

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

JHONATAN REYES PERALTA,
A Number: 

Petitioner,

v.

TODD LYONS in his Official Capacity as
Acting Director of ICE
MARY DE ANDA-YBARRA in his Official
capacity as Field office Director Field Office
Director of the Immigration and Customs
Enforcement and Removal Operations, El
Paso Field Office;
KRISTI NOEM, Secretary, U.S. Department
Homeland Security;
PAMELA BONDI, U.S. Attorney General;
OFFICER
WARDEN of El Paso Processing Center

Respondent(s).

Case No: 3:26-cv-219

**AMENDED PETITION FOR WRIT
OF HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

INTRODUCTION

1. Petitioner, Jhonatan Reyes Peralta, has been residing in the United States since April 2004. The Petitioner was charged through Notice to Appear (NTA) on April 16, 2018, having entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).
2. The Petitioner is *Prima Facie* eligible for Cancellation of Removal and Adjustment of Status, Form EOIR 42B. He applied for Cancellation of Removal on May 5, 2020. While he was in removal proceedings and was detained by Miami-Dade County law enforcement, DHS issued a hold on the Petitioner's release and took custody of the Respondents on August 9, 2025. Petitioner was detained in Florida and later on, he was transferred to the

detention center ERO El Paso Camp East Montana in El Paso, Texas. On February 2, 2026, the Petitioner was transferred to El Paso Processing Center located at 8915 Montana Avenue, El Paso, Texas 79925. The Petitioner is subject to pending removal proceedings.

3. The Petitioner now faces unlawful detention because on December 9, 2025, the Department of Homeland Security (DHS), in direct collaboration with the adjudicative body with jurisdiction over immigrants (the Executive Office of Immigration Review) (EOIR) have concluded that the Immigration Judge has no jurisdiction to conduct bond hearing pursuant to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
4. Petitioner filed Motion for Bond Reconsideration again on January 13, 2026, pursuant to *Maldonado Bautista v. Santacruz Jr. et al.*, Case No. 5:25-cv-01873-SSS-BFM. However, jurisdiction was denied again on February 4, 2026, by the Immigration Judge, opining that the Immigration Court is bounded by *Matter of Yajure Hurtado*.
5. Based on this allegation in Petitioner's removal proceedings, 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 to be released on bond.
6. 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 ineligible to be released on bond.

7. 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.
8. Respondents' new legal interpretation is plainly contrary to the statutory framework, violation of Due Process, and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.
9. More importantly, the Government itself has made an abrupt about-face this issue. Respondents should be judicially estopped from asserting their current interpretation of 8 U.S.C. § 1225(b)(2)(A), because they previously prevailed in litigation after asserting the opposite interpretation. As explained in *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial estoppel applies when a party assumes a position in a legal proceeding, succeeds in maintaining that position, and then adopts a contrary position in a subsequent proceeding to gain an unfair advantage. Here, Respondents previously, and successfully, argued that individuals who entered the United States without inspection were subject to detention under § 1226(a), and not § 1225(b)(2)(A), and courts accepted that position. Respondents now reverse course and assert that such individuals are subject to mandatory detention under § 1225(b)(2)(A), thereby denying them bond hearings. This shift in legal position undermines the integrity of the judicial process and imposes an unfair detriment on Petitioners who relied on the prior interpretation. Accordingly, Respondents should be

estopped from asserting this inconsistent position.

10. Accordingly, Petitioner seeks a Writ of Habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION AND VENUE

11. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(5) (Federal Habeas Corpus Statute), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, clause 2 of the United States Constitution (the Suspension Clause).
12. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
13. 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.
14. Petitioner is in the physical custody of Respondent(s). Petitioner is detained at El Paso Processing Center, located at 8915 Montana Avenue, El Paso, Texas 79925.
15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies in the United States District Court for the Western District of Texas, the judicial district in which Petitioner is currently 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.*

18. 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. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

19. Petitioner, Jhonatan Reyes Peralta, is a citizen of Mexico who has been in immigration detention since August 9, 2025. After arresting Petitioner and transferring him to the ERO El Paso Camp East, ICE did not set bond and Petitioner is unable to obtain review of her custody by an Immigration Judge, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Due to this erroneous decision, it would be futile for Petitioner to apply a bond redetermination to EOIR without the intervention of this honorable Court.
20. Respondent, Todd Lyons, is the Acting Director of U.S. Immigration and Customs Enforcement (ICE) and is sued in his official capacity. ICE is responsible for the detention of Petitioners.
21. Respondent, Mary De Anda-Ybarra is the Director of the ICE El Paso Field Office. In that capacity, she is charged with overseeing El Paso Processing Center. Respondent Anda-Ybarra has the authority to make custody determination regarding individuals detained there. Therefore, Respondent Anda-Ybarra is the Immediate custodian of the Petitioner.

She is sued in his official capacity.

22. 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.
23. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.
24. 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 and the immigration court system it operates is a component agency. She is sued in her official capacity.
25. Respondent, Warden of El Paso Processing Center is the Warden of the facility in which the Petitioner is detained and oversees operations at the Detention facility of El Paso Processing Center, which operates under the Immigration and Customs Enforcement to confine immigration detainees. The Respondent is responsible for the detention of Petitioner and has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

26. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for noncitizens in removal proceedings.
27. 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 8 U.S.C. § 1226(c).

28. 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).

29. 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).

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

31. 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).

32. 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).

33. 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)).

34. In *Jennings v. Rodriguez*, the Department of Homeland Security (DHS) explicitly acknowledged that individuals who have already entered the United States and are not apprehended within 100 miles of the border or within 14 days of entry are subject to discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b). During oral argument on November 30, 2016, then-Solicitor General Ian Gershengorn stated: “If they are not detained within 100 miles of the border or within 14 days... then they are under 1226(a) and not 1226(c)” and further clarified, in response to a question concerning “an alien who has come into the United States illegally without being admitted [and] who takes up residence 50 miles from the border,” the Government responded, “The answer is they are held under 1226(a) and that they get a bond hearing...” Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. (2018) (No. 15-1204). DHS reiterated that such individuals “would be held under 1226(a)” and cited the administrative record to support that position. *Id.* These statements reflect DHS’s prior litigation stance that § 1226(a) governs detention for noncitizens who have entered and are residing in the United States, a position directly contrary to the agency’s current interpretation applying § 1225(b)(2)(A) to such individuals. Having prevailed in *Jennings* after taking this position, they should be estopped from taking the contrary position now simply because their political or litigation interests have changed. Estoppel in this case is necessary to preserve the predictability inherent in the rule of law and due process under the Fifth Amendment,

as well as to protect the integrity of the judicial system.

35. 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.
36. 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 provision 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.
37. On September 5, 2025, the BIA adopted this 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 IJ bond hearings.
38. Since Respondents adopted their new policies, several federal courts have rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.
39. Even before ICE or the BIA introduced these nationwide policies, Immigration Judges in 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. 3d 1239 (W.D. Wash. 2025).

40. A growing number of federal courts have rejected ICE and EOIR's expanded interpretation of the Immigration and Nationality Act's detention provisions. These courts have consistently held that § 1226(a), not § 1225(b)(2), governs the detention authority applicable in these cases. For example, courts in Florida and other states, "Since DHS's change in policy, courts in this District and around the country have rejected the new interpretation of the INA," *Hinojosa Garcia v. Noem*, No 2:25-CV-00879-SPPC-NPM, 2025 WL 3041895, at *5 (MD Fla. Oct. 31, 2025); *see also*, *Erazo v. Hardin*, No. 2:25-CV-891-KCD-DNF, 2025 WL 3187136 (M.D. Fla. Nov. 14, 2025); *Vasquez Carcamo v. Noem*, No 2:25-CV-00922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025); *Hernandez Lopez v. Hardin*, No. 2:25-CV-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct, 29, 2025); *Merino v. Ripa*, No 25-23845-CIV, 2025 WL 2941609 (S.D. Fla. Oct 15, 2025); *Puga v. Assistant Field Off. Dir., Krome N. Ser. Processing Ctr.*, No. 25-24535-CV, 2025 WL 2938369 (S.D. Fla. Oct 15, 2025); *Aguirre Villa v. Normand*, No 5:25-CV-089, 2025 WL 3091833 (S.D. Ga. Nov. 5, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM (D. Mass. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF (N.D. Cal. Aug. 21, 2025); *Palma Perez v. Berg*, No. 8:25CV494 (D. Neb. Sept. 3, 2025).
41. These decisions reflect a clear judicial consensus that the government's reliance on § 1225(b)(2) is misplaced in cases involving those whose immigration status lawfully falls under § 1226(a).

42. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like the Petitioner.
43. DHS's own factual allegations contained in the Notice to Appear determined that Petitioner had entered the U.S. under the INA and thus falls under § 1226(a), not § 1225(b).
44. 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, which "decid[ed] the inadmissibility or deportability of [a] [noncitizen]."
45. 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 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*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see also *Gomes*, 2025 WL 1869299, at *7.
46. 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.
47. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States and were not free to mingle with the general population after being free from official restraint. 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).

48. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole.

FACTS

49. The Petitioner is a 37-year-old man who was born in Mexico and has resided in the United States since April 2004. The Petitioner has resided in Florida since he came to the United States, but currently, he resides physically in El Paso, Texas where he is detained.
50. The Petitioner has timely applied for Cancellation of Removal, 42 B. Hearing on the merits of his application has not been set.
51. On April 16, 2018, DHS issued Petitioner a defective Notice to Appear, alleging that Petitioner entered the United States without inspection. The Notice to Appear was defective because it did not include date, time and place where the hearing was going to be held.
52. DHS filed the Notice to Appear with EOIR and placed Petitioner 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.
53. On or about August 8, 2025, Petitioner was arrested in Collier County, Florida under

alleged charges of Battery (Domestic Violence). However, no charges against the Petitioner were brought by the State. The Petitioner was released by the Collier law enforcement, but ICE placed a hold on him and detained him in the Broward Processing Center, in Broward, Florida. The Petitioner is currently detained in El Paso Processing Center, located at 8915 Montana Avenue, El Paso, Texas 79925.

54. Petitioner lived in the United States prior to his arrest by immigration authorities.
55. Petitioner has resided in the United States for the past twenty-one (21) years, during which time he has maintained steady employment. His established presence in the community reflects his responsibility and commitment to resolving his immigration proceedings through the proper legal channels.
56. On December 2, 2025, Petitioner submitted a bond request to the El Paso SPC Immigration Court. The case was classified as a Bond Matter, separate from his pending removal proceedings initiated by a charging document dated April 16, 2018. The Immigration Judge issued a decision on December 9, 2025, finding no jurisdiction over the bond request, despite the fact that the DHS had previously released the Respondent under section 236 of the INA.
57. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider is Petitioner's bond request, and her unlawful detention cannot be litigated before that body, who collaborated with the DHS – who is a party to these contested proceedings – to adopt the DHS position wholesale, because such efforts would be futile.
58. As a result, Petitioner remains in detention without relief from this court. The Petitioner 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 Administrative Procedure Act

59. Petitioners incorporate by reference the allegations of fact set forth in the preceding paragraphs.
60. 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 because they originally entered the United States without inspection or parole. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.
61. The application of § 1225(b)(2) to bar Petitioner from receiving a bond redetermination hearing before an immigration judge is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

COUNT II

Violation of the Bond Regulations

62. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.
63. 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 (emphasis added). 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.

64. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

65. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to an individual like Petitioner. The application of § 1225(b)(2) bars Petitioners from receiving a bond redetermination hearing before an immigration judge.

66. 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 Due Process

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

68. 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).

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

70. 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/her/their] right to due process.

Judicial Estoppel

71. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
72. The Government is judicially estopped from asserting that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). In prior litigation, including *Jennings v. Rodriguez*, the Government successfully argued that individuals who entered without inspection and were not apprehended near the border or within 14 days were subject to discretionary detention under § 1226(a), not mandatory detention under § 1225(b)(2)(A). See *Jennings v. Rodriguez*, No. 15-1204, Tr. of Oral Arg. at 7–8 (Nov. 30, 2016). Courts accepted that position. Now, the Government reverses course and asserts the opposite interpretation to deny bond hearings. Under *New Hampshire v. Maine*, 532 U.S. 742 (2001), judicial estoppel applies where a party assumes a position, prevails, and then adopts a contrary position to gain an unfair advantage. The Government's reversal undermines the integrity of the judicial process and prejudices Petitioners who relied on the prior interpretation.

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 Western District of Texas 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 on this 6th day of February 2026.

Respectfully Submitted,

/S/ Nidia Borge

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CERTIFICATE OF SERVICE

I, the undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system, which will send a notice of electronic filing (NEM) to all counsel of record. I will further serve a copy of the Petition and exhibits on each Respondent(s) by certified mail.

Dated: February 6, 2026

Respectfully submitted,

/S/ Nidia Borge
NIDIA BORGE, ESQ.
Counsel for Petitioner