





1 individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore  
2 ineligible to be released on bond.

3 5. Petitioner's detention that is likely on this basis violates the plain  
4 language of the Immigration and Nationality Act ("INA"). Section 1225(b)(2)(A)  
5 does not apply to individuals like Petitioner who previously entered and are now  
6 residing in the United States. Instead, such individuals are subject to a different  
7 statute, § 1226(a), that allows for release on conditional parole or bond. That  
8 statute expressly applies to people who, like Petitioner, are likely to be charged as  
9 inadmissible for having entered the United States without inspection.  
10

11 6. Respondents' new legal interpretation is plainly contrary to the  
12 statutory framework and contrary to decades of agency practice applying § 1226(a)  
13 to people like Petitioner.  
14

15 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he  
16 be released unless Respondents provide a new custody redetermination hearing  
17 under § 1226(a) within seven days whereby the Immigration Judge does have  
18 jurisdiction over Petitioner's custody redetermination request.  
19

## 20 JURISDICTION

21 8. Petitioner is in the physical custody of Respondents. Petitioner is  
22 detained at the Federal Correctional Institution (FCI) Atlanta located in Atlanta,  
23 Georgia.  
24

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

4  
5 10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the  
6 Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28  
7 U.S.C. § 1651.

### 8 VENUE

9 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410  
10 U.S. 484, 493- 500 (1973), venue lies with the district court having jurisdiction  
11 over the custodian of the detainee. In the case at hand, venue is proper with the  
12 United States District Court for the Northern District of Georgia, the judicial  
13 district encompassing the Federal Correctional Institution (FCI) Atlanta located in  
14 Atlanta, Georgia in Fulton County, Georgia.

15  
16 12. Venue is also properly in pursuant to 28 U.S.C. § 1391(e) because  
17 Respondents are employees, officers, and agencies of the United States, and  
18 because a substantial part of the events or omissions giving rise to the claims  
19 occurred in the Northern District of Georgia.

### 20 REQUIREMENTS OF 28 U.S.C. § 2243

21  
22 13. The Court must grant the petition for writ of habeas corpus or order  
23 Respondents to show cause “forthwith”, unless the petitioner is not entitled to  
24

1 relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file  
2 a return “within three days unless for good cause additional time, not exceeding  
3 twenty days, is allowed.” *Id.*

4  
5 14. Habeas corpus is “perhaps the most important writ known to the  
6 constitutional law . . . affording as it does a *swift* and imperative remedy in all  
7 cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)  
8 (emphasis added).

9  
10 **PARTIES**

11 15. Petitioner Jesus Resendiz Leon is alleged to be a citizen of Mexico  
12 who entered the United States without admission, inspection, or parole. Petitioner  
13 is currently detained at the Federal Correctional Institution (FCI) Atlanta in the  
14 custody, and under the direct control, of Respondents and their agents. Petitioner  
15 has been in immigration detention since approximately January 2026. After  
16 arresting Petitioner, ICE did not set bond.

17 16. Respondent Tamer Abdelaziz is employed as Warden of the Federal  
18 Correctional Institution (FCI) Atlanta where Petitioner is detained. He has  
19 immediate physical custody of Petitioner. He is sued in his official capacity.  
20

21 17. Respondent LaDeon Francis is the Director of the Atlanta Field  
22 Office of ICE’s Enforcement and Removal Operations division. As such, LaDeon  
23  
24

1 Francis is Petitioner's immediate custodian and is responsible for Petitioner's  
2 detention and removal. He is named in his official capacity.

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

9 19. Respondent Pamela Bondi is the Attorney General of the United  
10 States. She is responsible for the Department of Justice, of which the Executive  
11 Office for Immigration Review and the immigration court system it operates is a  
12 component agency. She is sued in her official capacity.  
13

#### 14 **LEGAL FRAMEWORK**

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

17 21. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in  
18 standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a.  
19 Individuals detained pursuant to § 1226(a) are generally entitled to a bond hearing  
20 at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while  
21 noncitizens who have been arrested, charged with, or convicted of certain crimes  
22 are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).  
23  
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1 22. Second, the INA provides for mandatory detention of noncitizens  
2 subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent  
3 arrivals seeking admission referred to under § 1225(b)(2).

4 23. Last, the INA also provides for detention of noncitizens who have  
5 been ordered removed, including individuals in withholding-only proceedings, *see*  
6 8 U.S.C. § 1231(a)-(b).

8 24. This case concerns the detention provisions at §§ 1226(a) and  
9 1225(b)(2).

10 25. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted  
11 as part of the Illegal Immigration Reform and Immigrant Responsibility Act  
12 (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546,  
13 3009-582 to 3009-583, 3009-585. Section 1226(a) was most recently amended  
14 earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

16 26. Following the enactment of the IIRIRA, EOIR drafted new  
17 regulations explaining that, in general, people who entered the country without  
18 inspection were not considered detained under § 1225 and that they were instead  
19 detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens;  
20 Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum  
21 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

1 27. Thus, in the decades that followed, most people who entered without  
2 inspection and were placed in standard removal proceedings received bond  
3 hearings, unless their criminal history rendered them ineligible pursuant to §  
4 U.S.C. § 1226(c). That practice was consistent with many more decades of prior  
5 practice, in which noncitizens who were not deemed “arriving” were entitled to a  
6 custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C.  
7 § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that  
8 § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).  
9

10 28. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new  
11 policy that rejected well-established understanding of the statutory framework and  
12 reversed decades of practice.  
13

14 29. The new policy, entitled “Interim Guidance Regarding Detention  
15 Authority for Applicants for Admission,”<sup>1</sup> claims that all persons who entered the  
16 United States without inspection shall now be subject to a mandatory detention  
17 provision under § 1225(b)(2)(A). This interpretation of the statute applies  
18 regardless of when a person is apprehended and affects those who have resided in  
19 the United States for months, years, and even decades.  
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24 <sup>1</sup> Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 30. On September 5, 2025, the BIA adopted this same position in a  
2 published decision, *Matter of Yajure Hurtado*. There, the Board held that all  
3 noncitizens who entered the United States without admission or parole are subject  
4 to mandatory detention under § 1225(b)(2)(A) and are therefore ineligible for bond  
5 hearings.  
6

7 31. Since Respondents adopted their new policies, dozens of federal  
8 courts have rejected their new interpretation of the INA's detention authorities.<sup>2</sup>  
9 Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same  
10 reading of the statute as ICE.<sup>3</sup>  
11

12 32. Even before ICE or the BIA introduced these nationwide policies,  
13 Immigration Judges in the Tacoma, Washington, immigration court stopped  
14 providing bond hearings for persons who entered the United States without  
15 inspection and who have since resided here. There, the U.S. District Court in the  
16 Western District of Washington found that such a reading of the INA is likely  
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19 <sup>2</sup> Petitioner is a class member of *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). In  
20 *Maldonado Bautista* the court certified the Bond Eligible Class, defined as: All noncitizens in the United States  
21 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.  
*Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403, at \*9  
(C.D. Cal. Nov. 25, 2025).

22 Courts are obligated to apply the law to all class members, as determined in the binding, final judgment issued in  
*Maldonado Bautista* on December 18, 2025. The Executive Office for Immigration Review is a Defendant in  
*Maldonado Bautista*, and is thus bound by the ruling there, which has the full "force and effect of a final judgment."  
23 28 U.S.C. § 2201(a). Nevertheless, immigration judges continue to find that they do not have jurisdiction pursuant to  
*Yajure Hurtado* when respondents request custody redetermination hearings pursuant to class membership.

24 <sup>3</sup> As of February 18, 2026, the Ninth Circuit Court vacated *Yajure Hurtado* as it is "contrary to law under the APA."  
*Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM.

1 unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not  
2 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779  
3 F. Supp. 3d 1239 (W.D. Wash. 2025).

4  
5 33. Subsequently, several courts have adopted the same reading of the  
6 INA's detention authorities and rejected ICE and EOIR's new interpretation. *See*,  
7 *e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July  
8 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----,  
9 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-  
10 02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and*  
11 *recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL  
12 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937  
13 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No.  
14 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-*  
15 *Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D.  
16 Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D.  
17 Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL  
18 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-  
19 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No.  
20 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*,  
21 No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose*  
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1 *J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL  
2 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-  
3 BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v.*  
4 *Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025);  
5 *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL  
6 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546,  
7 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-  
8 11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma*  
9 *Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at \*2 (D. Neb. Sept. 3, 2025)  
10 (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2)  
11 authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL  
12 2402271 at \*3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-  
13 03158-JFB-RCC, 2025 WL 2374224 at \*2 (D. Neb. Aug. 14, 2025) (same).

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

21 35. Section 1226(a) applies by default to all persons “pending a decision  
22 on whether the [noncitizen] is to be removed from the United States.” These  
23  
24

1 removal hearings are held under § 1229a, to “decid[e] the inadmissibility or  
2 deportability of a[] [noncitizen].”

3  
4 36. The text of § 1226 also explicitly applies to people likely to be  
5 charged as being inadmissible, including those who entered without inspection. *See*  
6 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear  
7 that, by default, such people are afforded a bond hearing under subsection (a). As  
8 the *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific  
9 exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the  
10 statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing  
11 *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400  
12 (2010)); *see also Gomes*, 2025 WL 1869299, at \*7.

13  
14 37. Section 1226 therefore leaves no doubt that it applies to people who  
15 face charges of being inadmissible to the United States, including those who are  
16 present without admission or parole.

17  
18 38. In contrast, § 1225(b) applies to people arriving at U.S. ports of entry  
19 or who recently entered the United States. The statute’s entire framework is  
20 premised on inspections at the border of people who are “seeking admission” to the  
21 United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained  
22 that this mandatory detention scheme applies “at the Nation’s borders and ports of  
23  
24

1 entry, where the Government must determine whether a[] [noncitizen] seeking to  
2 enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

3  
4 39. Accordingly, the detention provision of § 1225(b)(2)(A) does not  
5 apply to people like Petitioner, who have already entered and were residing in the  
6 United States at the time they were apprehended.

7 **FACTS**

8 40. Petitioner has remained in the United States consistently since on or  
9 around 2016 and lives in Atlanta, Georgia.

10 41. Petitioner previously refiled a Form I-131, Application for Travel  
11 Documents, Parole Documents, and Arrival/Departure Records before the United  
12 States Citizenship and Immigration Services (“USCIS”) on or around January 9,  
13 2026. That application is currently pending.

14 42. On the morning of January 29, 2026, Petitioner was arrested for  
15 driving without a license. He was transferred from the Cherokee County jail to  
16 DHS ICE custody. Petitioner is now detained by DHS ICE at the FCI Atlanta in  
17 Atlanta, GA.  
18

19 43. Petitioner has significant ties to the community as he has three  
20 children, all of which are U.S. citizens—a twenty (20) year old son, an eighteen  
21 (18) year old daughter, and a fifteen (15) year old son. The Petitioner and his  
22 domestic partner maintain a fixed address as they rent their apartment, which is  
23  
24

1 located in Atlanta, Georgia. Their two youngest children reside with them. Their  
2 oldest child is in The United States Marine Corps. Petitioner maintains gainful  
3 employment as he has worked for ██████████ for approximately a  
4 decade. As such, Petitioner is not a flight risk.  
5

6 44. According to Petitioner, he has never been arrested for any dangerous  
7 or violent criminal violations. As such, Petitioner is not a danger to the community.

8 45. Following Petitioner's arrest and transfer to FCI Atlanta, ICE issued a  
9 custody determination to continue Petitioner's detention without an opportunity to  
10 post bond or be released on other conditions.

11 46. In practice, following grants of habeas relief, custody redetermination  
12 proceedings frequently fail to provide the individualized analysis contemplated by  
13 the Court's order, instead resulting in summary denials based on generalized  
14 findings of flight risk. Without relief from this court—specifically in the form of  
15 immediate release as requested—Petitioner faces the prospect of months, or even  
16 years, in immigration custody, where he will be separated from his family and  
17 community.  
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**CLAIMS FOR RELIEF**

**COUNT I**

**Violation of the Immigration and Nationality Act**

47. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

48. 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), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

49. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

**COUNT II**

**Violation of the Bond Regulations**

50. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

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

1 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and  
2 Detention of [Noncitizens],” the agencies explained that “[d]espite being  
3 applicants for admission, [noncitizens] who are present without having been  
4 admitted or paroled (formerly referred to as [noncitizens] who entered without  
5 inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at  
6 10323 (emphasis added). The agencies thus made clear that individuals who had  
7 entered without inspection were eligible for consideration for bond and bond  
8 hearings before Immigration Judges under 8 U.S.C. § 1226 and its implementing  
9 regulations.  
10

11 52. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy  
12 and practice of applying § 1225(b)(2) to individuals like Petitioner.  
13

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

### 16 COUNT III

#### 17 **Violation of Fifth Amendment Right to Due Process**

18 54. Petitioner repeats, re-alleges, and incorporates by reference each and  
19 every allegation in the preceding paragraphs as if fully set forth herein.  
20

21 55. The government may not deprive a person of life, liberty, or property  
22 without due process of law. U.S. Const. amend. V. “Freedom from  
23 imprisonment—from government custody, detention, or other forms of physical  
24

1 restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v.*  
2 *Davis*, 533 U.S. 678, 690 (2001).

3 56. Petitioner has a fundamental interest in liberty and being free from  
4 official restraint.

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

8  
9 **PRAYER FOR RELIEF**

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

- 11 a. Assume jurisdiction over this matter;
- 12 b. Order that Petitioner shall not be transferred outside the Northern  
13 District Court of Georgia while this habeas petition is pending;
- 14 c. Issue an Order to Show Cause ordering Respondents to show cause  
15 why this Petition should not be granted within three days;
- 16 d. Issue a Writ of Habeas Corpus requiring that Respondents  
17 immediately release Petitioner;
- 18 e. In the alternative, provide Petitioner with a bond hearing in the  
19 Northern District of Georgia within seven days;
- 20 f. In the alternative, provide Petitioner with a bond hearing in front of an  
21 immigration judge pursuant to 8 U.S.C. § 1226(a) within seven days;
- 22  
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- 1 g. Declare that Petitioner's detention is unlawful;
- 2 h. Award Petitioner attorney's fees and costs under the Equal Access to
- 3 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any
- 4 other basis justified under law; and
- 5
- 6 i. Grant any other and further relief that this Court deems just and
- 7 proper.

8 It is RESPECTFULLY SUBMITTED this 20<sup>th</sup> day of February, 2026.

9 The Kennedy Immigration Firm, LLC  
10 /s/Alexandra H. Bradley  
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