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IN THE UNITED STATES DISTRICT COURT FOR
THE EASTERN DISTRICT OF PENNSYLVANIA

WILLIAM ANDY SALAS-ALBERNOZ

Petitioner,

Case No. 26-906

v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Brian MCSHANE, Field Office Director of
Enforcement and Removal Operations,
Philadelphia Field Office, IMMIGRATION
AND CUSTOMS ENFORCEMENT;

Kristi NOEM, Secretary, U.S. Department of
Homeland Security; U.S. DEPARTMENT OF
HOMELAND SECURITY;

Pamela BONDI, U.S. Attorney General;
EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW;

Jamal LAWRENCE, Warden of
PHILADELPHIA FEDERAL DETENTION
CENTER

Respondents.

INTRODUCTION

1. Petitioner, William Andy Salas-Albernoz, is in the physical custody of Respondents at the Philadelphia Federal Detention 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 is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on this allegation in Petitioner's removal proceedings, DHS denied Petitioner's 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.

4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. 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 were previously detained under § 1226(a) at their initial apprehension by ICE, were released on their own recognizance pursuant to the same portion of the statute and are now residing in the

1 United States. Instead, upon re-arrest and detention by ICE, such individuals are still subject to §
2 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to
3 people who, like Petitioner, are charged as inadmissible for having entered the United States
4 without inspection and are residing inside the United States.

5 6. Respondents' new legal interpretation is plainly contrary to the statutory
6 framework and contrary to decades of agency practice applying § 1226(a) to people like
7 Petitioner.

8 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released
9 from detention immediately.

10 8. In the alternative, Petitioner seeks a writ of habeas corpus requiring that
11 Respondents provide a bond hearing under § 1226(a) within seven days.

12 JURISDICTION

13 9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
14 Federal Detention Center in Philadelphia, Pennsylvania. *See Exhibit A – ICE Detainee Locator*
15 *Screenshot dated 02/11/2026.*

16 10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
17 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
18 Constitution (the Suspension Clause).

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

VENUE

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

13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Eastern District.

REQUIREMENTS OF 28 U.S.C. § 2243

14. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

15. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

16. Petitioner is a citizen of Venezuela who has been in immigration detention since February 9, 2026. After arresting Petitioner, ICE did not set bond, and Petitioner is unable to

1 obtain review of his custody by an IJ, pursuant to the Board's decision in *Matter of Yajure*
2 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

3 17. Respondent Brian McShane is the Director of the Philadelphia Field Office of
4 ICE's Enforcement and Removal Operations division. As such, Brian McShane is Petitioner's
5 immediate custodian and is responsible for Petitioner's detention and removal. He is named in
6 his official capacity.

7 18. Respondent Kristi Noem is the Secretary of the Department of Homeland
8 Security. She is responsible for the implementation and enforcement of the Immigration and
9 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms.
10 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

11 19. Respondent Department of Homeland Security (DHS) is the federal agency
12 responsible for implementing and enforcing the INA, including the detention and removal of
13 noncitizens.

14 20. Respondent Pamela Bondi is the Attorney General of the United States. She is
15 responsible for the Department of Justice, of which the Executive Office for Immigration Review
16 and the immigration court system it operates is a component agency. She is sued in her official
17 capacity.

18 21. Respondent Executive Office for Immigration Review (EOIR) is the federal
19 agency responsible for implementing and enforcing the INA in removal proceedings, including
20 for custody redeterminations in bond hearings.

21 22. Respondent Jamal Lawrence is employed by the Bureau of Prisons as Warden of
22 the Federal Detention Center where Petitioner is detained. Mr. Lawrence has immediate physical
23 custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

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

24. 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).

25. 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).

26. 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).

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

28. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

29. 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

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

3 30. Thus, in the decades that followed, most people who entered without inspection
4 and were placed in standard removal proceedings received bond hearings, unless their criminal
5 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
6 with decades of prior practice, in which noncitizens who were not deemed “arriving” were
7 entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994);
8 *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the
9 detention authority previously found at § 1252(a)). Even individuals who were apprehended at
10 the border and not immediately detained but placed in standard removal proceedings under 8
11 U.S.C. § 1229a, would historically have been considered detained under § 1226(a) should they
12 alter been detained in the interior of the U.S., and thus eligible for bond before an immigration
13 judge.

14 31. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
15 rejected well-established understanding of the statutory framework and reversed decades of
16 practice.

17 32. The new policy, entitled “Interim Guidance Regarding Detention Authority for
18 Applicants for Admission,”¹ claims that all persons who entered the United States without
19 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
20 policy applies regardless of when a person is apprehended and affects those who have resided in
21 the United States for months, years, and even decades.

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23
24 ¹ *Available at* <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 33. On September 5, 2025, the BIA adopted this same position in a published
2 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
3 United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are
4 ineligible for IJ bond hearings.

5 34. This followed a May 15, 2025, decision by the BIA holding an applicant for
6 admission arrested without a warrant while arriving in the United States and subsequently placed
7 into removal proceedings is detained under 8 U.S.C. § 1225(b). *Matter of Q. Li*, 29 I&N Dec. 66
8 (BIA 2025).

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

12 36. Subsequently, court after court has adopted the same reading of the INA's
13 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Rodriguez*
14 *Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-CV-
15 11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-
16 11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v.*
17 *Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025),
18 *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133
19 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL
20 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025
21 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW
22 (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM,
23 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025

1 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF,
 2 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-
 3 JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-
 4 KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
 5 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
 6 *Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
 7 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
 8 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
 9 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
 10 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
 11 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
 12 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
 13 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
 14 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
 15 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

16 37. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it
 17 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
 18 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

19 38. Section 1226(a) applies by default to all persons “pending a decision on whether
 20 the [noncitizen] is to be removed from the United States.” These removal hearings are held under
 21 § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

22 39. The text of § 1226 also explicitly applies to people charged as being inadmissible,
 23 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
 24

1 (E)’s reference to such people makes clear that, by default, such people are afforded a bond
2 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
3 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions,
4 the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
5 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025
6 WL 1869299, at *7.

7 40. Section 1226 therefore leaves no doubt that it applies to people who face charges
8 of being inadmissible to the United States, including those who are present without admission or
9 parole.

10 41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
11 recently entered the United States. The statute’s entire framework is premised on inspections at
12 the border of people who are “seeking admission” to the United States. 8 U.S.C.
13 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme
14 applies “at the Nation’s borders and ports of entry, where the Government must determine
15 whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583
16 U.S. 281, 287 (2018).

17 42. Immigration officials and the Department of Justice (DOJ) have long taken the
18 position that immigration officials have broad discretion not to apply the detention and expedited
19 removal procedures § 1225(b), and whether to classify individuals encountered inside the United
20 States shortly after crossing the border as subject to § 1225(b) detention or § 1226(a) detention.
21 *See* Brief for Petitioners at 4-7 (No. 21-954), *Biden v. Texas*, 597 U.S. 785 (2022). The DOJ has
22 stated, “[t]he INA affords DHS multiple options for processing applications for admission,” and
23 that includes arrest and detention pursuant to § 1226(a). *See id.* at 4-5.

1 56. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and
2 practice of applying § 1225(b)(2) to individual like Petitioner.

3 57. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued
4 detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

5 **COUNT III**
6 **Violation of Due Process**

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

9 59. The government may not deprive a person of life, liberty, or property without due
10 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government
11 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
12 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

13 60. Petitioner has a fundamental interest in liberty and being free from official
14 restraint.

15 61. The government’s detention of Petitioner without a bond redetermination hearing
16 to determine whether he is a flight risk or danger to others violates his right to due process.

17 **PRAYER FOR RELIEF**

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

- 19 a. Assume jurisdiction over this matter;
- 20 b. Order that Petitioner shall not be transferred outside the Eastern District of
21 Pennsylvania while this habeas petition is pending;
- 22 c. Issue an Order to Show Cause ordering Respondents to show cause why this
23 Petition should not be granted within three days;
- 24

- 1 d. Issue a Writ of Habeas Corpus requiring that Respondents immediate release
2 Petitioner.
- 3 e. In the alternative, Issue a Writ of Habeas Corpus requiring that Respondents
4 provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within
5 seven days;
- 6 f. Declare that Petitioner is detained pursuant to 8 U.S.C. § 1226(a);
- 7 g. Declare that Petitioner’s detention is unlawful;
- 8 h. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
9 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under
10 law; and
- 11 i. Grant any other and further relief that this Court deems just and proper.

12 DATED this 11th day of February 2026

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EXHIBIT LIST

Exhibit

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A. Printout of ICE Detainee Locator, evidencing Petitioner is housed at the Federal Detention Center in Philadelphia;

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EXHIBIT A



Report

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Search Results: 1

WILLIAM ANDY SALAS-ALBERNOZ**Country of Birth :** Venezuela**A-Number:** **Status :** In ICE Custody**State:** PA**Current Detention Facility:** Philadelphia Federal Detention Center** Click on the Detention Facility name to obtain facility contact information*[BACK TO SEARCH >](#)

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