

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FORT LAUDERDALE DIVISION

SEFERINO RESENDIZ RESENDIZ,)
)
Petitioner,)
)
v.)
)
)
WARDEN, Broward Transitional Center;)
KRISTI NOEM, Secretary of Homeland)
Security;)
PAMELA JO BONDI, U. S. Attorney General;)
GARRETT RIPA, Miami Field Office Director,)
U.S. Immigration and Customs Enforcement)
and Removal Operation;)
TODD LYONS, Acting Director of Immigration)
and Customs Enforcement;)
U.S. DEPARTMENT OF HOMELAND)
SECURITY;)
U.S. IMMIGRATION AND CUSTOMS)
ENFORCEMENT; and)
U.S. DEPARTMENT OF JUSTICE)
)
Respondents.)
)
/


Case No. 0:26cv60207

Agency No. 

PETITION FOR WRIT OF HABEAS CORPUS

PERSONAL INFORMATION

1. Petitioner, SEFERINO RESENDIZ RESENDIZ, is in the physical custody of Respondents at the Broward Transitional Center, located at 3900 N. Powerline Rd., NA, Pompano Beach, FL 33073.

2. Petitioner's identification number is Alien Number .

3. Petitioner is being held on orders by federal authorities.

4. Petitioner faces unlawful detention because the Department of Homeland

Security (DHS) and the Executive Office of Immigration Review (EOIR) determined that Petitioner is subject to mandatory detention.

5. The Department of Homeland Security charged Petitioner with entering without inspection or admission, *see* 8 U. S. C. § 1182(a)(6)(A)(i), which, Respondents claim, makes him ineligible for bond.

DECISION OR ACTION THAT PETITIONER IS CHALLENGING

6. Petitioner challenges Respondents' unlawful immigration detention and Respondents' determination that Petitioner does not qualify for a bond hearing under 8 U. S. 8 U. S. C. § 1226(a).

FEDERAL STATUTE: JURISDICTION

7. 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).

8. Furthermore, "a federal court always has jurisdiction to determine its own jurisdiction," including its own subject-matter jurisdiction. *Brownback v. King*, 592 U.S. 209, 218-19 (2021) (quoting *United States v. Ruiz*, 536 U.S. 622, 628 (2002)).

9. 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 (INA), 8 U.S.C. § 1252(e)(2).

VENUE

10. Venue is proper because Petitioner is in Respondents' custody at Broward Transitional Center, Pompano, Florida, and because a substantial part of the events giving rise to Petitioner's claim occurred in the Southern District of Florida. 28 U.S.C. § 1391(e).

CUSTODY

11. Pursuant to 28 U. S. C. § 2241(c), only persons “in custody” may apply for a writ of habeas corpus. Custody may be physical or constructive custody, where the person is under a restraint on liberty not shared by the public generally. *See Jones v. Cunningham*, 371 U. S. 236, 240, 83 S. Ct. 373, 9 L. Ed. 2D 285 (1963) (“[B]esides physical imprisonment, there are other restraints on a man’s liberty, restraints not shared by the public generally, which have been thought sufficient in the English-speaking world to support the issuance of habeas corpus.”).

12. Here, Petitioner is in Respondents’ physical custody, detained at Broward Transitional Center, Pompano Beach, Florida.

PARTIES

THE PETITIONER

13. The Petitioner resides in the State of Florida and is present in the State of Florida at the time of filing this petition.

THE RESPONDENTS

14. Respondent Warden of the Broward Transitional Center is responsible for the supervision and management of Broward Transitional Center. He is sued in his official capacity.

15. Respondent GARRETT RIPA is the Field Office Director for the Miami Field Office, Immigration and Customs Enforcement and Removal Operations (“ICE”). The Miami Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. GARRETT RIPA is sued in his official capacity.

16. The Miami Field Office’s area of responsibility includes Broward

Transitional Center, located in Pompano Beach, Florida. Consequently, respondent GARRETT RIPA is the immediate legal custodian of petitioner.

17. Respondent KRISTI NOEM is the Secretary of Homeland Security. She is responsible for the actions of the Department of Homeland Security, its subagencies, and its officers and personnel. KRISTI NOEM is sued in her official capacity.

18. Respondent PAMELA BONDI is the Attorney General of the United States. She has responsibility for the conduct and operations of the Department of Justice and all of its officers and personnel, including the Executive Office for Immigration Review. PAMELA BONDI is sued in her official capacity.

19. Respondent TODD LYONS is the Acting Director of Immigration Customs Enforcement (ICE), and as such is responsible for the means by which the immigration laws of the United States are enforced. TODD LYONS is sued in his official capacity.

20. Respondent U.S. DEPARTMENT OF HOMELAND SECURITY is an agency of the United States with responsibility for the enforcement of the nation's immigration laws. It is under the direction of Respondent KRISTI NOEM.

21. Respondent U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT is an agency of Respondent U.S. DEPARTMENT OF HOMELAND SECURITY, and is under the direction of Respondent TODD LYONS.

22. Respondent U.S. DEPARTMENT OF JUSTICE is an agency of the United States, and is under the direction of respondent PAMELA BONDI.

23. Respondent DEPARTMENT OF JUSTICE maintains an adjudicatory body for immigration cases, the Executive Office for Immigration Review (EOIR). Part of EOIR includes the Office of the Immigration Judge, generally known as the Immigration Court.

LEGAL BACKGROUND

LEGAL REQUIREMENTS FOR BOND

24. Pursuant to 8 U. S. C. § 1225(b)(2)(A), aliens who are apprehended at or near the border, shortly after crossing, are subject to mandatory detention:

Subject to subparagraphs (B) and (C), in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.

[Emphasis added.].

25. However, aliens already present in the United States—not apprehended upon crossing or shortly thereafter—are eligible for bond hearings under 8 U. S. C. § 1226(a).

26. The Department of Homeland Security’s policies and *Matter of Yajure Hurtado* contravene the statutory framework regarding the detention of aliens. Aliens, such as Mr. Seferino Resendiz Resendiz, who was not apprehended at the border and who has resided in the United States for decades are subject to 8 U. S. C. § 1226(a), allowing for bond hearings.

27. 8 U. S. C. § 1225(a)(1) defines an applicant for admission:

An alien present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival and including an alien who is brought to the United States after having been interdicted in international or United States waters) shall be deemed for purposes of this chapter an applicant for admission.

Respondents, therefore, assert that 8 U. S. C. § 1225(a)(1) and 8 U. S. C. § 1225(b) require detention for aliens who have entered without inspection.

28. If 8 U. S. C. § 1226(a) categorically excluded all aliens who entered without inspection from bond eligibility, the language in 8 U. S. C. § 1226(c)(1)(E) would be superfluous. 8 U. S. C. § 1226(c)(1)(E) provides for mandatory detention for aliens who are present without

admission or parole *and* who have committed certain crimes. It follows that aliens without admission or parole are generally eligible for bond under 8 U. S. C. § 1226(a). *See Corley v. United States*, 556 U.S. 303, 314 (2009) (holding that a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant”).

29. The interpretation of 8 U. S. C. § 1226(a) as the default bond provision, regardless of manner of entry, is consistent with *Nielsen v. Preap*, 586 U. S. 392 (2019): “Although the Ninth Circuit viewed subsections [8 U. S. C. § 1226(a)] and [8 U. S. C. § 1226(c)] as establishing separate sources of arrest and release authority, in fact subsection [8 U. S. C. § 1226(c)] is simply a limit on the authority conferred by subsection [8 U. S. C. § 1226(a)].” If 8 U. S. C. § 1226(c)(c)(1)(E) limits the authority of 8 U. S. C. § 1226(a) to grant bond to aliens who entered without inspection and committed certain crimes, 8 U. S. C. § 1226(a) generally provides authority to grant bond for persons who entered without inspection in other circumstances, for example, if they do not have any disqualifying crimes. If 8 U. S. C. § 1226(a) did not govern bond eligibility for aliens present without inspection, 8 U. S. C. § 1226(c) would not have mentioned them.

30. 8 C. F. R. § 236.1(c)(2) further reinforces these points: “Subject to paragraph (c)(6)(i) of this section, but notwithstanding any other provision within this section, an alien subject to the [Transition Period Custody Rules] who is not lawfully admitted is not eligible to be considered for release from custody.” The regulation implies that an alien who was not lawfully admitted, but who is not subject to the Transition Period Custody Rules, is eligible to be considered for release from custody. *See United States v. Wells Fargo Bank*, 485 U.S. 351, 357 (1988) (holding that the expression of one is the exclusion of another).

31. Consistent with bond eligibility for aliens who entered without inspection, *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006), lists manner of entry as a discretionary factor. *Matter of Guerra* would not have listed “manner of entry” as a discretionary, not determining, factor if aliens without inspection were ineligible for bond. Categorically excluding aliens from bond for having entered without inspection is thus arbitrary and capricious.

32. Bond eligibility for aliens who entered without inspection is further supported by *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *Jennings v. Rodriguez*, 138 S.Ct. 830 (2018) held that 8 U. S. C. § 1226(a) applies to aliens already present in the United States, as opposed to aliens seeking admission (subject to 8 U. S. C. § 1225(b)).

33. The U. S. Supreme Court ruled:

In sum, 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) and (c).

Jennings v. Rodriguez, 138 S.Ct. 830, 838 (2018) (emphasis added). The Supreme Court distinguished *aliens seeking admission* from *aliens already present in the country*. Aliens already present in the country are eligible for bond.

34. Interpreting 8 U. S. C. § 1226(a), the Supreme Court carefully avoided language that would have implied that only aliens admitted (or with inspection) qualify for bond. Instead, the Supreme Court referred to “aliens already present in the United States,” which could include aliens present without inspection. *Jennings v. Rodriguez*, 138 S.Ct. 830, 846 (2018). “As noted, §1226 applies to aliens already present in the United States.” *Id.*

35. On November 30, 2016, during oral argument for *Jennings v. Rodriguez*, the Government represented that 8 U. S. C. § 1226(a) allows aliens who entered without inspection to qualify for bond. Justice Sonia Sotomayor asked the Government whether

an alien who has resided within 50 miles of the border for 20 years would be subject to 8 U. S. C. § 1225(b). Transcript of Oral Argument at 8, *Jennings v. Rodriguez*, 138 S.Ct. 830 (2018) (No. 15–1204). The Government replied that such an alien would be subject to 8 U. S. C. § 1226(a), eligible for bond. *Id.*

36. The relevant portion reads:

JUSTICE SOTOMAYOR: So what happens to –I

JUSTICE SOTOMAYOR: So what happens to --I don't know how many of these would exist, but an alien who has resided within 14 miles of the border, not 14 – how many miles?

GENERAL GERSHENGORN: Within a hundred miles of the border and 14

JUSTICE SOTOMAYOR: Hundred miles from the border, that's possible, who has been there for 20 years, they would still be held under 1225?

GENERAL GERSHENGORN: So I'm sorry, Your Honor. They would be held under 1226(a). So this is on - - on - - they –if they hadn't committed other crimes, and - -and so, therefore, were not subject to the mandatory detention under 1226(c).

JUSTICE SOTOMAYOR: I'm assuming no criminal alien.

GENERAL GERSHENGORN: Okay.

JUSTICE SOTOMAYOR: I'm talking about an alien who has come into the United States illegally without being admitted who takes up residence 50 miles from the border.

GENERAL GERSHENGORN: The answer is they are held under 1226(a) and that they get a bond hearing under - -and this is at page 156a of the appendix.

Transcript of Oral Argument at 8, *Jennings v. Rodriguez*, 138 S.Ct. 830 (2018) (No. 15–1204).

37. Furthermore, Bond eligibility, under 8 U. S. C. § 1226(a), for persons who Entered without inspection is consistent with the legislative history. The legislative history of 8 U. S. C. § 1226(a) demonstrates that congress intended for aliens already present in the United States be eligible for bond (except for certain criminal aliens subject to 8 U. S. C. § 1226(c), even if they entered without inspection. Congress enacted the 8 U. S. C. § 1226(a) through the

Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. 104–208, 110 Stat. 3009.

38. Before IIRIRA, the predecessor to 8 U. S. C. § 1226(a) regulated detention for aliens arrested in the United States. *See* 8 U.S.C. § 1252(a)(1) (1994) (“Pending a determination of deportability . . . any [alien] . . . may, upon warrant of the Attorney General, be arrested and taken into custody.”). The predecessor section also established bond eligibility for aliens who entered without inspection. *See* 8 U.S.C. § 1252(a)(1) (1994) (“[A]ny such [alien] taken into custody may, in the discretion of the Attorney General . . . be continued in custody . . . [or] be released under bond[.]”).

39. Congress explained, “New section 236(a) [8 U. S. C. § 1226(a)] restates the current provisions in [the predecessor statute] regarding the authority of the Attorney General to arrest, detain, and release on bond an alien who is not lawfully in the United States.” H.R. Rep. No. 104-828, at 210 (1996) (Conf. Rep.). In short, aliens who were already present in the United States, but who had entered without inspection, were eligible for release under discretionary bond. Because congress declared this part unchanged, aliens who entered without inspection remain bond eligible.

40. Recently, the Laken Riley Act, Pub. L. 119-1, 139 Stat. 3009 (2025), added new grounds for mandatory detention under 8 U. S. C. § 1226(c). However, it made no effort to change 8 U. S. C. § 1226(a), leaving its original scope untouched. The Act confirmed decades of practice, allowing aliens already present in the United States, even if having entered without inspection, to qualify for bond.

41. The long-standing practice is reflected in the federal guidance associated with the

Trump’s leadership, we are looking to set a goal of a minimum of 3,000 arrests for ICE every day, and President Trump is going to keep pushing to get that number up higher each and every single day.”²

50. In an email, senior officials instructed ICE agents to “turn the creativity knob up to 11” and aggressively “push the envelope” in arrests, including pursuing “collaterals.” One email advised, “If it involves handcuffs on wrists, it’s probably worth pursuing.”³

51. On July 8, 2025, ICE, “in coordination with” the Department of Justice, issued the “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claiming that aliens who entered the United States without inspection are subject to mandatory detention under 8 U. S. C. § 1225(b)(2)(A)—regardless of when or where they were apprehended.

52. Under the new policy, it does not matter whether aliens have resided in the U. S. for decades, nor whether they were apprehended far from the border; if they entered without inspection, they are subject to mandatory detention, according to Respondents.

53. Similarly, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals ruled that all aliens who entered the United States without inspection are subject to mandatory detention under 8 U. S. C. § 1225(b)(2)(A).

54. On January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing immigration judges to continue relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), despite the

² Hannity, Sean, “Stephen Miller says the admin wants to create the strongest immigration system in US History,” FOX NEWS (May 28, 2025), <https://www.foxnews.com/video/6373591405112> (last visited January 13, 2026)

³ Olivares, José, “US immigration officers ordered to arrest more people even without warrants,” *The Guardian* (June 4, 2025) <https://www.theguardian.com/us-news/2025/jun/04/immigration-officials-increased-detentions-collateral-arrests> (last visited January 13, 2026)

ruling in *Bautista v. Noem*, No. Case No.: 5:25-cv-01873-SSS-BFM (C. D. Cal. December 22, 2025).

55. The Department of Homeland Security's policies and *Matter of Yajure Hurtado* contravene the statutory framework regarding the detention of aliens. Aliens, such as Mr. Seferino Resendiz Resendiz, who was not apprehended at the border and who has resided in the United States for decades are subject to 8 U. S. C. § 1226(a), allowing for bond hearings.

PETITIONER'S CIRCUMSTANCES

56. Petitioner is a citizen of Mexico. On or about 2007, Petitioner entered the United States as a minor (approximately 17 years-old). Petitioner was not apprehended upon arrival. Petitioner has not left the United States since then.

57. On September 16, 2025, at approximately 9:45 pm or 10 pm, Petitioner was driving to a gas station in Bradenton, Florida.

58. When Petitioner was pulling into or about to pull into the gas station, a Manatee County Sheriff deputy stopped Petitioner.

59. Petitioner was unable to produce any form of identification. Another Manatee County Sheriff deputy arrived.

60. The sheriff deputies allowed Petitioner to call his son who brought him his Mexican passport.

61. After Petitioner produced his Mexican passport, the sheriff deputies arrested Petitioner for driving without a driver's license.

62. Petitioner was detained at the Manatee County Jail, Florida, for approximately three days.

72. Specifically, the mandatory detention provision of 8 U. S. C. § 1225(b)(2) does not apply to aliens who have resided in the United States for decades and were not apprehended upon entry at the border.

73. Aliens who have resided in the United States for decades and were not apprehended upon entry at the border are eligible for bonds under 8 U. S. C. § 1226(a), unless they are subject to 8 U. S. C. § 1226(c), 8 U. S. C. § 1225(b)(1), or 8 U. S. C. § 1231.

74. Applying 8 U. S. C. § 1225(b)(2) to Petitioner contravenes the INA, unlawfully mandating his continued detention.

75. Instead, Respondents should allow Petitioner to request bond under 8 U. S. C. § 1226(a). See *Bautista v. Noem*, No. Case No.: 5:25-cv-01873-SSS-BFM (C. D. Cal. December 22, 2025).

COUNT II

II. Violation of the Bond Regulations

76. Shortly after Congress amended the INA through IIRIRA, the former Immigration and Naturalization Service and the Executive Office for Immigration Review issued an interim regulation: 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Under the interim regulation, “[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 determination.” 62 Fed. Reg. at 10323. Thus, the agencies in charge of administering the INA’s detention framework believed that entry without inspection did not disqualify aliens from bond eligibility under 8 U. S. C. § 1226(a).

77. Nevertheless, the EOIR and DHS have policies and practices of applying 8 U. S. C. § 1225(b)(2) to persons, such as Petitioner, who entered the U. S. without inspection,

regardless of whether they were apprehended at the border or whether they have resided in the U. S. for decades. *See Matter of Yahure Hurtado*, 9 I&N Dec. 216 (BIA 2025).

78. *Matter of Yahure Hurtado*, 9 I&N Dec. 216 (BIA 2025) contradicts decades of policies and practice, constituting agency action that is arbitrary and capricious under the Administrative Procedure Act (APA), 5 U.S. Code § 706.

79. The application of 8 U. S. C. § 1225(b)(2) to Petitioner violates 8 C. F. R. § 236.1, 8 C. F. R. § 1236.1, and 8 C. F. R. 1003.19, unlawfully subjecting him to mandatory detention.

COUNT III

III. Constitutional Violation of the Right to Due Process

80. The government may not deprive a person of life, liberty, or property without the due process of the law. U. S. Const. amend. V; see *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 Clause protects.”).

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

82. Detaining Petitioner without a bond redetermination hearing to assess whether he is a flight risk or danger to the community violates his due process rights.

PRAYER FOR RELIEF

83. Wherefore petitioner prays for the following relief from this court:

- a) Assume jurisdiction in this matter;
- b) Issue an immediate order barring the respondents from transferring Petitioner out of the Southern District of Florida while this habeas corpus petition is pending;

- c) Issue an order to show cause why this petition should not be granted within three (3) days;
- d) Declare petitioner's continued detention without bond violates applicable regulations, the APA, the INA, and the Fourth and Fifth Amendments to the Constitution of the United States;
- e) Issue a writ of habeas corpus, ordering respondents to release petitioner from custody; and
- f) Grant any further relief as the court may deem just and proper.

Dated this 27th day of January 2026

PLAINTIFF-PETITIONER VERIFICATION

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

By: /s/ José Manuel Godínez Samperio
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CERTIFICATE OF SERVICE

I hereby certify that, on January 27, 2026, I electronically served a true and correct copy of the foregoing on counsel for Respondents via transmission of a Notice of Electronic Filing generated by the CM/ECF system of the U.S. District Court of the Southern District of Florida.

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