
UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

Marcos Abraham Flores Ceballos

Petitioner,

v.

JUAN BALTASAR, Warden, GEO Group ICE
Processing Center;

ROBERT HAGAN, Director of the Denver Field
Office for U.S. Immigration and Customs
Enforcement;

TODD LYONS, Acting Director of U.S.
Immigration and Customs Enforcement;

KRISTI NOEM, Secretary, U.S. Department of
Homeland Security; and

PAMELA BONDI, U.S. Attorney General,
in their official capacities,

Respondents.

Case No.: 26-cv-368

**EXPEDITED
CONSIDERATION
UNDER 28 USC § 1657(a)
REQUESTED**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This petition arises from the U.S. government's unlawful detention of Petitioner pursuant to its recent policy that contradicts the plain language of the Immigration and Nationality Act ("INA"), binding federal court precedent, and decades of agency practice. Under this policy, the government erroneously interprets the INA to mandate detention without the possibility of bond for noncitizens who are alleged to have entered the United States without inspection, even when they have resided in the United States for years and are legally entitled to bond consideration under 8 U.S.C. § 1226(a).
2. This policy has led to the unlawful detention of countless noncitizens nationwide and has prompted hundreds of habeas corpus petitions across the country.¹ The overwhelming majority of merits decisions addressing this issue have found the plain statutory language dictates orders of relief for petitioners, either in the form of an order of immediate release or a requirement that the government provide a prompt bond hearing under § 1226(a).
3. Petitioner, Marcos Abraham Flores Ceballos, has lived in the United States since before he can remember. He was brought to the United States as a young child and has lived in the United States for nearly twenty-five years.

¹ Reportedly, thousands. See Kyle Cheney, *Hundreds of Judges Reject Trump's Mandatory Detention Policy with No End in Sight*, POLITICO (Jan. 5, 2026), www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494.

He is currently detained by Respondents at the Aurora ICE Processing Center. Per the government's charging document filed in immigration court, Petitioner entered the United States without inspection (or apprehension) decades ago and has resided in the U.S. ever since.

4. After apprehending Petitioner on December 23, 2025, the Department of Homeland Security ("DHS") placed Petitioner in removal proceedings pursuant to 8 U.S.C. § 1229a and charged Petitioner as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) for being present in the United States without having been admitted or paroled. Respondents have detained Petitioner without the possibility of bond, asserting that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
5. Respondents' position is unlawful. Under 8 U.S.C. § 1226(a), individuals who, like Petitioner, are residing in the United States but charged as inadmissible based on an alleged entry without inspection are entitled to a bond determination. For decades, DHS and the Executive Office for Immigration Review ("EOIR") consistently applied § 1226(a) to such individuals and provided bond hearings in immigration court.
6. Nonetheless, the Immigration Judge (IJ) declined jurisdiction to hear Petitioner's bond request, relying upon *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—which federal courts nationwide have predominantly rejected as inconsistent with the statutory text—to assert that Petitioner is

subject to mandatory detention under 8 U.S.C. § 1225. *See* Exh. 1, *Immigration Judge Bond Denial*.

7. Respondents' continued detention of Petitioner violates the INA, binding federal court precedent, and Petitioner's right to due process by depriving Petitioner of liberty without any individualized determination that detention is warranted.
8. Accordingly, Petitioner seeks a writ of habeas corpus requiring Respondents to immediately release Petitioner from custody. Alternatively, Petitioner seeks an order requiring Respondents to provide a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days, and, if such hearing is not provided within such timeframe, immediate release.
9. Petitioner does not challenge any discretionary denial of bond. Petitioner challenges the unlawful legal determination that Petitioner is categorically ineligible for bond under § 1226(a).

CUSTODY

10. Petitioner is in the physical custody of Respondents, imprisoned at the Aurora ICE Processing Center, an immigration detention center in Aurora, Colorado, since December 31, 2025. Petitioner is under direct control and supervision of Respondents.

JURISDICTION

11. This Court has subject matter jurisdiction over this petition pursuant to 28 U.S.C. § 2241(c), which authorizes federal courts to grant writs of habeas

corpus to persons held in custody in violation of the Constitution or laws of the United States.

12. This Court also has federal question jurisdiction under 28 U.S.C. § 1331 because this action arises under the laws of the United States, including the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 et seq.
13. Jurisdiction is further proper under Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause).
14. This Court has authority to grant relief pursuant to 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

VENUE

15. Venue is proper in this judicial district under 28 U.S.C. § 2241 because Petitioner is detained at the GEO Group’s ICE Processing Center in Aurora, Colorado, which is within the jurisdiction of this district and is in the immediate physical custody of Respondent Juan Baltasar, who resides in this district for purposes of this action. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1005-06 (2025) (per curiam) (“For core habeas petitions, jurisdiction lies in only one district: the district of confinement” (internal quotation marks and citations omitted.)).
16. Venue is also proper under 28 U.S.C. § 1391(e)(1) because Respondents are officers, employees, or agencies of the United States acting in their official capacities; because a substantial part of the events or omissions giving rise

to Petitioner's claims—including Petitioner's detention, the denial of bond eligibility, and Respondents' refusal to comply with binding declaratory judgment—occurred within this district; Petitioner resides in this District, and no real property is involved in this action.

REQUIREMENTS OF 28 U.S.C. § 2243

17. This Court must grant the petition for a writ of habeas corpus or issue an order directing Respondents to show cause “forthwith” why the writ should not be granted, unless it appears from the application that Petitioner is not entitled to relief. 28 U.S.C. § 2243.
18. If the Court issues an order to show cause, Respondents must file a return within three days unless, for good cause, additional time not exceeding twenty days is allowed. *Id.*
19. Prompt resolution is particularly warranted here because the legal issues governing Petitioner's detention have already been resolved overwhelmingly in Petitioner's favor by hundreds of federal courts across the country² and Respondents' continued detention of Petitioner is unlawful.
20. Habeas corpus is intended to provide a “swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400

² See *Gimenez Rivero v. Mina*, No. 6:26-cv-00066-RBD-NWH, Order, Injunction, and Order to Show Cause at 1 (M.D. Fla. Jan. 26, 2026), ECF No. 15 (“Judges across the country—the vast majority who have considered this question—have told the Government many times in the past few months that its interpretation of the law is wrong.”) See *Bethancourt Soto*, 2025 WL 2976572, at *7. This is no partisan stance: judges appointed by every President from Ronald Reagan through Donald Trump have said so.”

(1963). Where, as here, a petitioner is detained in clear violation of federal law and binding judicial authority, expedited relief is required.

PARTIES

A. Petitioner

21. Petitioner Marcos Abraham Flores Ceballos is a citizen of Mexico who has resided in the United States for decades. He has been in immigration detention since December 23, 2025, and is currently detained at the Aurora ICE Processing Center. After taking custody of Mr. Martinez Garrido, ICE did not set bond. Mr. Martinez Garrido requested review of his custody (i.e., a bond hearing) by an immigration judge (IJ) at the Aurora Immigration Court. On January 16, 2026, Mr. Flores Ceballos was denied eligibility for bond by an IJ because he was deemed subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Petitioner is a prime candidate for bond because Respondents cannot credibly allege that Petitioner poses any danger or is a flight risk, given his marriage to a U.S. citizen, long term residence in the United States, and extensive community support network of family and friends who have written dozens of letters in support of bond.

B. Respondents

22. Respondent Juan Baltasar is the Warden of the Aurora Contract Detention Facility. Respondent Baltasar has immediate physical custody of Mr. Martinez Garrido pursuant to the facility's contract with U.S. Immigration

and Customs Enforcement to detain non-citizens and is sued in his official capacity. Respondent Baltasar is a legal custodian of Petitioner.

23. Respondent Robert Hagan is the Director of the Denver Field Office for U.S. Immigration and Customs Enforcement. As such, Director Hagan is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.
24. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement. Respondent Lyons is responsible for Mr. Martinez Garrido's detention and is sued in his official capacity.
25. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, the component agency responsible for Petitioner's detention. Respondent Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.
26. Respondent Pamela Bondi is the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). She has the authority to adjudicate removal cases and oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals. Respondent Bondi is a legal custodian of Mr. Martinez Garrido and is sued in her official capacity.

STATEMENT OF FACTS

27. Petitioner is thirty years old and has resided in the U.S. since he was brought into the country (without apprehension by immigration officials) at

about the age of four. He speaks English and was raised in the U.S. education system, attending elementary, middle, and high school here in the United States. He held lawful status under DACA from 2013 to 2018. Aside from minor traffic infractions, his criminal history consists of a single guilty plea to Driving While Ability impaired nearly ten years ago, which was withdrawn and the charge dismissed and sealed after completion of a Deferred Judgment and Sentence. He has remained law abiding in the years since. Petitioner is gainfully employed and married to a U.S. citizen. He has significant community ties, given he has lived nearly his entire life in the United States. Thus, he is also prima facie eligible for relief from removal in the form of Cancellation of Removal for Non-Permanent Residents. 8 U.S.C. § 1229b(b)(1).

28. Contracted by the U.S. Air Force Academy to install graphics equipment, he entered the Academy on December 23, 2025, to renew his work badge.
29. The person at the desk responsible for renewing these work badges asked for his passport and driver's license, and Petitioner provided both. The individual at the desk subsequently requested that Petitioner wait and then moved to a different part of the facility, where Petitioner could not see or hear what was happening.
30. About an hour later, the person at the desk returned and requested that Petitioner wait in a different room in the facility. After a few minutes, an ICE officer appeared in that room, informed Petitioner that he had

overstayed his Deferred Action for Childhood Arrival status, and that he was being arrested.

31. Petitioner was initially transferred to the Colorado Springs ICE office, where officers asked him questions. The officer pulled up a name similar to Petitioner and asked Petitioner if this was his name. Petitioner responded that it was not. The ICE officer asked if Petitioner had ever been to Georgia. The Petitioner responded that he had not.

32. Petitioner was subsequently transferred to GEO Aurora where he continues to be held in custody.

LEGAL FRAMEWORK

33. Since 1952, U.S. immigration has provided that aliens detained during the pendency for removal proceedings may seek release on bond.³ Today, the bond statute provides that aliens present in the U.S. without authorization “may be arrested and detained” upon issuance of an arrest warrant. When the alien has not committed a circumscribed set of crimes or engaged in terrorist activity, the government “may release the alien” “on bond of at least \$1,500” or “conditional parole.” 8 U.S.C. § 1226(a)(2)(A-B), (c).

³ INA § 242(a) (1952) (“Pending a determination of deportability in the case of any alien as provided in subsection (b) of this section, such alien may, upon warrant of the Attorney General, be arrested and taken into custody. Any such alien taken into custody may, in the discretion of the Attorney General and pending such final determination of deportability, (1) be continued in custody; or (2) be released under bond in the amount of not less than \$500 with security approved by the Attorney General, containing such conditions as the Attorney General may prescribe; or (3) be released on conditional parole.”). INA § 242(b) (1952), in turn, establishes proceedings “to determine the deportability of any alien.”). Conjunctively, the statutes demonstrate that any alien subject to a deportation proceeding was subject to an Attorney General determination that they be “continued in custody,” “released under bond,” or “released on conditional parole.”

Alternatively, the government “may continue to detain the alien.” 8 U.S.C. § 1226(a)(1).

34. This discretionary detention authority is initially exercised by the Department of Homeland Security (“DHS”), whose officers have “discretion” “to release an alien” “under the conditions at section 236(a)(2) [8 U.S.C. § 1226(a)(2)(A-B)]” if “the alien . . . demonstrate[s] to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.” 8 C.F.R. § 236.1(c)(8). After this “initial custody determination,” a detainee “may” “at any time before an order” of removal “becomes final,” “request” that an Immigration Judge (“IJ”) issue an order for “amelioration of the conditions under which he or she may be released” 8 C.F.R. § 236.1(d)(1). After a detainee makes such a request and “prior to such a final order” of removal, “the immigration judge is authorized to exercise the authority in section 236 of the Act [8 U.S.C. § 1226] . . . “to detain the alien in custody, release the alien, and determine the amount of bond, if any, under which the respondent may be released.” *Id.* In practice, IJ bond determinations are a fact-intensive inquiry wherein an “alien” seeks to “establish to the satisfaction of the Immigration Judge that he or she does not present a danger to others, a threat to the national security, or a flight risk.” *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).

35. When Congress enacted the Illegal Immigration Reform and Immigration Responsibility Act (“IIRIRA”) in 1996, its provisions eliminated bond eligibility for three groups: (1) those “arriving in the United States” who have not been physically present in the U.S. for at least two years; (2) those subject to a final deportation order; and, (3) “applicants for admission” who are “seeking admission” and “not clearly and beyond a doubt entitled to be admitted.” §§ 1225(b)(1)(A)(i), (iii)(II); § 1231; § 1225(b)(2)(A). Group (1) is ordered “removed from the United States without further hearing or review.” 8 U.S.C. § 1225(b)(1)(A)(i), (iii)(II). Group (2) is subject to mandatory detention. 8 U.S.C. § 1231(a)(2)(A). So is group (3). 8 U.S.C. § 1225(b)(2)(A).
36. After IIRIRA’s enactment, the Executive Office for Immigration Review (“EOIR”) and then Immigration and Naturalization Service promulgated regulations clarifying that noncitizens who entered the United States without inspection are generally detained under § 1226(a), not § 1225. See *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that “[d]espite being applicants for admission, aliens who are present without having been admitted or paroled ... will be eligible for bond and bond redetermination”) (emphasis added).

37. The Supreme Court more recently summarized the distinction between §§ 1226 and 1225 as follows: “U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).” *Jennings v. Rodriguez*, 582 U.S. 281, 289 (2018) (Alito, J., emphasis added).
38. This Supreme Court interpretation accords with the statutory and regulatory framework. First, the statute itself uses the terms “applicants for admission” and “seeking admission” in close proximity:

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.

8 U.S.C. § 1225(b)(2)(A) (emphasis added). Courts applying the statutory framework thus differentiate between the *classification* of being an “applicant for admission” and the *action* of “seeking admission.” Since “admission” is defined by the statute as “the lawful entry of the alien into the United States after the inspection and authorization by an immigration officer,” one can only be “seeking admission” at ports of entry, as that is where inspection and authorization decisions occur. 8 U.S.C. § 1101(a)(13)(A). Indeed, that those who enter without inspection are

statutorily “deemed”⁴ “applicants for admission” suggests that Congress recognizes this distinction between an “applicant for admission” and “seeking admission.”

39. Any other “construction would render § 1225(b)(2)(A)’s use of the phrase ‘seeking admission’ superfluous, violating one of the cardinal rules of statutory construction. *See United States ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023) ([E]very clause and word of a statute should have meaning.’). Indeed, as the Supreme Court reminds us, if an interpretation of one provision ‘would render another provision superfluous, courts presume that interpretation is incorrect.’ *Bilski v. Kappos*, 561 U.S. 593, 607–08 (2010). And this presumption is ‘strongest when an interpretation would render superfluous another part of the same statutory scheme,’ as would be the case here. *Marx v. Gen. Rev. Corp.*, 568 U.S. 371, 386 (2013).” *Castañon-Nava v. U.S. Dep’t of Homeland Sec.*, No. 25-3050, slip op. at 20–21 (7th Cir. Dec. 11, 2025).
40. “Courts have therefore held, with a regularity bordering on monotonous, that because section “1225(b)(2)(A) applies only to those noncitizens who are actively seeking admission to the United States, it cannot, according to its ordinary meaning, apply to persons who have already been residing in the United States for several years.” *Jimenez Facio v. Baltazar*, ECF No. 13, No. 25-cv-03592-CYC, Order at 3 (D. Colo. Dec. 12, 2025) (quoting *Loa*

⁴ That is, “treat[ed]” “as if” they “were really something else” by “establish[ing] a legal fiction.” Black’s Law Dictionary 446 (8th Ed. 2004).

Caballero v. Baltazar, No. 25-cv-03120-NYW, 2025 WL 2977650, at *6 (D. Colo. Oct. 22, 2025) ((quoting *Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 489 (S.D.N.Y. 2025)). See also *Chogllo Chafla v. Scott*, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *5 (D. Me. Sept. 22, 2025) (collecting cases that overwhelmingly reject respondents’ argument); *Ochoa Ochoa v. Noem*, No. 25-cv-10865, 2025 WL 2938779, at *5 n.8 (N.D. Ill. Oct. 16, 2025) (collecting cases that overwhelmingly reject respondents’ argument). See, e.g., *Barreno v. Baltasar*, No. 25-cv-03017-GPG-TPO, 2025 WL 3190936, at *1–4 (D. Colo. Nov. 14, 2025); *Hernandez v. Baltazar*, No. 25-cv-03094-CNS, 2025 WL 2996643, at *1–8 (D. Colo. Oct. 24, 2025); *Moya Pineda v. Baltasar*, No. 25-cv-02955-GPG, 2025 WL 3516291, at *1–2 (D. Colo. Oct. 20, 2025); *Mendoza Gutierrez v. Baltasar*, No. 25-cv-02720-RMR, 2025 WL 2962908, at *4–9 (D. Colo. Oct. 17, 2025); *Garcia Cortes v. Noem*, No. 25-cv-02677-CNS, 2025 WL 2652880, at *2–3 (D. Colo. Sept. 16, 2025).

41. Further, 8 U.S.C. § 1225(b)(2)(A) only triggers after a determination by an “examining immigration officer” regarding whether an alien “is not clearly and beyond a doubt entitled to be admitted.” Because the immigration officer is charged with determining whether the alien may be admitted—that is, whether the alien may lawfully *enter* the United States from abroad after being *inspected*—this determination necessarily must be made by an immigration officer at a port of entry, not in the interior of the United States. Courts thus conclude that it is “unambiguous” that aliens residing

in the interior of the United States who were issued Notices to Appear by immigration officers “were not determined inadmissible by an ‘examining immigration officer.’” *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Nov. 20 & 25, 2025), at 17; *see also Zumba v. Bondi*, No. 25-14626, 2025 WL 2753496, at *15-16 (D.N.J. Sept. 26, 2025), (“[T]he titles and headings of § 1225 repeatedly cabin its application to ‘Inspections,’ which, as petitioner convincingly argues, occur at ports of entry, their functional equivalent, or near the border . . . Respondents contend that ‘[t]he immigration officer in this case would be the officer who issued the NTA [in 2017] charging the petitioner with being inadmissible because she was present without admission.’ . . . It is an awkward fit and unpersuasive; [respondent] fail[s] to provide textual or legal support that the issuance of a NTA eight or so years after petitioner’s entry into the United States substitutes for an inspection by an *examining* immigration officer at or near the border.”) (italics in original, internal citations omitted).

42. Additionally, Congress passed the Laken Riley Act in January 2025, amending 8 § U.S.C. 1226(c) to create an additional category of noncitizens subject to mandatory detention who are (1) inadmissible under §§ 1182(6)(A) [present without admission or parole], (6)(C) [misrepresentation], or (7)(A) [lack of proper documentation] *and* (2) have been charged with “burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious

bodily injury to another person.” 8 U.S.C. 1226(c)(1)(E)(ii); Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). “If 8 U.S.C. § 1225 already mandates detention for noncitizens ‘already in the country’ as the Respondents argue, it would have been superfluous for Congress to pass the Laken Riley Act, amending § 1226 to add another category of noncitizens who must be detained.” *Mendoza Gutierrez v. Baltazar*, No. 1:25-cv-02720-RMR, Doc. 33, at 17-18 (D. Colo. Oct. 17, 2025) (internal citations omitted).

43. Consistent with the plain reading of the statute, noncitizens charged with entering without inspection were afforded bond hearings under § 1226(a) for nearly three decades following IIRIRA’s enactment (subject to statutory exceptions for applicants who had engaged in terrorist activity or were convicted of a circumscribed set of crimes). This 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)).
44. Decades of applying this discretionary bond determination framework outlined in 8 U.S.C. § 1226(a) to people who have already entered and have been residing in the United States (particularly for decades, as in Petitioner’s case) prior to apprehension and detention by immigration authorities came suddenly under assault on July 8, 2025, when ICE, “in

coordination with” the Department of Justice, issued new policy guidance “revisit[ing] its legal position on detention and release authorities” and determining that “section 235 of the Immigration and Nationality Act (INA), rather than section 236, is the applicable immigration detention authority for all applicants for admission . . . **Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible for a custody redetermination hearing (“bond hearing”) before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS.” *See* Exh. 2, U.S. Immigration and Customs Enforcement, *Interim Guidance Regarding Detention Authority for Applicants for Admission* (July 8, 2025) (emphasis in original).

45. On September 8, 2025, the Department of Justice’s Board of Immigration Appeals held that the “plain language” of 8 U.S.C. § 1225(b)(2)(A) removed Immigration Judges’ “authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.” *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
46. The *Yajure Hurtado* decision—like the government policy it seeks to uphold—defies the INA. As Judge Robert White wrote—after noting that federal district courts are not bound by agency interpretations of statutes—the BIA’s reasoning is unpersuasive and “at odds with every District Court

that has been confronted with the same question of statutory interpretation.” *Pizarro Reyes*, 2025 WL 2609425, at *7; *See also Sampiao*, 2025 WL 2607924, at *8 n.11 (noting court’s disagreement with BIA’s analysis in *Yajure Hurtado*); *Beltran Barrera*, No. 25-CV-541, 2025 WL 2690565, at *5 (same); *Chogllo Chafra*, No. 25-CV-00437, 2025 WL 2688541, at *7-8 (same).

47. This reinterpretation of 8 U.S.C. § 1225(b)(2)(A) has triggered an avalanche of litigation throughout the United States. Federal court decisions on these cases nationwide have overwhelmingly rejected Respondents’ abrupt reinterpretation of the statutory scheme, and—contrary to both the ICE policy and the BIA’s decision in *Yajure Hurtado*—have held that § 1226(a), not § 1225(b), applies to noncitizens who are arrested while residing in the United States—as opposed to being arrested when arriving at the border. Indeed, federal courts across the country have overwhelmingly rejected ICE and the DOJ’s reinterpretation of 8 U.S.C. § 1225(b), holding that noncitizens who were not apprehended upon entry and were residing in the United States at the time of arrest must be afforded bond hearings. The news outlet *Politico* tracked 1,600 cases where 308 judges ordered the release of aliens who entered the U.S. without inspection and were wrongfully detained under § 1225 (as opposed to a mere 14 judges who found detention proper under 8 U.S.C. § 1225). *See Kyle Cheney, Hundreds of judges reject Trump’s mandatory detention policy, with no end in sight,*

Politico (Jan. 5, 2026), <https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494>.

48. One of these many such case is *Maldonado Bautista v. Santacruz*, which certified a nationwide Bond Eligible Class under Federal Rule of Civil Procedure 23 for noncitizens who meeting the following criteria: (1) entered without inspection, (2) were not apprehended at the border, and (3) are not detained under §§ 1226(c), 1225(b)(1), or 1231. ECF No. 41, No. 5:25-CV-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025). In a final declaratory judgment issued on December 18, 2025, that court found that class members are detained pursuant to § 1226(a) and may not be denied consideration for release on bond under § 1225(b)(2).⁵

⁵ The order specifically, clearly, and unequivocally: “(1) DECLARES that the Bond Eligible Class members are detained under 8 U.S.C. §1226(a) and are not subject to mandatory detention under § 1225(b)(2). (2) DECLARES that, pursuant to Defendants’ regulations, see 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, the Bond Eligible Class members are detained under 8 U.S.C. §1226(a), are not subject to mandatory detention under § 1225(b)(2), and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge. (3) VACATES the Department of Homeland Security policy described in the July 8, 2025, “Interim Guidance Regarding Detention Authority for Applicants for Admission” under the Administrative Procedure Act as not in accordance with law. 5 U.S.C. § 706(2)(A). (4) GRANTS final judgment as to Claims I, II, and III of the Amended Class Complaint, and certifies those claims for appeal pursuant to Federal Rule of Civil Procedure 54(b). *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, Final Judgment, ECF No. 94 (C.D. Cal. Dec. 18, 2025). The force and effect of this ruling was to certify a nationwide class and issue a final, declaratory judgment binding on the government as to class members. Claim (Count) I alleges that DHS and EOIR/IJs are unlawfully denying bond eligibility by treating long-present noncitizens arrested inside the U.S. as subject to mandatory detention under INA § 235(b)(2) (8 U.S.C. § 1225(b)(2)), when instead they are detained under INA § 236(a) (8 U.S.C. § 1226(a)) and therefore eligible for release on bond; Claim (Count) II alleges that the same no-bond policy and practice violates the bond custody regulations—including 8 C.F.R. §§ 236.1, 1236.1, and 1003.19—which (per Plaintiffs) preserve bond/bond redetermination eligibility for people “present without admission or parole” (including those historically described as EWI); and Claim (Count) III alleges that the agencies’ new no-bond position is unlawful under the APA because it is contrary to law and arbitrary/capricious (invoking 5 U.S.C. § 706(2)(A)) insofar as it reinterprets the detention statutes to mandate detention without bond for the plaintiffs and the proposed classes. See *Class Action Complaint and Amended Petition for Writ of Habeas Corpus*, *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025) (ECF No. 15).

49. As noted in the Order of the Immigration Judge denying bond, Petitioner has established that he is a class member. *See* Exh. 1, *Immigration Judge Bond Denial* (finding that Petitioner “has established that he is a class member as defined in *Maldonado Bautista v. Santacruz.*”). Nonetheless, the Immigration Judge declined to determine bond for Petitioner on the grounds that the immigration court is bound by the decision in *Matter of Yajure Hurtado. Id.* (holding “*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay, or enjoin *Yajure Hurtado*. Therefore, *Yajure Hurtado* remains binding precedent on agency adjudicators . . . [t]he Court does not have jurisdiction to make a bond redetermination in this matter. Based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)).”

50. Courts in this district have repeatedly heard claims similar to this one. To counsel’s knowledge, courts in this district have unanimously concluded that 8 U.S.C. § 1226 is the correct detention statute to apply when an alien enters without inspection and has resided in the U.S. *See, e.g., Burreno v. Baltasar*, No. 25-cv-03017-GPG-TPO, 2025 WL 3190936, at *1–4 (D. Colo. Nov. 14, 2025); *Hernandez v. Baltazar*, Civil Action 1:25-cv-3688-SKC-SBP

(D. Colo. Dec 23, 2025); *Moya Pineda v. Baltazar*, No. 25-cv-02955-GPG, 2025 WL 3516291, at *1–2 (D. Colo. Oct. 20, 2025); *Mendoza Gutierrez v. Baltazar*, No. 25-cv-02720-RMR, 2025 WL 2962908, at *4–9 (D. Colo. Oct. 17, 2025) (characterizing argument that application for U-Visa rendered petitioner subject to section 1225 as a “nonstarter”); *Garcia Cortes v. Noem*, No. 25-cv-02677-CNS, 2025 WL 2652880, at *2–3 (D. Colo. Sept. 16, 2025).

CLAIM FOR RELIEF

COUNT I: Violation of the INA

Respondent’s Detention of Petitioner Violates 8 U.S.C. § 1226(a)

51. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
52. Respondents’ unlawful application of 8 U.S.C. § 1225(b)(2) mandating continued detention of Petitioner violates the INA.
53. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to individuals like Petitioner who previously entered the country and reside in the United States prior to being apprehended and placed in removal proceedings.
54. Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a). Petitioner’s detention up to this point has thus been illegal, as Petitioner was not provided an individualized bond determination by either ICE or EOIR.

COUNT II: Violation of Due Process

55. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
56. “It is well established that the Fifth Amendment [Due Process Clause] entitles aliens to due process of law in deportation proceedings.” *Reno v. Flores*, 507 U.S. 292, 306 (1993). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint— lies at the heart of the liberty [the Due Process Clause] protects.” *Zadvydas v. Davis*, 533 U.S., 690.
57. Petitioner has a fundamental interest in liberty and being free from official restraint, including his imprisonment in the Aurora Detention Center.
58. Respondents’ detention of Petitioner without providing him a bond redetermination hearing pursuant to the appropriate statute of detention— 8 U.S.C. § 1226(a)—to determine whether he is a flight risk or danger to others violates his right to Due Process. While one “cannot forecast how immigration authorities would have exercised their discretion, had [Petitioner] received the process he was due,” it is “plausible that” “an immigration judge thereafter would have released Yao on bond.” *Yao v. Almodovar*, No. 25-cv-9982 (PAE), 2025 WL 3653433, at * 21 (S.D.N.Y. Dec. 17, 2025).
59. The proper remedy is immediate release. “A bond hearing after the fact, by definition, would not and cannot cure that constitutional violation. Although [Petitioner’s] release today cannot cure his loss of liberty since

[being detained], this remedy, relative to the procedural one of ordering a bond hearing, is the one that comes closest to doing so.” *Id.*, at 22. *see also Tumba Huamani v. Francis et al*, No. 1:25-cv-08110-LJL – Document 14 (S.D.N.Y. 2025), slip op. at 18; *Chen v. Almodovar*, 26 Civ. 291 (GBD) (S.D. N.Y. Jan 22, 2026), at 3; *Lopez Benitez v. Francis*, No. 1:2025cv05937 – Document 14 (S.D.N.Y. 2025), slip op. at 31; *Chipantiza-Sisalema v. Francis*, 25 Civ. 5528 (AT) (S.D. N.Y. Jul 13, 2025), at 6 (all concluding that immediate release was the proper remedy).

60. In the alternative, Petitioner should be released if the government does not provide Petitioner, within 7 days, a bond hearing where the government bears the burden of demonstrating that Petitioner should continue to be detained based on an individualized flight risk and danger to the community assessment. *Velasquez Salazar v. Dedos*, No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729 at*18–19 (D.N.M. Sept. 17, 2025) (“Respondents shall bear the burden of justifying, by clear and convincing evidence, Petitioner’s continued detention. If Petitioner has not received a lawful bond hearing by September 23, 2025, this Court ORDERS that he be immediately released.”); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, Doc. 18, at 20 (D. Colo. Oct. 22, 2025) (“**If Respondents to not do not provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) as required herein, Petitioner must be immediately released from detention.**”) (emphasis in original).

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Enjoin Petitioner's removal or transfer outside of this Court's jurisdiction during the pendency of this case;
- c. Pursuant to 28 U.S.C. § 2243, forthwith award the writ or issue an order directing respondents to show cause why the writ should not be granted within three days;
- d. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA, and implementing regulations;
- e. Grant a writ of habeas corpus directing Respondents to immediately release Petitioner and enjoining Respondents from re-detaining Petitioner during the pendency of his removal proceedings;
- f. Or, in the alternative, issue a writ of habeas corpus requiring Respondents release Petitioner unless they, within seven days, provide Petitioner a bond hearing where the government will bear the burden to show, by clear and convincing evidence, why Petitioner's detention should continue;
- g. 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

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

Dated: January 29, 2026

/s/ Aaron Hall

Aaron C. Hall

Colorado Reg. No. 40376

Joseph & Hall, P.C.

12203 East Second Avenue

Aurora, CO 80011

303-297-9171

aaron@immigrationissues.com

Attorney for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

I, Aaron C. Hall, submit this verification on behalf of the Petitioner because I am Petitioner's attorney. On the basis of documents reviewed and discussions with Petitioner and Petitioner's family, I hereby verify that statements made in this petition are true and correct to the best of my knowledge.

Dated: January 29, 2026

/s/ Aaron Hall
Attorney for Petitioner