UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

MIGUEL REYES JIMENEZ, Petitioner, v. **TODD LYONS,** Acting Director of ICE; **JASON STREEVAL,** Warden, Stewart Detention Center; **KRISTEN SULLIVAN** Acting ERO Director of Atlanta Field Office, U.S. Immigration and Customs Enforcement ("ICE"); **KRISTI NOEM,** Secretary of the U.S Department of Homeland Security; **PAM BONDI,** Attorney General of the United States; and **WILLIAM KEYES,** U.S. Attorney for the Middle District of Georgia, in their official capacities, Respondents.	Case No. 26-305

PETITION FOR HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF UNDER THE ADMINISTRATIVE PROCEDURE ACT

INTRODUCTION

1. Petitioner, Miguel Reyes Jimenez, is a noncitizen and longtime resident of the United States who is harmed by Respondents' new draconian policy reinterpreting the immigration detention statutes to preclude Petitioner from eligibility for bond under the Immigration and Nationality Act (INA), 8 U.S.C. § 1226(a), and for bond hearings under 8 C.F.R. §§ 1003.19(a), 1236.1(d). Instead, pursuant to this new policy, Respondents now consider Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), without the opportunity for release on bond during the pendency of his lengthy removal proceedings.

2. The Petitioner has lived in the United States for years and is now detained at the Stewart Detention Center in Lumpkin, GA.

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

4. Based on this allegation in Petitioner's removal proceedings, DHS will deny Petitioner release from immigration custody consistent with a new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone alleged to be inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) —i.e., those who entered the United States without inspection—to be subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and therefore eligible for release only on parole making any bond requests futile.

5. A Petitioner seeking a bond redetermination hearing before an immigration judge (IJ) is futile because IJs will deny all bonds to detainees similar to Petitioner, reaching this conclusion by reasoning that, notwithstanding the years or even decades Petitioner has lived in the United States, that Petitioner is nevertheless an "applicant for admission" who is "seeking admission" and subject to mandatory detention under § 1225(b)(2)(A).

6. Petitioner's detention on this basis violates the plain language of the INA and its implementing regulations.

7. Subparagraph 1225(b)(2)(A) applies to individuals who are apprehended on arrival in the United States. It states that an "applicant for admission" who is "seeking admission" shall be detained for a removal proceeding. *Id.* It does not apply to individuals like Petitioner, who are arrested and detained by ICE after having entered and begun residing in the United States. Instead, such individuals are subject to a different statute, 8 U.S.C. § 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 its implementing regulations. Indeed, for decades, Respondents have applied § 1226(a) to people like Petitioner. Respondents' new policies are thus not only contrary to law, but arbitrary and capricious in violation of the Administrative Procedure Act (APA). They were also adopted without complying with the APA's procedural requirements.

9. Petitioner is seeking declaratory relief that establishes that Petitioner is subject to detention under § 1226(a) and its implementing regulations and are therefore entitled to an individualized custody determination following apprehension by DHS and, if not released, a bond determination by the Immigration Court.

JURISDICTION

10. Petitioner is in the physical custody of Respondents and is detained at Stewart Detention Center in Lumpkin GA.

11. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*. and the APA, 5 U.S.C. §§ 500–596, 701–706.

12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1331 (federal question); the APA, 5 U.S.C. §§ 500–596, 701–706; and the United States Constitution.

13. 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 Court's inherent equitable powers.

VENUE

14. Venue is proper because Petitioner is detained at Stewart Detention Center in Lumpkin, Georgia, which is within the jurisdiction of this District.

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

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

PARTIES

17. Petitioner, Miguel Reyes Jimenez, was detained by the Department of Homeland Security ("DHS") on February 5, 2026. Petitioner is currently detained at Stewart Detention Center. He is in the custody, and under the direct control, of Respondents and their agents. After detaining him, ICE did not set bond.

18. Respondent Streeval is the Warden of Stewart Detention Center and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Streeval is a legal custodian of Petitioner.

19. Respondent Kristen Sullivan is the Acting ERO director for the Atlanta Field Office of the Immigration and Customs Enforcement Agency ("ICE"), a brand of the Department of

Homeland Security ("DHS") and is sued in his official capacity. Respondent Sullivan is responsible for local custody decisions relating to aliens charged with being removable from the United States, including the custody status of Petitioner. Respondent Sullivan is a legal custodian of Petitioner and has authority to release her/him/them

20. Respondent Todd M Lyons is the acting director of ICE and is sued in his official capacity. Respondent has authority over the actions of Kristen Sullivan and ICE in general. ICE's mission includes the enforcement of criminal and civil laws related to immigration. Among other things, ICE is responsible for the stops, arrests, and custody of individuals believed to be in violation of civil immigration law.

21. Respondent Kristi Noem is the Secretary of the Department of Homeland Security and is being sued in her official capacity. Respondent has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS which is responsible for implementing and enforcing the nation's immigration laws pursuant to 8 U.S.C. § 1103(a). Respondent Noem is a legal custodian of the Petitioner.

22. Respondent Pam Bondi is the Attorney General of the United States. In this capacity, she has responsibility for the administration and enforcement of the immigration laws pursuant to 8 U.S.C. § 1103 and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals ("BIA"). Respondent Bondi is a legal custodian of Petitioner.

23. Respondent William Keyes is the U.S. Attorney for the Middle District of Georgia. Respondent Keyes is being sued in his capacity as a legal representative of the federal government.

STATEMENT OF FACTS

24. Petitioner is a forty-three-year-old citizen of Mexico. He has lived in the United States for approximately 18 years.

25. Petitioner is currently on valid deferred action as an approved VAWA (Violence Against Women Act) self-petitioner and cannot be physically removed as a result. In addition to this, Petitioner has a pending application for adjustment of status to permanent residence.

26. Petitioner has deep ties to the Georgia area as he has two minor U.S. citizen children (for whom he has sole physical and legal custody as the mother of the children abandoned them years ago).

27. On February 5, 2026, Petitioner was detained by immigration authorities following an arrest and conviction for the Georgia offense of simple battery, O.C.G.A. § 16-5-23 (physical contact of an insulting or provoking nature).

28. DHS had previously placed Petitioner in removal proceedings before the Atlanta Immigration Court prior to his detention, pursuant to 8 U.S.C. § 1229a. ICE has charged him with being inadmissible under r 8 U.S.C. § 1182(a)(6)(A)(i) as someone who allegedly entered the United States without inspection.

29. Without relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

30. Any Motion for Bond Determination or appeal to the BIA is futile. DHS's new policy was issued "in coordination with" DOJ. EOIR—the immigration court system—is a component agency of DOJ. Further, as noted, a recent BIA decision held that persons like Petitioner are subject to mandatory detention holding that noncitizens who entered without admission or inspection and have been residing in the United States for years without lawful status, be

subject to mandatory detention as they are applicant for admissions and therefore the border detention statute, INA § 235(b)(2), applies when they are in removal proceedings. Immigration Judges, thus, lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission . *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

LEGAL FRAMEWORK

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

32. 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 until their removal proceedings are concluded, see 8 U.S.C. § 1226(c).

33. 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).

34. Third, the INA also provides for detention of noncitizens who have received a final order of removal from the United States, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b).

35. Last, an individual who is an approved VAWA self-petitioner has been granted "Deferred Action" by USCIS. This is a formal administrative stay of removal, meaning the government acknowledges your presence and has decided not to pursue deportation. 8 U.S.C. § 1103(a) is the section that charges the Secretary of Homeland Security with the administration and

enforcement of all laws relating to the immigration and naturalization of aliens. The courts have interpreted this as giving the government the power to decide who to prioritize for deportation.

36. This case concerns the detention provisions at § 1226(a) and § 1225(b)(2). 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 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

37. 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) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

38. Thus, in the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an IJ, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who stopped at the

border were only entitled to release on parole. *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)).

39. In recent weeks, Respondents have adopted an entirely new interpretation of the statute. On July 8, 2025, ICE, "in coordination with the Department of Justice (DOJ)," announced a corresponding policy that rejected the well-established understanding of the statutory and regulatory framework and reversed decades of practice. 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 deemed subject to mandatory detention under § 1225(b)(2)(A). Id. 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.

40. On September 5, 2025, the Board of Immigration Appeals (BIA), issued a decision holding that all noncitizens who entered the United States without admission or parole are considered applicants for admission, and are therefore ineligible for IJ bond hearings under 8 U.S.C. § 1225(b)(2)(A).

41. ICE, DOJ and the BIA have adopted this new and unprecedented position on bond even though prior federal courts have rejected this exact conclusion. For example, in the Tacoma, Washington Immigration Court, IJs had previously stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, reasoning such people are subject to mandatory detention under § 1225(b)(2)(A). There, in granting preliminary injunctive relief, the U.S. District Court for 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*, No. 3:25-CV-05240-TMC, --- F. Supp. 3d ---, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ---- 2025 WL 2084238, at *9 (D. Mass. July 24, 2025) (ordering release where noncitizen was redetained based on ICE's assertion of detention authority under § 1225(b)).

42. DHS's, DOJ's and the BIA's interpretation of who is subject to mandatory detention defies the INA. As the *Rodriguez Vazquez* court and other courts explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner. 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]."

43. 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). Just this year, Congress enacted subparagraph (E) in the Laken Riley Act to exclude certain noncitizens who entered without inspection from § 1226(a)'s default bond provision. Subparagraph (E)'s reference to persons inadmissible under § 1182(6)(A), i.e., persons inadmissible for entering without inspection, 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*, 2025 WL 1193850, at *12 (*citing Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). 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.

44. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who very 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); *see also Diaz Martinez*, 2025 WL 2084238, at *8 ("'[O]ur immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.'" (quoting *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958))). 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).

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

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process

46. The allegations in the above paragraphs are realleged and incorporated herein.

47. The Fifth Amendment provides that "[n]o person" shall be "be deprived of life, liberty, or property, without due process of law."

48. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

49. Moreover, "[t]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

50. Respondents' mandatory detention of Petitioner without consideration for release on bond or access to a bond hearing violates his due process rights.

COUNT TWO
Violation of 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond

51. The allegations in the above paragraphs are realleged and incorporated herein.

52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

53. Nonetheless, DHS and the BIA and Immigration Courts have adopted a policy and practice of applying § 1225(b)(2) to detainees like Petitioner.

54. For these reasons, the unlawful application of § 1225(b)(2) unlawfully mandates their continued detention and violates the INA.

COUNT THREE
Violation of 8 C.F.R. §§ 236.1, 1236.1 and 1003.19
Unlawful Denial of Release on Bond

55. The allegations in the above paragraphs are realleged and incorporated herein.

56. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically,

under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

57. Nonetheless, DHS and the BIA and Immigration Courts have adopted a policy and practice of applying § 1225(b)(2) to detainees like Petitioner.

58. For these reasons, the unlawful application of § 1225(b)(2) unlawfully mandates their continued detention and violates the INA.

COUNT FOUR
Violation of the Administrative Procedure Act
Contrary to Law and Arbitrary and Capricious Agency Policy

59. The allegations in the above paragraphs are realleged and incorporated herein.

60. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

61. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231. Nonetheless, DHS, the

Immigration Court IJs and the BIA have a policy and practice of applying § 1225(b)(2) to detainees like the Petitioner.

62. Moreover, Respondents have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies' policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

63. The application of § 1225(b)(2) to detainees like Petitioner is arbitrary, capricious, and not in accordance with law, and as such, it violates the APA. See 5 U.S.C. § 706(2).

COUNT FIVE
Violation of the Administrative Procedure Act
Failure to Observe Required Procedures

64. The allegations in the above paragraphs are realleged and incorporated herein.

65. The APA provides that a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . without observance of procedure required by law." 5 U.S.C. § 706(2)(D). Specifically, the APA requires agencies to follow public notice-and-comment rulemaking procedures before promulgating new regulations or amending existing regulations. *See* 5 U.S.C. § 553(b), (c).

66. Respondents failed to comply with the APA by adopting its policy and departing from its regulations without any rulemaking, let alone any notice or meaningful opportunity to comment. Respondents failed to publish any such new rule despite affecting the substantive rights of thousands of noncitizens under the INA, as required under 5 U.S.C. § 553(d).

67. Had Respondents complied with the advance publication and notice and comment rulemaking requirements under the APA, members of the public and organizations that advocate on behalf

of noncitizens like Petitioners and the proposed classes would have submitted comments opposing the new policies.

68. The APA's notice and comment exceptions related to "foreign affairs function[s] of the United States," id. § 553(a)(1), and "good cause," id. § 553(d)(3), are inapplicable.

69. Respondents' adoption of their no-bond policies therefore violates the public notice-and-comment rulemaking procedures required under the APA.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

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

(3) Declare that Petitioner's continued detention without possibility of release violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1226(a), 8 C.F.R. §§ 236.1, 1236.1 and 1003.19, and the Administrative Procedure Act.

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner; and

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

Respectfully submitted,

This 22nd of February, 2026.

COCHRAN IMMIGRATION

/s/ Johanna Cochran
by: Johanna Cochran
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Miguel Reyes Jimenez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 22nd of February, 2026.

/s/ Johanna Cochran
by: Johanna Cochran
Georgia Bar No. 611902
Attorney for the Petitioner