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UNITED STATES DISTRICT COURT
FOR DISTRICT OF COLORADO

JOSE ISAAC CRUZ HERRERA Alien Number: [redacted] Petitioner, v. PAMELA BONDI, U.S. Attorney General KRISTI NOEM, U.S. Secretary of Homeland Security ("DHS"), ROBERT GUADIAN, Director of the Denver Field Office for U.S. Immigration and Customs Enforcement, JUAN BALTAZAR, Warden of Denver Contract Detention Facility Aurora ICE Processing Center TODD LYONS, Acting Direct of U.S. Of U.S. Immigration and Customs Enforcement, IN THEIR OFFICIAL CAPACITIES Respondents.	Case No.: PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, JOSE ISAAC CRUZ HERRERA, is in the physical custody of Respondents at Denver Contract Detention Facility (Aurora ICE Processing Center). He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Petitioner has been in ICE custody since he was stopped by the Florida Highway Patrol on November 19, 2025; Respondent as to the date of this motion has been detained for approximately one hundred and thirty-six (136) days.

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

4. 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.

5. 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.

6. Further, EOIR has issued nationwide guidance on *Maldonado Bautista* and has instructed Immigration Judges to follow the BIA's decision in *Matter of Yajure Hurtado* as binding precedent. *See*, **Exhibit A**, Practice Alert Regarding EOIR Nationwide Guidance.

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 and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

9. 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.

10. Petitioner, JOSE ISAAC CRUZ HERRERA, entered the United States on or about November 7, 2023, and has been residing in the United States continuously since; thereafter the Petitioner was detained by ICE in the interior of the country.

11. Over the years, the courts have stepped in to ensure that vulnerable classes of immigrants receive the protections to which they are entitled as a matter law, due process, and fundamental notions of fairness. *See id*; *see also, Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491 (2001)[1]. The case at bar is an opportunity for this Honorable Court to step in once again in the interest of justice to allow this innocent man to be released to in accordance with the law.

JURISDICTION

12. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

13. 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).

[1] Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

14. The Court's jurisdiction extends to challenges involving immigration-related detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

15. 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, 8 U.S.C. § 1252(e)(2).

VENUE

16. Venue is proper in this District under 28 U.S.C. § 1391(e) and 28 U.S.C. § 2241 because a substantial part of the events giving rise to these claims occurred in this district. Petitioner's removal and detention proceedings originated in the Aurora Colorado Immigration Court and he is currently detained at the Denver Contract Detention Facility (Aurora ICE Processing Center), in Aurora, Colorado.
17. In the event of jurisdictional error, the district court wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

18. The Court must grant the petition for writ of habeas corpus "forthwith" unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.

19. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, 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).

20. Petitioner is "in custody" within the meaning of 28 U.S.C. § 2241 because he is arrested and detained by Respondents at the Denver Contract Detention Faciliyt (Aurora ICE Processing Center) in Aurora, Colorado, pursuant to immigration detention authority.

Petitioner challenges that custody as unlawful under the Constitution, federal law, and applicable treaties.

PARTIES

21. Petitioner is JOSE ISAAC CRUZ HERREA, a citizen and national of Honduras who entered the United States without inspection or parole on or about November 7, 2023.

22. Respondent, JUAN BALTAZAR, in their official capacity as Warden, Denver Contract Detention Center (Aurora ICE Processing Center) has immediate custody over Petitioner and is responsible for his detention.

23. Respondent, ROBERT GUADIAN, in their official capacity as Director of the Denver Field Office of the U.S. Department of Homeland Security Immigration and Customs.

24. Respondent, KRISTI NOEM, in their official capacity as Secretary of the U.S. Department of Homeland Security, is the head of DHS and responsible for the implementation and enforcement of the INA, and oversees ICE, an agency of DHS, which is responsible for detaining the Petitioner. Secretary Noem has ultimate custodial authority over the Petitioner and others similarly situated.

25. Respondent, PAM BONDI, in their official capacity as Attorney General of the United States, is charged with the administration and enforcement of the immigration laws and is a proper respondent under 28 U.S.C. § 2243.

26. Respondent, TODD LYONS, in their official capacity as Action Director of U.S. Immigration and Customs Enforcement. Defendant Lyons is responsible for detaining Petitioner and others similarly situated.

STATEMENT OF FACTS

27. Petitioner, citizen and national of Honduras, who entered the United States without inspection on or about November 7, 2023.

28. On November 19, 2025, Petitioner was stopped by Florida Highway Patrol, after they determined Petitioner was illegally in the United States; border patrol agents detained the Petitioner and he was subsequently transferred to the Aurora ICE processing Center and issued a notice to appear, commencing removal proceedings. *See*, **Exhibit B**, Notice to Appear and **Exhibit C**, I-213.

29. Petitioner has no criminal record.

30. Petitioner filed his Application for Asylum and for Withholding of Removal with the Court on December 30, 2025.

31. Petitioner filed a bond motion with the Immigration Judge requesting his release which was denied on January 20, 2026, holding "the Court lacks jurisdiction to redetermine the Respondent's custody." *See*, **Exhibit D**, Bond Order.

32. As of the filing of the instant petition, Petitioner has been detained for 136 days without receiving a bond determination hearing. *See*, **Exhibit E**, ICE Locator.

EXHAUSTION

33. Petitioner remains detained after the Immigration Judge ruled that the Court lacked jurisdiction to redetermine the Petitioner's custody. Exhaustion under 28 U.S.C. § 2241 is prudential, not jurisdictional, and other courts have repeatedly excused it where administrative review is inadequate, futile, or would cause irreparable harm. *F.-G. v. Noem, No. 25-CV-0243-CVE-MTS*, 2025 U.S. Dist. LEXIS 111539 (N.D. Okla. June 12, 2025) (declining to require exhaustion where immigration detainee was "trapped in prolonged detention without a meaningful opportunity for bond"); *Quintana Casillas v. Sessions*, No. 17-cv-01395, slip op. at 9–11 (D. Colo. 2018) (explaining that when "the question presented is purely legal and has been repeatedly mishandled administratively, exhaustion serves no useful purpose."). Here, the appellate body is the Board of Immigration Appeals,

the same body that issued the decision stripping immigration judges of their jurisdiction to hear bonds.

34. Other districts have held that habeas corpus relief was available despite a pending BIA appeal, because "[e]ach additional day of detention without a bond hearing constitutes irreparable harm that cannot be remedied after the fact" *LG v. Choate*, No. 23-cv00611, slip op. at 14 (D.N.M. 2024)

35. The BIA appeal process here exemplifies why exhaustion is unnecessary. As *Rodriguez v. Bostock* explained, while the BIA has occasionally remanded bond denials where immigration judges misapplied § 1225(b), it has declined to issue a precedential ruling. 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025).

36. Consequently, many immigration judges continue to deny bond altogether, and appeals typically take six months or more, during which noncitizens remain detained unlawfully, with severe consequences for their health, families, and ability to defend against removal. *Id.*

37. Because Petitioner's injury is the very fact of unlawful detention, administrative remedies are neither timely nor effective. Habeas corpus is the only adequate remedy.

38. District courts have authority to grants writs of habeas corpus. *See* 28 U.S.C. § 2241(a). habeas corpus is fundamentally a remedy for unlawful executive detention." A writ may be issued to a Petitioner who demonstrates that he is being held in custody in violation of the Constitution or federal law. See 28 U.S.C. § 2241 (c)(3). The Court's jurisdiction extends to challenges involving immigration-related detention. *See Zadvydas v. Davis*, 588 U.S. 678, 678 (2001).

STATUTORY SCHEME

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

40. 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).

41. Under the INA, § 1125 and 1226 govern the detention of noncitizens before a final order of removal. Section 1225 covers "applicants for admission" who are noncitizens "present in the United States who have not been admitted" *See*, *Soto-Gonzalez v. Bondi*, 0:26-cv-60102- WPD.

42. 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).

43. 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).

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

45. 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, 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).

46. 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).

47. 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)).

48. 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. *See*, **Exhibit F,** ICE Policy Memo.

49. 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.

50. 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.

51. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

52. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration courts 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).

53. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,

No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), report and recommendation adopted, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); Maldonado v. Olson, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); see also, e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that "[t]he Court tends to agree" that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

54. 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 Petitioner.

55. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

56. 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.

57. 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.

58. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." Jennings v. Rodriguez, 583 U.S. 281, 287 (2018).

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

60. As a noncitizen who meets all of the class membership requirements, Petitioner is a Bautista class member and therefore entitled to a bond redetermination hearing.

MANDATORY DETENTION SCHEME

61. Congress established two separate detention regimes. Section 1225 governs "applicants for admission" encountered at the border or its functional equivalent, while § 1226 governs individuals "already in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018). These provisions are mutually exclusive: "[A] noncitizen cannot be subject to both mandatory detention under § 1225 and discretionary detention under § 1226." *Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025).

62. Section 1225(b)(2)(A) provides that "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."

63. Detention under § 1225(b) is therefore mandatory and individuals detained following examination under section 1225 can only be paroled into the United States "for urgent humanitarian reasons or significant public benefit." *Jennings*, 583 U.S. at 300, 138 S.Ct. 830 (quoting 8 U.S.C. § 1182(d)(5)(A)). This parole "into the United States" allows physical entry but reserves the Government's ability to treat the person as if "stopped at the border." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020).

64. Crucially, courts and the BIA have recognized that the phrase "seeking admission" carries an active, temporal component: it refers to individuals "coming or attempting to come into the United States," 8 C.F.R. § 1.2, i.e., those apprehended at or near the border and in the process of initial entry. *Martinez*, 2025 WL 2084238, at *6–7.

65. By contrast, § 1226 governs detention of noncitizens already present in the United States and apprehended on a warrant issued by the Attorney General. 8 U.S.C. § 1226(a). Unlike § 1225's mandatory scheme, § 1226(a) creates a discretionary framework, under which the Attorney General "may continue to detain," or "may release" a noncitizen on bond or conditional parole. *Id.*

66. Individuals detained under § 1226 are entitled to an individualized custody determination and may appeal that determination to an immigration judge. 8 C.F.R. § 1236.1(d)(1); *see Matter of Siniauskas*, 27 I. & N. Dec. 207, 207 (BIA 2018).

67. Some narrow mandatory detention categories exist under § 1226(c) for certain criminal or security grounds, but those are not implicated here.

68. A contrary reading renders superfluous recent amendments in the *Laken Riley Act*, Pub. L. No. 119-1, 139 Stat. 3 (2025), which added INA § 236(c)(1)(E) mandating detention for noncitizens inadmissible under § 212(a)(6)(A)(present without admission) who are implicated in enumerated crimes. If all such noncitizens were already mandatorily detained under § 235(b)(2)(A), Congress's addition would be meaningless. *See Corley v. United States*, 556 U.S. 303, 314 (2009) (statutes must be construed to give effect to all provisions).

69. Multiple recent decisions confirm that § 1225 does not apply to long-resident noncitizens apprehended in the interior. *See Carlos Javier Lopez Benitez v. Francis*, No. 25- cv-11517, 2025 WL 1869299, at *5–8 (D. Mass. July 7, 2025)(holding that § 1225(b)(2)(A) did not apply to a petitioner who had been residing in the United States for over two years; emphasizing that "seeking admission" requires an active, ongoing effort to enter, not mere presence in the country, and concluding that detention was governed by § 1226(a) with access to bond); *see also Rodriguez v. Bostock*, F. Supp. 3d, 2025 WL 1193850, at *12–16 (W.D. Wash. Apr. 24, 2025) (finding that a non-citizen apprehended from within the United States and charged with inadmissibility was necessarily detained under section 1226, rather than section 1225); *Gomes*, 2025 WL 1869299 at *5–8 (same); *Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO (HC), 2025 U.S. Dist. LEXIS 187233, at *13 (E.D. Cal. Sep. 23, 2025).

70. As those courts recognized, interpreting § 1225 to cover all noncitizens who were never formally "admitted" would collapse the statutory distinction, render § 1226 superfluous,

and contradict longstanding DHS practice. *See Martinez*, 2025 WL 2084238, at *8 ("This tension between sections 1225 and 1226 motivates the conclusion that they apply to different classes of aliens"); *Gomes v. Hyde*, 2025 WL 1869299, at *5–8 (D. Mass. July 7, 2025); *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386, 133 S.Ct. 1166, 185 L.Ed.2d 242 (2013).

71. Courts have distilled two central principles:
    a. Geographic/temporal limits: § 1225 applies only to noncitizens apprehended at or near the border and in the act of entry (*see Thuraissigiam*, 591 U.S. 103, 114, 139 (2020)), not to those apprehended years later in the interior.
    b. Statutory structure: Reading § 1225 as covering all noncitizens who were never lawfully "admitted" would render § 1226 largely meaningless, contrary to the rule against surplusage. *See Martinez*, 2025 WL 2084238, at *7; *Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *6–8 (D. Mass. July 7, 2025).

72. As set forth below, applying this framework compels the conclusion that Petitioner's detention cannot fall under § 1225. Having resided in the United States for three years before detention within the interior, he falls squarely within the discretionary scheme of § 1226. Respondents' reliance on § 1225 is therefore legally untenable.

73. Finally, *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) is a landmark decision overruling *Chevron* deference thereby permitting this Honorable Court to come to its own conclusion on the interpretation of the relevant statutes without relying on Board precedent in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), which was wrongly decided.

THE DISTRICT COURT OF COLORADO HAS PRECEDENT ON THE ISSUE

74. "Courts have held that with a regularity bordering on the 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." *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 WL 2977650, AT *6 (D. Colo. Oct 22, 2025)

75. This Court has issued several decisions in this District addressing this issue, agreeing with Petitioner's argument regarding § 1226. *See*, *Barreno v. Baltazar*, No. 25-cv-03017, GPG-TPO, 2025 WL 3190936 (D. Colo. Nov 14, 2025); *Hernandez v. Baltazar*, No. 25-cv-03094-CNS, 2025 WL 2996643 (D. Colo. Oct 24, 2025); *Mendoza Gutierrez v. Baltasar*, No. 25-cv-02720-RMR, 2025 WL 2962908 (D. Colo. Oct. 17, 2025); *Garcia Cortes v. Noem*, No. 25-cv-02677-CNS, 2025 WL 2652882 (D. Colo. Sept. 16, 2025.)

CLAIMS FOR RELIEF

COUNT ONE

Violation of Due Process

76. Petitioner re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.
77. 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).
78. Petitioner has a fundamental interest in liberty and being free from official restraint.

COUNT TWO

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); 5 U.S.C. §§ 702, 706

79. Petitioner re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

80. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "without due process of law."

81. The Due Process Clause entitles Petitioner to meaningful process assessing whether his current detention is justified. The arrest and detention of Petitioner without an opportunity for him to contest his detention in front of a neutral decision-maker after he had been living and working in the United States for over four years provide insufficient due process and violates the Due Process Clause of the Fifth Amendment of the Constitution.

82. There have been no changes to the facts that justify this change in custody requiring Jose to await an unknown date when he will be scheduled for an asylum interview.

COUNT THREE

UNLAWFUL DETENTION UNDER 8 U.S.C. § 1225; CUSTODY PROPERLY GOVERNED BY 8 U.S.C. § 1226

(Misapplication of Mandatory Detention Statute)

83. Petitioner is currently being detained after the Immigration Judge denied his bond based on DHS's argument that he is "an Applicant seeking Admission under the provisions of Sec. 235(b)(2)(A) of the Immigration and Nationality Act ('INA')."

84. The Government's argument and the Court's is that Petitioner is "an alien seeking admission" under 8 U.S.C. § 1225(b)(2(A)—despite having been physically present in the United States for three years before his arrest and detention—because § 1225(b)(2)(A) applies broadly to all applicants for admission.

85. Whether Petitioner is detained under § 1225(b)(2) or § 1226 (a) is an issue of interpretation which primarily hinges on the interpretation and meaning of "seeking admission."

86. Section 1225 defines an "applicant for admission" as "an alien present in the United States who has not been admitted or who arrives in the United States." U.S.C. §§ 1101, 1225.

87. Section 1225 applies to noncitizens actively "seeking admission" at the border or its immediate functional equivalent. By contrast, § 1226 governs the arrest and detention of those "already in the country" pursuant to a warrant issued by the Attorney General. The two provisions are mutually exclusive. *See Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018); *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (A.G. 2019).

88. Petitioner plainly falls within § 1226. He was stopped and arrested by Florida Highway Patrol hundreds of miles from any border or port of entry—detained by ICE and transferred to the Aurora ICE processing center, where DHS proceeded on his previously issued notice to appear.

89. The charging document itself expressly alleges that Petitioner is "present in the United States without admission or parole," language that presumes residence in the interior and confirms that he was not in the process of seeking admission. Taken together, these contradictions underscore the arbitrariness of Petitioner's detention and the government's mischaracterization of his case.

90. To hold otherwise would effectively erase the statutory line between §§ 1225 and 1226, converting virtually all noncitizens present without admission into mandatory detainees and rendering § 1226(a) a dead letter. Courts have consistently rejected this outcome. *See Martinez*, 2025 WL 2084238, at *7 (rejecting interpretation that would "nullify" Congress's amendment to § 1226(c)); *Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025) (noting that §§ 1225 and 1226 "apply to different classes" of noncitizens).

91. In sum, Petitioner was not "seeking admission" within the meaning of § 1225(b) but was "already in the country" within the meaning of Jennings, 583 U.S. at 288–89. His custody is governed by § 1226(a), under which detention is discretionary and subject to individualized bond hearings. DHS's argument is contrary to law, unsupported by the record, and must be set aside.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Order that Petitioner shall not be transferred outside the Jurisdiction of Colorado;

(3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

(4) Declare that the Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

(5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or provide the Petitioner with a bond hearing.

(6) Grant any further relief this Court deems just and proper.

/s/ Andres F. Amon

Andres F. Amon, Esquire
Counsel for Petitioner
Law Office of Jan Peter Weiss
1926 10th Avenue North, Suite 400
Lake Worth, Florida 33461
Phone: (561) 582-6401
Fax: (561) 582-5458
Email: legal@janpweissesq.com
Florida Bar No.: 124023

CRUZ HERRERA, JOSE ISAAC)
)
Petitioner,)
v.) Case No.:
)
PAMELA BONDI, U.S. Attorney General, et al.)

INDEX OF SUPPORTING DOCUMENTS

Attachment No.	Document Title
1	Civil Cover Sheet
2	Evidentiary Exhibits A – F
3	Summons to the Attorney General of the United States
4	Summons to the U.S. Department of Homeland Security
5	Summons to the Aurora ICE Processing Center
6	Summons to the U.S. Immigration and Customs Enforcement
7	Summons to the ICE Denver Field Office
8	Summons to the U.S. Attorney's Office

CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the **Petition for Writ of Habeas Corpus with Attachments and Summons** was served by **certified mail** to **PAMELA BONDI, Attorney General of the United States, U.S. Department of Justice, 950 Pennsylvania avenue, NW, Washington, DC 20530-0001.**

I hereby certify that a true and correct copy of the **Petition for Writ of Habeas Corpus with Attachments and Summons** was served by **certified mail** to **ROBERT GUADIAN, Denver Field Office Director, 12445 E. Caley Avenue, Centennial, CO 80111.**

I hereby certify that a true and correct copy of the **Petition for Writ of Habeas Corpus with Attachments and Summons** was served by **certified mail** to **KRISTI NOEM, Secretary of Homeland Security, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0485, Washington, DC 20528-0485.**

I hereby certify that a true and correct copy of the **Petition for Writ of Habeas Corpus with Attachments and Summons** was served by **certified mail** to **TODD LYONS, Acting Director U.S. Immigration and Customs, Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536.**

I hereby certify that a true and correct copy of the **Petition for Writ of Habeas Corpus with Attachments and Summons** was served by **certified mail** to **JUAN BALTAZAR, Warden of Aurora ICE Processing Center, 3130 Oakland St, Aurora, CO 80010.**

EXHIBIT A

PRACTICE RESOURCES

Practice Alert: EOIR Issues Nationwide Guidance on *Maldonado Bautista*

1/16/26 | AILA Doc. No. 26011404.

Updated January 16, 2026

On January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that: "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*." Immigration judges are instructed to follow the BIA's decision in *Matter of Yajure Hurtado* as binding precedent. The guidance from EOIR states that a "declaratory judgment" is not binding and does not have the authority to compel specific action.[1]

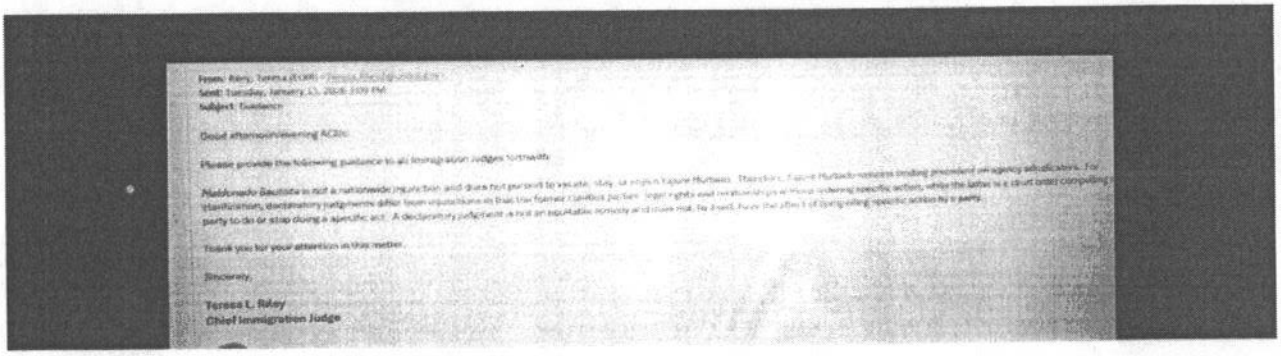
AILA members are reporting widespread denial of bond hearings based on this new guidance. Members pursuing released from federal court should keep in mind:

1. You must allege and prove your client's class membership. The relief does not apply beyond the class even if the Court in *Maldonado Bautista* concluded that the underlying legal position is fundamentally wrong. The notice to appear, itself should provide evidence of class membership and it should be argued that as such the factual allegation that the individual is not an arriving alien is undisputed especially where the NTA shows that the person is inadmissible under INA 212 (a)(6)(A)(i).
2. Members should file a copy of the December 18, 2025 clarifying order as an exhibit in the bond record of proceedings to ensure it is part of the record as well as copies of this advisal. It may not be enough to rely on citations. Many Immigration Judge's will not have previously read the decision.
3. Make sure you review the 2025 published BIA decisions on bond and provide sufficient evidence to establish your client is not a danger to the community or a flight risk as part of your motion for bond redetermination. Evidence of relief eligibility, housing, and family and community support are particularly persuasive.

AILA will continue to monitor the situation and provide updates moving forward. If you have specific case examples of courts denying eligibility based on this email, please submit your case examples here.

Class members include "[a]ll noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination." For more information, see class counsel's practice advisory here.

To contact class counsel, reach out to Bautista_EWI_Class@aclu.org.


Subject: Guidance

Teresa L. Riley
Chief Immigration Judge

[1] Relevant members should still be screening for *Guerrero-Orellana* class membership because they remain class members even if moved to states outside of New England. When filing a motion for bond, attorneys should specifically write/state that the Respondent is a class member of *Guerrero-Orellana* and therefore entitled to a bond hearing. Additionally, a class member who is denied a bond hearing should file a habeas petition and ask for immediate release and fees.

EXHIBIT B

Allegations: Admits All; | Charges: Sustains All;
Designated Country: HONDURAS |

DEPARTMENT OF HOMELAND SECURITY

NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [redacted] **FINS #:** [redacted] File No: [redacted]

DOB: [redacted] **Event No:** [redacted]

In the Matter of:

Respondent: JOSE ISAAC CRUZ-HERRERA currently residing at:

[redacted]

(Number, street, city, state and ZIP code) (Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of HONDURAS and a citizen of HONDURAS ;
3. You arrived in the United States at or near EAGLE PASS, TX , on or about November 7, 2023 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

333 SOUTH MIAMI AVE., STE. 700 MIAMI FL 33130

(Complete Address of Immigration Court, including Room Number, if any)

on April 06, 2026 *(Date)* at 01:00 PM *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

ERNEST S RESENDEZ JR
Date: 2023.11.08 [illegible]:57 -06:00

Acting/Patrol Agent in Charge [redacted]

(Signature and Title of Issuing Officer)

Date: November 08, 2023 EAGLE PASS, TEXAS

(City and State)

EOIR - 1 of 3

Allegations: Admits All; | Charges: Sustains All;
Designated Country: HONDURAS |

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/I-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: _____

(Signature of Respondent)

Date: _____

_____

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on November 08, 2023, in the following manner and in compliance with section 239(a)(1) of the Act.

☒ in person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

[redacted]

(Signature of Respondent if Personally Served)

GREGORY SARGENT, BORDER PATROL AGENT

GREGORY S SARGENT
Date: 2023.11.08 [redacted] -06:00
CBP

(Signature and Title of officer)

EOIR - 2 of 3

Allegations: Admits All; | Charges: Sustains All;

Designated Country: HONDURAS |

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

EOIR - 3 of 3

EXHIBIT C

U.S. Department of Homeland Security Subject ID : [redacted] **Record of Deportable/Inadmissible Alien**

Family Name (CAPS)	First	Middle
CRUZ-HERRERA, JOSE ISAAC		

Country of Citizenship	Passport Number and Country of Issue	File Number
HONDURAS		[redacted]

U.S. Address:

Date, Place, Time, and Manner of Last Entry	Passenger Boarded at
11/07/2023 05:45, EGP, EWI (AFOOT)	

Number, Street, City, Province (State) and Country of Permanent Residence:

Date of Birth		Date of Action	Location Code
[redacted]	Age: 23	11/19/2025	PPF

City, Province (State) and Country of Birth: COLON (HONDURAS), HONDURAS

AR ☒ Form : (Type and No.) Lifted ☐ Not Lifted ☐

NIV Issuing Post and NIV Number:

Social Security Account Name:

Date Visa Issued:

Social Security Number:

Sex	Hair	Eyes	Cmplxn
M	BLK	BRO	MED

Height	Weight	Occupation
62	180	LABORER

Scars and Marks:

F.B.I. Number: [redacted]

☐ Single ☐ Divorced ☐ Married ☐ Widower ☐ Separated

Method of Location/Apprehension: OA

At/Near	Date/Hour
	11/19/2025 11:00

By: DOUGLAS FRAZIER

Status at Entry	Status When Found

Length of Time Illegally in U.S.:

Immigration Record: POSITIVE - See Narrative

Criminal Record:

Name, Address, and Nationality of Spouse (Maiden Name, if Appropriate):

Number and Nationality of Minor Children: None

Father's Name, Nationality, and Address, if Known: CRUZ PARRILA, JOSE RICARDO NATIONALITY: HONDURAS

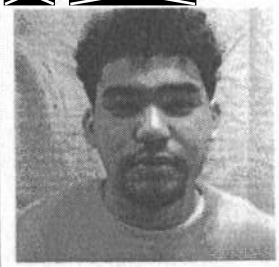
Mother's Present and Maiden Names, Nationality, and Address, if Known: HERRERA BORJA, HADIS ARELY NATIONALITY: HONDURAS

Monies Due/Property in U.S. Not in Immediate Possession	Fingerprinted? ☒ Yes ☐ No	Systems Checks	Charge Code Words(s)
None Claimed		See Narrative	See Narrative

Name and Address of (Last)(Current) U.S. Employer	Type of Employment	Salary	Employed from/to
SA PRO PAINTING,		Hr	

Narrative (Outline particulars under which alien was located/apprehended. Include details not shown above regarding time, place and manner of last entry, attempted entry, or any other entry, and elements which establish administrative and/or criminal violation. Indicate means and route of travel to interior.)

[redacted] [redacted]



Left Index fingerprint

[redacted]

Right Index fingerprint

Family Information

Father:CRUZ PARRILA, JOSE is a citizen of HONDURAS.
Mother:HERRERA BORJA, HADIS is a citizen of HONDURAS.
Spouse:Subject is not married.
Child:Subject does not have children or dependents.

IMMIGRATION RECORD

History was expected but not provided ...(CONTINUED ON I-831)

CITLALLI MIRANDA
BORDER PATROL AGENT
(Signature and Title of Immigration Officer)

Alien has been advised of communication privileges _____ (Date/Initials)

Distribution:

A-file

MIP/PPF

MIP/CPA

Received: (Subject and Documents) (Report of Interview)

Officer: CITLALLI MIRANDA

on: November 19, 2025 (time)

Disposition: Other

Examining Officer: MOSES, MICIA

EOIR - 2 of 5

Form I-213 (Rev. 08/01/07)

U.S. Department of Homeland Security

Continuation Page for Form I-213

Alien's Name	File Number	Date
CRUZ-HERRERA, JOSE ISAAC	[redacted] Event No: [redacted]	[redacted]

Current Criminal Charges

[redacted] - 8 USC 1182 - ALIEN INADMISSIBILITY UNDER SECTION 212

Current Administrative Charges

[redacted] - 212a6Ai - ALIEN PRESENT WITHOUT ADMISSION OR PAROLE - (PWAs)

RECORDS CHECKED

CIS checked on [redacted] with Negative result.ABIS checked on [redacted] with Negative result.EARM checked on [redacted] with Negative result.NCIC checked on [redacted] with Negative result.TECS checked on [redacted] with Negative result.NGI checked on [redacted] with Negative result.

Record of Deportable/Excludable Alien:

ENTRY DATA:
The subject is a native and citizen of Honduras by birth and by being born to Honduras citizen parents. The subject made an unsubstantiated claim to have last entered the U.S. illegally by walking across the international boundary from the Republic of Mexico into the United States at a place not designated as a port of entry into the U.S. The subject was not inspected, admitted, or paroled into the U.S. by an Immigration Officer, and he is in violation of Section 212 of the INA. The Department of Homeland Security Databases indicate that the subject has no petitions pending on their behalf.

APPREHENSION:
On November 19, 2025, Florida Highway Patrol Officers conducted a vehicle stop for a traffic violation and subsequently determined that this subject was illegally in the United States. Subjects were transported to the Dania Beach Station and transferred custody to U.S. Border Patrol Agents. U.S. Border Patrol Agents determined this subject had unlawfully entered the United States at a time and place other than as designated by the Secretary of the Department of Homeland Security of the United States. Further processing using the E3/IDENT and IAFIS Systems revealed the following.

SUBJECT: CRUZ-HERRERA, JOSE ISAAC

ENTRY: Subject entered the United States through Eagle Pass, TX on 11/17/2023.

IMMIGRATION HISTORY:
Subject was processed with an NTA released and paroled into the United States. Subject has a Master Immigration Hearing April 6, 2026.

CRIMINAL HISTORY: Negative.

WANTS & WARRANTS: Negative.

HEALTH:
Subject claims he is in good health.

FIELD INTERVIEW:
Have you heard the United States has ended "Catch and Release"? No.
Have you heard that the United States is removing illegal aliens that cross the border? Yes.
Have you heard that the United States is maximizing the prosecution of illegal aliens? Yes.
Have you heard that cartels/smugglers have been designated as foreign terrorist

Signature	Title
CITLALLI MIRANDA	BORDER PATROL AGENT

EOIR — 3 of 5

2 of 3 Pages

U.S. Department of Homeland Security **Continuation Page for Form** I-213

Alien's Name	File Number	Date
CRUZ-HERRERA, JOSE ISAAC	[redacted] Event No: [redacted]	11/19/2025

organizations? No.
Have you heard that United States Border Patrol has enhanced its enforcement posture along the border through the support of the military? No.
Do you have any information or knowledge of cartel activity and/or associations with cartel/gang members? No.

Relatives residing in the U.S.:
None.

Known contacts / close friends in the U.S.
Has a brother who is a US Citizen.

Business associates or former employers in the U.S.
None.

CONSULAR NOTIFICATION:
The subject was notified of the right to communicate with a consular officer from their country as per Article 36(a)(b) of the Vienna Convention of Consular Relations. The subject acknowledged understanding the right but declined to speak with a consular officer at this time. Furthermore, the subject does not claim to fear persecution or torture if returned to the subject's country of citizenship.

DISPOSITION: The subject was process as a T-Other The subject will be pending bedspace at Alligator Alcatraz

Other Identifying Numbers

[redacted]

Signature	Title
CITLALLI MIRANDA	BORDER PATROL AGENT

EOIR — 4 of 5

3 of 3 Pages

EXHIBIT D

UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
AURORA IMMIGRATION COURT

Respondent Name:
CRUZ-HERRERA, JOSE ISAAC

To:
Weiss, Jan Peter
1926 10th Avenue North
Suite 400
Lake Worth, FL 33461

A-Number:
[redacted]

Riders:
In Custody Redetermination Proceedings

Date:
01/20/2026

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☑ Denied, because
The court lacks jurisdiction to redetermine the respondent's custody.

☐ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
- ☐ released from custody under bond of $
- ☐ other:

☐ Other:

Immigration Judge: CARBONE, NINA 01/20/2026

Appeal: Department of Homeland Security: ☐ waived ☑ reserved
Respondent: ☐ waived ☑ reserved

Appeal Due:

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [ ] Alien | [ ] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : CRUZ-HERRERA, JOSE ISAAC | A-Number : [redacted]

Riders:

Date: 01/20/2026 By: PARISH, REGAN, Court Staff

EXHIBIT E

Report

Main Menu

Search Results: 1

[redacted]

Country of Birth : Honduras

[redacted]

Status : In ICE Custody

State: CO

Current Detention Facility: DENVER CONTRACT DETENTION FACILITY

** Click on the Detention Facility name to obtain facility contact information*

BACK TO SEARCH >

Related Information

Helpful Info

Status of a Case

About the Detainee Locator

Brochure

ICE ERO Field Offices

ICE Detention Facilities

Privacy Notice

External Links

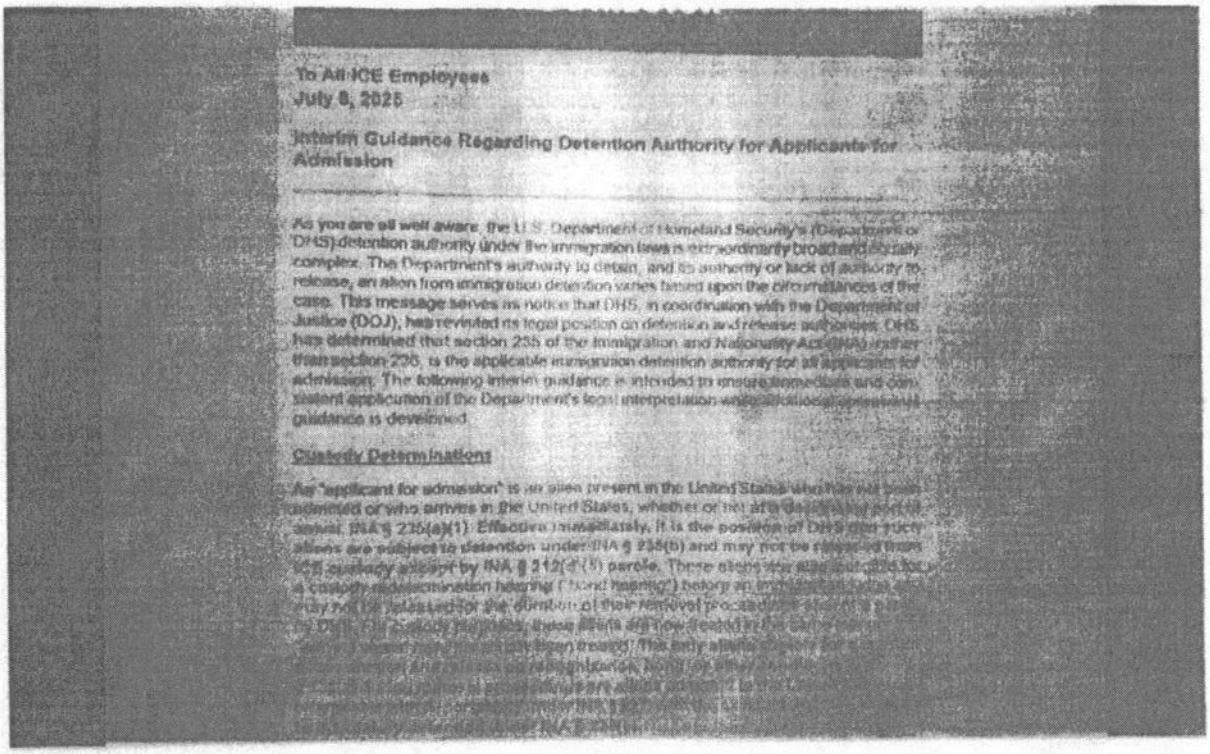
EXHIBIT F

MEMO & REGULATORY COMMENT

ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission

7/8/25 · AILA Doc. No. 25071601 · [illegible]

On July 8, 2025, ICE issued interim guidance regarding detention [illegible] for admission.



To All ICE Employees
July 8, 2025

Interim Guidance Regarding Detention Authority for Applicants for Admission

As you are all well aware, the U.S. Department of Homeland Security's (Department or DHS) detention authority under the immigration laws is extraordinarily broad and legally complex. The Department's authority to detain, and its authority or lack of authority to release, an alien from immigration detention varies based upon the circumstances of the case. This message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined 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. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional [illegible] guidance is developed.

Custody Determinations

An "applicant for admission" is 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. INA § 235(a)(1). 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 not entitled to a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings [illegible]

Moving forward, ICE will not issue Form I-286, *Notice of Custody Determination*, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286.

Because the position that detention is pursuant to INA § 235(b) is likely to be litigated, however, OPLA will need to make alternative arguments in support of continued detention before the Executive Office for Immigration Review. Accordingly, ERO and Homeland Security Investigations (HSI) should continue to develop and obtain evidence, including conviction records, to support OPLA's arguments of dangerousness and flight risk in those bond proceedings.

Re-detention

This interpretation does not impose an affirmative requirement on ICE to immediately identify and arrest all aliens who may be subject to INA § 235 detention. Rather, the custody provisions at INA § 235(b)(1)(B)(ii), (iii)(IV), and (b)(2)(A) are best understood as prohibitions on release once an alien enters ICE custody upon initial apprehension or detention.

This change in legal interpretation may, however, warrant re-detention of a previously released alien in a given case. Until additional guidance is issued, ERO [illegible] consult with OPLA prior to re-detaining an alien on this basis.

[illegible] Previously Released Aliens

[illegible]

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