S.C. § 1226(a) and Implementing Regulations

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

54. 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.

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

COUNT II
Violation of Fifth Amendment Due Process

56. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

57. 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 (2001).

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

59. 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 jurisdiction of this Court 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. Declare that Petitioner's detention is unlawful;
- e. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner immediately or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- f. Order Respondents to file a status report by date certain detailing their compliance with the Court's order; and
- g. Grant any other and further relief that this Court deems just and proper.

Date: January 23, 2026

Respectfully submitted,

/s/ Jessica Dawgert

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Attorneys for Petitioner

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

I represent Petitioner, Juan Pablo Gonzalez Munoz, and submit this verification on his behalf. I verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and the documents submitted in support thereof are true and correct to the best of my knowledge.

Date: January 23, 2026

/s/ Alexa S. White

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(pro hac vice application forthcoming)