

**IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF PENNSYLVANIA
CIVIL DIVISION**

JOSE MENDOZA CRUZ,

Petitioner,

V.

WARDEN, *in their official capacity* as
Warden of the Philadelphia Federal
Detention Center;

MICHAEL T. ROSE, *in his official capacity* as Field Office Director of the ICE Philadelphia Field Office of Enforcement and Removal Operations, U.S. Immigrations and Customs Enforcement; U.S. Department of Homeland Security;

TODD M. LYONS, *in his official capacity*
as Acting Director, Immigration and
Customs Enforcement, U.S. Department of
Homeland Security;

KRISTI NOEM, *in her official capacity*
as Secretary, U.S. Department of
Homeland Security; and

PAMELA JO BONDI, *in her official capacity* as Attorney General of the United States;

Respondents.

Civil Action No.

**PETITION FOR WRIT OF HABEAS
CORPUS AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

A #

INTRODUCTION

1. Plaintiff-Petitioner Jose Mendoza Cruz (“Petitioner”) is a citizen and national of Honduras who has resided in the U.S. for nearly six years. *See* Pet.’s Exh. A, Respondent’s Birth Certificate with Certified English Translation (redacted).
2. Petitioner entered the United States without admission or inspection on April 28, 2020. *See* Pet.’s Exh. B, Notice to Appear. Petitioner traveled to the United States to seek asylum based on past persecution in the form of violence and other harm that he endured as a gay/LGBTQ man in Honduras and [REDACTED]
[REDACTED] *See* Pet.’s Exh. C, Respondent’s Completed Form I-589 (redacted).
3. Petitioner encountered U.S. Border Patrol upon entering the United States and was released on recognizance “in accordance with section 236 [8 U.S.C. § 1226] of the Immigration and Nationality Act” the next day, April 29, 2020. *See* Pet.’s Exh. D, Form I-220A, Order of Release on Recognizance. Shortly thereafter, Petitioner moved to Pennsylvania. As a condition of his release, Petitioner was required to attend periodic check-ins with ICE, which he has duly completed since entering the county.
4. Mr. Mendoza Cruz was issued a Notice to Appear (“NTA”) in Immigration Court upon his release in 2020, but the NTA was never filed with the court. As a result, removal proceedings were never initiated and not Immigration Court hearing was scheduled. *See* Pet.’s Exh. B. To comply with the one-year asylum filing deadline, Petitioner timely filed Form I-589, Application for Asylum, Withholding of Removal, and CAT Protection with United States Citizenship and Immigration Services (“USCIS”) on January 19, 2021. *See* Pet.’s Exh. E, Petitioner’s Form I-797C, Notice of Action, Receipt Notice for Form I-589.
5. On February 25, 2026, Mr. Mendoza Cruz was arrested by ICE while attending a routine

check-in at the Philadelphia ICE Office, located at 114 N. 8th St., Philadelphia, PA 19106.

6. Nothing about Mr. Mendoza Cruz' circumstances has changed since he was released on recognizance pursuant to INA § 236 (8 U.S.C. § 1226) in 2020. Mr. Mendoza Cruz has no criminal record in the United States or elsewhere in the world. He has consistently complied with immigration law throughout his time in the country by timely filing his asylum application, applying for an employment authorization document ("EAD") in order to lawfully work, complying with biometrics requests as required by USCIS, paying his annual asylum fees, and attending all mandatory ICE check-ins. *See* Pet.'s Exh. F, EAD Approval Notices; Ex. G, Annual Asylum Fee Receipt.
7. Petitioner's detention pursuant to § 1225(b)(2)(A) violates the plain language of the INA and its implementing regulations. Petitioner, who has resided in the U.S. for almost six years, should not be considered to be "seeking admission" under § 1225(b)(2)(A). Rather, he should be detained pursuant 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond. Indeed, this was long the policy of Respondent DHS, which until approximately July of 2025¹ had consistently found that individuals like Petitioner are subject to § 1226(a) and thereby eligible for bond.
8. Mr. Suarez, who is presently detained in direct contradiction to the statutory language of the Immigration and Nationality Act, seeks declaratory relief that he is subject to detention under § 1226(a) and its implementing regulations and asks that this Court order Respondents to release Petitioner from custody.

CUSTODY

¹ *CBS News*, "ICE Says Many In Immigration Detention No Longer Qualify For Bond Hearings" (Jul. 15, 2025), available at: <https://www.cbsnews.com/news/ice-immigration-detention-bond-hearings/>; *The Washington Post*, "ICE declares millions of undocumented immigrants ineligible for bond hearings" (Jul. 15, 2025), available at: <https://www.washingtonpost.com/immigration/2025/07/14/ice-trump-undocumented-immigrants-bond-hearings/>.

9. Petitioner is currently in the custody of Immigration and Customs Enforcement (“ICE”) at their office at 114 North 8th St., Philadelphia, PA. At the time of his detention earlier today, February 25, 2026, a representative for ICE informed Mr. Mendoza Cruz that he would be moved to the Philadelphia Federal Detention Center located at 700 Arch St., Philadelphia, Pennsylvania. He is therefore in “custody” of [the DHS] within the meaning of the habeas corpus statute.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

10. This court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et. seq.*
11. 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).
12. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging both the lawfulness and the constitutionality of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).
13. None of the jurisdiction-stripping provisions of the INA apply to Petitioner’s request that the Court review Respondents’ misinterpretation of INA §§ 1225(b)(2)(A) and 1226(a), which has caused his continued unlawful detention. When considering subject matter jurisdiction, “[t]he usual ‘strong presumption [is] in favor of judicial review of administrative action.’” *E.O.H.C. v. Sec’y U.S. Dep’t of Homeland Sec.*, 950 F.3d 177, 184 (quoting *INS v. St. Cyr*, 533 U.S. 289, 298 (2001)). “[T]he general rule [states] the narrower construction of a jurisdiction-stripping provision is favored.” *Id.* (quoting *Alli v.*

Decker, 650 F.3d 1007, 1013 n.9 (3d Cir. 2011)).

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

14. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to Respondents “forthwith,” unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC 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.*
15. Petitioner is “in custody” for the purpose of § 2241 because Petitioner was arrested and detained by Respondents.

VENUE

16. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because Petitioner is currently detained in Philadelphia, Pennsylvania.
17. Petitioner was detained on February 25, 2026, at the ICE ERO office at 114 North 8th St. in Philadelphia, Pennsylvania. Based on the representations of ICE to Respondent, he will be transferred to the Philadelphia Federal Detention Center at the end of the day. Accordingly, based on the representations of ICE, Petitioner remains physically present within the jurisdiction of the Eastern District of Pennsylvania.²

EXHAUSTION OF ADMINISTRATIVE REMEDIES

18. Exhaustion is not required under 28 U.S.C. § 2241 where statutory interpretation is the sole issue presented, as it is here. “Although habeas petitioners are “ordinarily required to

² At approximately 12:00 PM on February 25, 2026, Respondent received a notification of an immigration court hearing in Elizabeth, New Jersey. On information and belief, Respondent has not been relocated mere hours after his initial detention and remains within the jurisdiction of the Eastern District of Pennsylvania as of the time of filing the present Petition.

exhaust their administrative remedies,” they “need not exhaust administrative remedies where the issue presented involves only statutory construction.” *Demirel*, 2025 WL 3218243, at *3 (E.D. Pa. Nov. 18, 2025) (citing *Moscato v. Fed. Bureau of Prisons*, 98 F.3d 757, 760 (3d Cir. 1996)); *Corona Diaz v. Olson*, 2025 WL 3022170, at *3 (N.D. Ill., 2025) (“Exhaustion is not required for habeas petitions brought under 28 U.S.C. § 2241.”).

19. Administrative exhaustion is also unnecessary because it would be futile. *See Duvall v. Elwood*, 336 F.3d 228, 234 (3d Cir. 2003) (“Where exhaustion is not clearly mandated by statute, a futility exception exists”); *Ndialy v. Jamison*, no. 2:25-cv-06007 at *7 (E.D. Pa., November 19, 2025) (citing *Bradshaw v. Carlson*, 682 F.2d 1050, 1052 (3d Cir. 1981)) (“The exception is appropriate when the decisionmakers in the administrative process will almost certainly reject petitioner’s requested relief).
20. It would be pointless for Petitioner to seek a custody redetermination hearing before an Immigration Judge because of the recent BIA decision holding that anyone who has entered the U.S. without inspection is now considered to be “seeking admission” and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see, e.g., del Cid v. Bondi*, No. 25-304, 2025 WL 2985150, at *13 (W.D. Pa. Oct. 23, 2025) (noting that BIA’s decision in *Yajure Hurtado* renders exhaustion futile); *Demirel v. Fed. Det. Center Philadelphia*, no. 25-5488, 2025 WL 3218243, at *4 (E.D. Pa. Nov. 18, 2025) (same); *Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (same); *Morales Rodriguez v. Arnott*, no. 6:25-cv-00836-MDH at *2 (W.D. Mo., Nov. 18, 2025) (same).
21. A recent Order to Enforce Judgment vacated *Matter of Yajure Hurtado* for the class members delineated in *Maldonado Bautista v. Santacruz*, no. 5:25-cv-01873 (C.D. C.A.

Feb. 18, 2026). Petitioner is likely not a member of the *Maldonado Bautista* class because he briefly encountered Border Patrol upon entry. *See id.*

22. Even if he were a class member, Petitioner's membership in the *Maldonado Bautista* class would not change this analysis because Immigration Judges have continued to deny bond hearings to class members despite the judgement issued by the District Court. Further, upon information and belief, Immigration Judges have been instructed to deny bond based on spurious findings of flight risk, even by noncitizens with who have lived in the United States for years and have established families and community within the country.

PARTIES

23. Petitioner, Jose Mendoza Cruz, is from Honduras and has resided in the United States since 2020. He is currently detained at the ICE facility at 114 North 8th St., Philadelphia, Pennsylvania. Upon the representations of ICE to Respondent, he will be moved to the Philadelphia Federal Detention Facility by the end of today, February 25, 2026.
24. Respondent Warden is sued in his or her official capacity as Warden of the Philadelphia Federal Detention Center. In his or her official capacity, Respondent Warden is Petitioner's immediate custodian.
25. Respondent Michael Rose is sued in his official capacity as Field Office Director, Philadelphia Field Office, Enforcement and Removal Operations, ICE. In his official capacity, Respondent Rose is the legal custodian of Petitioner.
26. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.
27. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the U.S. Department of Homeland Security, the agency tasked with

enforcing immigration laws, Secretary Noem is Petitioner's ultimate legal custodian.

28. Respondent Pamela Jo Bondi is sued in her official capacity as the Attorney General of the United States. As Attorney General, she has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

LEGAL BACKGROUND AND ARGUMENT

29. The INA prescribes three basic forms of detention for noncitizens in removal proceedings.
30. First, individuals detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a bond hearing, unless they have been arrested, charged with, or convicted of certain crimes and are subject to mandatory detention. *See* 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); *see also* 8 C.F.R. §§ 1003.19(a) (immigration judges may review custody determinations made by DHS), 1236.1(d) (same).
31. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) as well as other recent arrivals deemed to be "seeking admission" under § 1225(b)(2).
32. Third, the INA authorizes detention of noncitizens who have received a final order of removal, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).
33. 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, 300-582 to 3009-583, 3009-585.
34. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
35. Following the enactment of the IIRIRA, the U.S. Department of Justice's Executive Office of Immigration Review ("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)³ (“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”).

36. Thus, in the three decades that followed, most immigrants who entered the United States without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and received bond hearings before an Immigration Judge (“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 without inspection—were entitled to a custody hearing before an IJ or other hearing officer. *See* H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

37. For decades, long-term residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country—including those initially permitted entry after detention by Border Patrol and release on recognizance—have been detained pursuant to § 1226 and entitled to bond hearings before an IJ, unless barred from doing so due to their criminal history.

38. In July 2025, however, ICE began asserting that all immigrants who entered without

³ Available at <https://www.govinfo.gov/content/pkg/FR-1997-03-06/pdf/97-5250.pdf>.

inspection should be considered “seeking admission” and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

39. On September 5, 2025, the BIA issued a precedential decision adopting this interpretation, departing from the INA’s text, federal precedent, and existing regulations. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).
40. Respondents’ new legal interpretation is plainly contrary to the statutory framework and its implementing regulations. Indeed, for decades, Respondents had applied § 1226(a) to people like Petitioner. Respondents’ new policies are thus not only contrary to law but are arbitrary and capricious in violation of the Administrative Procedure Act (“APA”). They were also adopted without complying with the procedural requirements of the APA.
41. Federal district courts in the Third Circuit and across the country have rejected this interpretation and instead have consistently found that § 1226, not § 1225(b)(2), authorizes detention of noncitizens who entered without inspection and were later apprehended in the interior of the country. *See, e.g., del Cid v. Bondi*, No. 25-00304, 2025 WL 2985150 (W.D. Pa. Oct. 23, 2025) (finding Petitioner to be detained pursuant to §1226(a), not §1225, and ordering a bond hearing within seven days); *Cantu-Cortes v. O’Neill*, No. 25-6338, 2025 WL 317639 (E.D. Pa. Nov. 13, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court’s disagreement with BIA’s analysis in *Yajure Hurtado*); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *3 n.4 (E.D. Cal. Sept. 9, 2025); *see also Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO (HC) (E.D. Cal. Sept. 23, 2025).

2025); *Lopez v. Hardin*, No. 2:25-cv-830-KCD-NPM (M.D. Fla. Sept. 25, 2025); and *Chafila v. Scott*, No. 2:25-cv-00437-SDN (D. Maine Sept. 21, 2025).

42. A November 26, 2025, decision from the Southern District of New York ordering the release of a noncitizen included appendices listing 362 recent opinions on this issue, 350 of which were decided in favor of the Petitioners. *See Barco Mercado v. Francis*, 1:25-cv-06582 (S.D.N.Y. Nov. 26, 2025).⁴

43. Under *Loper Bright*, the BIA, as the appellate body in the Executive Office for Immigration Review (EOIR), a division within the Department of Justice under the Executive Branch, is no longer afforded automatic deference by federal courts. *Loper Bright*, 603 U.S. 369 (2024) (“The views of the Executive Branch could inform the judgment of the Judiciary, but [do] not supersede it.”). This Court should independently interpret the INA and give the BIA’s expansive interpretation of § 1225(b)(2) no weight, as it conflicts with the statute, regulations, and precedent.

44. The statutory context and structure of the INA make clear that § 1226 applies to individuals who have not been admitted and entered without inspection. The Department’s position that all noncitizens who entered the country without inspection are ineligible for bond under INA § 1225(b) would render portions of the INA meaningless and cannot be reconciled with 2025 amendments made pursuant to the Laken Riley Act.

45. In interpreting §§ 1225(b)(2) and 1226(a), a District Court must “interpret the words consistent with their ‘ordinary meaning . . . at the time Congress enacted the statute.’” *Wis. Ctr. Ltd. v. United States*, 585 U.S. 274, 277 (2018) (quoting *Perrin v. United States*, 444 U.S. 37, 42 (1979)). The Court first “start[s] . . . with the statutory language.” *United States*

⁴ Petitioner asks that this Court take judicial notice of the appendices provided by the Southern District of New York at the following link: gov.uscourts.nysd.647311.28.0.pdf.

v. Brow, 62 F.4th 114, 119 (3d Cir. 2023). Statutory language “cannot be construed in a vacuum. It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.” *Roberts v. Sea-Land Servs., Inc.*, 566 U.S. 93, 101 (2012) (quoting *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997)). With this consideration in mind, a court must determine “whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case.” *Id.* at 100.

46. As written and in the context of legislative history and the overall statutory scheme, § 1225 clearly does not apply to individuals, like Petitioner, who are detained in the interior of the country long after their initial entrance.
47. The title of 8 U.S.C. § 1225 is “Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing.” The language of 1225(b)(2)(A) makes clear that it applies only if three criteria are met. Generally, a noncitizen must be (i) an “applicant for admission,” (ii) “seeking admission,” and (iii) “not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. §1225(b)(2)(A).
48. “The titles, headings, and other provisions of § 1225 repeatedly refer to ‘inspection,’ and ‘inadmissible arriving aliens,’ and ‘examin[ations],’ which typically “occur at ports of entry, their functional equivalent, or near the border.” *Soto v. Soto*, No. 25-cv-16200, 2025 WL 2976572, at *2 (D.N.J. Oct. 22, 2025). “Thus, on its face, § 1225 applies only at the borders or at other ports of entry, where individuals are “seeking admission” to the country.” *Santana-Rivas v. Warden, Clinton Cty. Correctional Fac.*, 3:25-cv-01896 at *24 (M.D. Pa., Nov. 15, 2025) (citing *Del Cid v. Bondi*, No. 25-304, 2025 U.S. Dist. LEXIS 209136, at *39-40 (W.D. Pa. Oct. 23, 2025)) (“[T]he Supreme Court has tethered § 1225

to ‘the Nation’s borders and ports of entry,’ noting that aliens detained pursuant to those provisions are typically detained during removal proceedings.”).

49. Section 1226 applies “to aliens already present in the United States” and “creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings.” *Jennings v. Rodriguez*, 583 U.S. 281, 297, 2987 (2018) (clarifying that while § 1225(b) is concerned “primarily [with those] seeking entry,” and is generally imposed “at the Nation’s borders and ports of entry, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible” while § 1226 “authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings.”).
50. ‘[E]very clause and word of a statute’ should have meaning.” *See United States, ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023). “The ‘use of the present progressive, like use of the present participle, denotes an ongoing process.’” *Matter of M-D-C-V-*, 28 I. & N. Dec. 18, 23 (B.I.A. 2020).
51. Respondents’ selective reading of the statutory language ignores the clear decision by Congress to use the present progressive tense “seeking” in the phrase “seeking admission.” “The use of the present progressive tense “implies affirmative action by a noncitizen is needed and is inconsistent to apply this phrase to all noncitizens already residing in the United States.” *Ndialy v. Jamison*, no. 2:25-cv-06007 at 9 (E.D. Pa., November 19, 2025).
52. Collectively, the language in these sections and in the implementing regulations clearly demonstrate that 8 U.S.C. § 1225 is intended to apply to noncitizens at the border, arriving in the country, not those who are already here.

53. To this end, Respondents actively declined to designate Petitioner as an “arriving alien,” the language used to define the scope of § 1225(b)(2)(A) in the implementing regulations, instead charging him as “an alien present in the United States who has not been admitted or paroled.” *See* Pet.’s Exh. E, Notice to Appear; 8 C.F.R. § 235.3(c)(1) (“Except as otherwise provided in this chapter, any arriving alien who appears to the inspecting officer to be inadmissible, and who is placed in removal proceedings pursuant to section [1229a] shall be detained in accordance with section [1225(b)].”
54. Thirty years of previous policy and practice by Respondents also support this interpretation of the INA. When statutes are ambiguous, courts can look to “the longstanding practice of the government” which “can inform [a court’s] determination of what the law is.” *Loper Bright*, 603 U.S. at 386 (quoting *NLRB v. Noel Canning*, 573 U.S. 513, 525 (2014)).
55. Beginning in 1997 with the implementation of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA) and up until July of 2025, the Government’s practice was to apply § 1226(a) to inadmissible non-citizens who were already residing in the country. *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).
56. The mandatory detention provision of § 1225(b)(2) clearly does not apply to Petitioner. Petitioner entered the United States in 2020, at which point he was detained and then explicitly released on recognizance under § 1226 (INA § 236) (Pet.’s Exh. D, Form I-220A). *See Ndialy*, 2:25-cv-06007 at *13 (finding that Petitioner’s “release[] pursuant to § 1226” after he “turned himself in” at the border shows that “the longstanding practice

of using § 1226 to detain noncitizen who are present within the United States favors [Petitioner’s] interpretation of the INA”).

57. At the time of his arrest, Petitioner was already present here and seeking a lawful means of remaining, having entered without admission or inspection six years prior. As a result, he cannot be lawfully detained under section 1225(b)(2)(A) and his detention is instead clearly governed by section 1226(a).

58. The Government’s interpretation of § 1225 and § 1226 would also render the Laken Riley Act superfluous and nonsensical.

59. In January of 2025, Congress passed the Laken Riley Act (“the Act”). *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). The Act amended several provisions of the INA, including § 1225 and §1226(c). 8 U.S.C. § 1226(c), “Detention of criminal aliens,” carves out a statutory category of noncitizens for whom detention is mandatory, comprised of individuals who have committed certain “enumerated criminal offenses [or] terrorist activities.” The Laken Riley Act added another category of those subject to mandatory detention under §1226(c). *See* 8 U.S.C. § 1226(c)(1)(E).

60. First, the new section states that the provision encompasses “any alien who— is inadmissible under [8 U.S.C. § 1182(6)(A)],” which are “alien[s] present in the United States without being admitted or paroled, or who arrive[] in the United States at any time or place other than as designated by the Attorney General.” 8 U.S.C. § 1226(c)(1)(E)(i); § 1182(6)(A).

61. The new section then continues, stating that in order to be ineligible for bond, such noncitizens must *also* have been charged with, arrested for, convicted of, admitted having committed, or admitted committing “acts which constitute the essential elements of any

burglary, theft, larceny, shoplifting, or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person.” 8 U.S.C. § 1226(c)(1)(E)(ii).

62. In so doing, Congress outlined a *specific list* of individuals present without admission or inspection who are ineligible for bond related to criminal issues. *See* 8 U.S.C. § 1226(c)(1)(E). When Congress creates “specific exceptions” to a statute’s applicability, it “proves” that absent those exceptions, the statute generally applies. *See Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.* 559, U.S. 393, 400 (2010).
63. If INA § 1225(b) applied to all noncitizens who are inadmissible under INA § 1182(6)(A) for entering the United States without being admitted or paroled, Congress’s recent passage of the Laken Riley Act to require mandatory detention for noncitizens who are (1) present in the United States without being admitted or paroled and (2) implicated in an enumerated crime would be superfluous, since *all* noncitizens who had not been admitted would *already* be subject to mandatory detention under INA § 235(b). *See Corley*, 556 U.S. at 314, n.5 (explaining that seemingly conflicting statutes read in isolation can be reconciled if read in their broader context, which includes observing the anti-superfluousness canon); *see also Stone v. Immigration and Naturalization Svc.*, 514 U.S. 386, 397 (1995) (“When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect.”) (internal citations omitted).
64. Thus, it is clear that Congress did not mean for *all* individuals present without inspection to be subject to mandatory detention.
65. By specifically referencing inadmissibility for entry without inspection under 8 U.S.C. § 1182(6)(A) in the Laken Riley Act, Congress made clear that such individuals are

otherwise covered by § 1226—and thus eligible for bond. Thus, § 1226 plainly applies to noncitizens charged as inadmissible, including those present without admission or parole.

66. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioner, who entered the U.S. approximately six years ago and is no longer “seeking admission.”

67. Further, this Court should award Petitioner his attorney’s fees and costs under the Equal Access to Justice Act (“EAJA”). *See Michelin v. Warden, Moshannon Valley Correctional Center*, no. 24-2990 (3d Cir. Feb. 2, 2026) (precedential decision holding that federal law authorizes EAJA fee awards for immigrants who successfully challenge their detention through habeas actions, and affirming two such awards). Plaintiff qualifies for such an award, as he has a net worth of less than \$2 million and satisfies the other requirements listed at 7 C.F.R. § 1.184(b)(2-6).

STATEMENT OF FACTS

68. Petitioner is a citizen of Honduras.

69. Petitioner has a timely-filed, affirmative asylum application pending with the United States Citizenship and Immigration Services.

70. Upon information and belief, Petitioner has resided in the U.S. since 2020.

71. Upon information and belief, Petitioner has never been arrested or charged with any crime in the United States or elsewhere in the world.

72. At the time of filing this Petition, February 25, 2026, Petitioner is detained at the ICE ERO Office at 114 North 8th St., Philadelphia, PA. ICE has represented to Petitioner that Petitioner would be moved to the Philadelphia Federal Detention Center in Philadelphia, PA tonight.

73. Based on the representations and documentation provided by U.S. Border Patrol, Petitioner is subject to detention pursuant to 8 U.S.C. § 1226.

74. Without relief from this Court, he faces continued unlawful detention without a bond hearing.

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

75. Petitioner restates and realleges all paragraphs as if fully set forth here.

76. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

77. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

78. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

79. Petitioner's continuing detention is therefore unlawful.

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

80. Petitioner restates and realleges all paragraphs as if fully set forth here.

81. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service ("INS") 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. 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.

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

COUNT III
Violation of 8 U.S.C. § 1252(b)(2)
Unlawful Detention Under This Provision

83. Petitioner restates and re-alleges all previous paragraphs as if fully set forth here.
84. Title 8 U.S.C. § 1225(b) is concerned primarily with those seeking entry to the United States and is generally imposed at the Nation's borders and ports of entry, where the Government must determine whether a noncitizen seeking to enter the country is admissible.
85. Upon information and belief, Petitioner has resided in the U.S. since 2020. He is therefore neither an arriving alien nor an alien who is now seeking admission to the United States.
86. Because 8 U.S.C. § 1252(b) does not apply to Petitioner, Respondents' detention of him under this provision is unlawful.

COUNT IV
Violation of Fifth Amendment Right to Due Process

87. Petitioner restates and re-alleges all paragraphs as if fully set forth here.
88. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. CONST. Amend. V.
89. The Supreme Court has repeatedly emphasized that the Constitution generally requires a hearing before the government deprives a person of liberty or property. *Zinerman v. Burch*, 494 U.S. 113, 127 (1990).

90. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors Petitioner’s release.
91. Petitioner’s private interest in freedom from detention is profound. The interest in being free from physical detention is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”).
92. The risk of erroneous deprivation is exceptionally high. Petitioner has never been arrested, charged with, or convicted for a crime in the United States or abroad and has many ties to the community including many friends and employment.
93. The government’s interest in detaining Petitioner without due process is minimal, and the government never has an interest in unjust detention. Immigration detention is civil, not punitive, and may only be used to prevent danger to the community or ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690.
94. Furthermore, the “fiscal and administrative burdens” of providing Petitioner with a bond hearing are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35. Indeed, the fiscal and administrative burdens of continuing to detain Petitioner—an applicant for asylum with no criminal record and no changed circumstances since he initially entered the United States but for the development of ties with the country—are significant and come at great taxpayer expense and substantial administrative burden.
95. Considering these factors, Petitioner respectfully requests that this Court order his immediate release from custody or provide him with a bond hearing.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court will:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner not be transferred outside of this District;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why his
Petition should not be granted within three days;
- (4) Declare that Petitioner's detention is unlawful;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release him from
custody OR order that an Immigration Judge provide him with a bond hearing
no more than three (3) days after a decision is made on the present Petition;
- (6) Permanently enjoin the Government from re-detaining Petitioner under
Section 1225(b)(2)(A) or 1225(b)(1);
- (7) Temporarily enjoin the Government from re-detaining Petitioner under
Section 1225(a) for seven days following his release;
- (8) Award him his attorney's fees and costs under the Equal Access to Justice Act,
and on any other basis justified under law; and
- (9) Grant him any further relief this Court deems just and proper.

Respectfully submitted for the Petitioner,

/s/ Stephen J. Antwine
Stephen J. Antwine, Esq.
PA Bar No. 309379
Green & Spiegel, LLC
1524 Delancey Street, Floor 4
Philadelphia, PA 19102
Phone: (215) 395-8959
Fax: (401) 454-7880
santwine@gands-us.com

U.S. 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]

Event No: [REDACTED]

In the Matter of:

Respondent: JOSE FERNANDO MENDOZA-CRUZ

currently residing at:

(504) 813-3962

(Number, street, city and ZIP code)

(Area code and phone number)

- ☐ 1. You are an arriving alien.
- ☒ 2. You are an alien present in the United States who has not been admitted or paroled.
- ☐ 3. 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, TEXAS, on or about April 28, 2019;
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(f)(2) ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:
1801 SMITH STREET 9TH FLOOR Houston TX US 77002

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

on a date to be set at a time to be set to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

JUAN A. TREVINO-JR

ACTING PATROL AGENT IN CHARGE

(Signature and Title of Issuing Officer)

Date: April 29, 2019

COMSTOCK, TEXAS

(City and State)

See reverse for important information

[REDACTED] (Rev. 08/01/07) N

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 under 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 3.16. 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, which 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 and that you are inadmissible or removable on the charges contained in the Notice to Appear. 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 departure voluntarily. You will be given a reasonable opportunity to make any such application to the immigration judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court 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 one of the offices listed in 8 CFR 241.16(a). Specific addresses on locations for surrender can be obtained from your local DHS office or over the internet at <http://www.ice.gov/about/dro/contact.htm>. You must surrender within 30 days from the date the order becomes administratively final, unless you obtain an order from a Federal court, immigration court, or the Board of Immigration Appeals staying execution of the removal order. Immigration regulations at 8 CFR 241.1 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 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 Act.

Request for Prompt Hearing

To expedite a determination in my case, I request an immediate hearing. I waive my right to a 10-day period prior to appearing before an immigration judge.

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 April 29, 2019, in the following manner and in compliance with section 239(a)(1)(F) 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 organizations 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.

X Enc Merd
(Signature of Respondent if Personally Served)

TIMOTHY J. HARRIS, BORDER PATROL AGENT

(Signature and Title of officer)

U.S. Department of Homeland Security

Order of Release on Recognizance

File No: [REDACTED]

Date: April 29, 2019

Event No: [REDACTED]

Name: JOSE FERNANDO MENDOZA-CRUZ

You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance provided you comply with the following conditions:

☒ You must report for any hearing or interview as directed by the Department of Homeland Security or the Executive Office for Immigration Review.

☒ You must surrender for removal from the United States if so ordered.

☒ You must report in (~~writing~~) (person) to DEPORTATION OFFICER

(Name and Title of Case Officer)

at 126 NORTHPOINT DRIVE HOUSTON, TEXAS 77060

(Location of DHS Office)

on

FIRST TUESDAY

at

08:00 AM

(Day of each ~~month~~ month)

(Time)

If you are allowed to report in writing, the report must contain your name, alien registration number, current address, place of employment, and other pertinent information as required by the officer listed above.

☒ You must not change your place of residence without first securing written permission from the immigration officer listed above.

☒ You must not violate any local, State, or Federal laws or ordinances.

☒ You must assist the Department of Homeland Security in obtaining any necessary travel documents.

☐ Other: _____

☐ See attached sheet containing other specified conditions (Continue on separate sheet if required)

NOTICE: Failure to comply with the conditions of this order may result in revocation of your release and your arrest and detention by the Department of Homeland Security.

(Signature of DHS Official)
JUAN A. TREVINO-JR
ACTING PATROL AGENT IN CHARGE

(Printed Name and Title of Official)

Alien's Acknowledgment of Conditions of Release on Recognizance

I hereby acknowledge that I have (read) (had interpreted and explained to me in the SPANISH language) and understand the conditions of my release as set forth in this order. I further understand that if I do not comply with these conditions, the Department of Homeland Security may revoke my release without further notice.

TIMOTHY J. HARRIS

(Signature of Immigration Officer Serving Order)

(Signature of Alien)

(Date)

Cancellation of Order

I hereby cancel this order of release because: ☐ The alien failed to comply with the conditions of release.

☐ The alien was taken into custody for removal.

(Signature of Immigration Officer Canceling Order)

04/29/2019

(Date)

U.S. Department of Homeland Security

Warrant for Arrest of Alien

File No. [REDACTED]

Event No: [REDACTED]

FINS #: [REDACTED]

Date: April 29, 2019

To any officer delegated authority pursuant to Section 287 of the Immigration and Nationality Act:

From evidence submitted to me, it appears that:
JOSE FERNANDO MENDOZA-CRUZ

(Full name of alien)

an alien who entered the United States at or near EAGLE PASS, TEXAS on
(Port)
April 28, 2019 is within the country in violation of the immigration laws and is
(Date)

therefore liable to being taken into custody as authorized by section 236 of the Immigration and Nationality Act.

By virtue of the authority vested in me by the immigration laws of the United States and the regulations issued pursuant thereto, I command you to take the above-named alien into custody for proceedings in accordance with the applicable provisions of the immigration laws and regulations.

(Signature of Designated Immigration Officer)

JUAN A. TREVINO-JR

(Print name of Designated Immigration Officer)

ACTING PATROL AGENT IN CHARGE

(Title)

Certificate of Service

Served by me at COMSTOCK, TEXAS on April 29, 2019 at 06:34 PM.
I certify that following such service, the alien was advised concerning his or her right to counsel and was furnished a copy of this warrant.

TIMOTHY J. HARRIS

(Signature of officer serving warrant)

BORDER PATROL AGENT

(Title of officer serving warrant)

DEPARTMENT OF HOMELAND SECURITY
NOTICE OF CUSTODY DETERMINATION

Alien's Name: JOSE FERNANDO MENDOZA-CRUZA-File Number: [REDACTED]Date: 04/29/2019Event ID: [REDACTED]Subject ID: [REDACTED]FIN: [REDACTED]

Pursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations, I have determined that, pending a final administrative determination in your case, you will be:

☐ Detained by the Department of Homeland Security.

☒ Released (check all that apply):

☐ Under bond in the amount of \$

☒ On your own recognizance.

☐ Under other conditions. [Additional document(s) will be provided.]

JUAN A. TREVINO-JR

Name and Signature of Authorized Officer

04/29/2019 1834

Date and Time of Custody Determination

ACTING PATROL AGENT IN CHARGE

Title

COMSTOCK, TEXAS

Office Location/Address

You may request a review of this custody determination by an immigration judge.

☒ I acknowledge receipt of this notification, and

☒ I do request an immigration judge review of this custody determination.

☐ I do not request an immigration judge review of this custody determination.

X *Enemed*

Signature of Alien

Apr 28, 2019

Date

The contents of this notice were read to JOSE FERNANDO MENDOZA-CRUZ in the SPANISH language.

(Name of Alien)

(Name of Language)

TIMOTHY J. HARRIS

Name and Signature of Officer

TIMOTHY J. HARRIS

Name or Number of Interpreter (if applicable)

BORDER PATROL AGENT

Title

Page 4 of 10

ORDER OF RELEASE ON RECOGNIZANCE
CONTINUATION PAGE

Alien Name	Picture 	Right Index Print 
MENDOZA-CRUZ, JOSE FERNANDO		
File Number		
 		
Date		
April 29, 2019		
Alien's Signature		
Alien's Telephone Number (if any)		
Alien's Address		

PERSONAL REPORT RECORD

[illegible]

Departamento de Seguridad Nacional

Aviso de los Derechos y Disposición

Nombre del Extranjero:

FINS #:

Número del Extranjero: Event No:

JOSE FERNANDO MENDOZA-CRUZ

Sus Derechos

Usted ha sido arrestado, porque agentes del Departamento de Seguridad Nacional creen que usted está ilegalmente en los Estados Unidos. Al ser arrestado, usted tiene ciertos derechos. Nadie puede negarle estos derechos. Este aviso le explica cuales son sus derechos.

El Derecho de Usar el Teléfono

Usted tiene el derecho de llamar a su madre o padre, o otro pariente que sea un adulto. Usted puede llamar a un amigo adulto. Si usted no sabe usar el teléfono, un agente del Departamento de Seguridad Nacional le ayudará.

El Derecho de ser Representado por un Abogado

Adjunto a este aviso, se encuentra una lista de abogados que pueden hablar con usted y ayudarlo sin costo alguno. El abogado le puede explicar todos sus derechos, y puede representarle en su audiencia.

El Derecho a una Audiencia ante un Juez Inmigración

El Juez decidirá si usted debe salir o puede quedarse en Los Estados Unidos. Si por alguna razón no desea regresar a su país, o tiene miedo de regresar, usted puede pedir una audiencia ante el Juez de Inmigración.

Si usted no desea una audiencia ante el Juez, usted puede escoger regresar a su país.

Lectura de este Aviso:

- ☒ He leído este aviso.
☒ Este aviso me ha sido leído.

Derecho de Usar el Teléfono:

- ☐ Me he comunicado con mis padres o guardián legal.
☐ Me he comunicado con un amigo o pariente adulto.
☐ No deseo hablar con nadie por teléfono.

Completar lo siguiente es opcional:

Parentesco de la persona a quien usted llamó.

Nombre de la persona a quien usted llamó.

Derecho a Ser Representado por un Abogado:

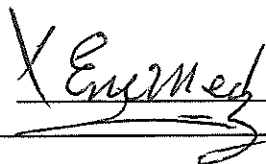
- ☐ He hablado con un abogado.
☒ No deseo hablar con un abogado.

Derecho a una Audiencia:

- ☒ Entiendo mi derecho a una audiencia ante el Juez de Inmigración.

- ☒ Deseo una audiencia ante el juez.

Firma:



Fecha: April 29, 2019

- ☐ No deseo una audiencia ante el juez.

Estoy en los Estados Unidos ilegalmente y deseo regresar a mi país.

Pais: _____

Firma: _____

Fecha: _____

INSTRUCTIONS TO OFFICERS

This advisal is required to be given to all persons who are taken into custody and who appear, are known, or claim to be under the age of eighteen and who are not accompanied by one of their natural or lawful parents. No such person can be offered or permitted to depart voluntarily from the United States except after having been given this notice.

The required procedure distinguishes between two classes of minors.

1) The first class are those minors apprehended in the immediate vicinity of the border and who permanently reside in Canada or Mexico. These persons shall be informed that they have a right to make a telephone call to any of the persons mentioned in the notice. The purpose of this call is so that they can seek advice as to whether they should voluntarily depart or whether they should request a deportation hearing. We are required to make a record of any refusal to accept our offer of a telephone call.

2) As to all other minors, **they must not only be given access to a telephone, they must establish communication, telephonic or otherwise, with one of the persons listed in the notice** before they can be offered voluntary departure.

The DHS retains the right to decide when to allow telephone calls. The only prohibition is that the minor cannot be asked to voluntarily depart until after telephone access is provided. If the minor is not offered voluntary departure but is put into deportation proceedings by issuance of a Notice to Appear, this procedure is not necessary. It is our duty to make reasonable efforts to contact the person of the minor's choice, but after unsuccessful efforts to reach that person, we can facilitate contact with another such person. Whenever the minor elects to pursue a process, such as a call to a foreign country, which is operationally unacceptable, we can always proceed to issue a Notice to Appear.

The minor must tell the type of person that he/she talked to but need not give us that person's name or identifying information. If a minor, **of his/her own volition**, asks to contact a consular officer, this will satisfy the requirements of the notice.

The officer need not read the notice to the minor unless the minor is under 14 years of age, or unable to understand the notice. The officer must ask the minor whether he/she wanted to make a call, whether a communication was made and, if made, to whom. The officer must also verify whether the minor wanted voluntary departure or a hearing, and must sign and date the form to show this was done.

Officers are not to offer any advice to any minor as to what he/she should or should not do.

To be completed by the Officer:

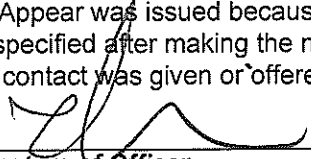
I verify that: JOSE FERNANDO MENDOZA-CRUZ

A- 

- 1.a. ☒ The subject named was given this notice to read.
 b. ☒ I read this notice to the name subject in the following language: Spanish
2. ☐ I asked this subject whether he/she wanted to make a telephone call, and offered assistance in the use of the telephone.
- 3.a. ☐ The subject told me that he/she did not want to make a telephone call, or
 b. ☐ The subject told me that he/she established communication and the form was marked to indicate it;
 c. ☐ The subject was unable to establish telephone communication with the desired individual. The following number of attempts were made: 0
- 4.a. ☒ The subject requested a hearing.
 b. ☐ The subject admitted deportability and requested to return to his/her country voluntarily, without a hearing.
- 5.a. ☐ A Notice to Appear was issued because, the subject was unable to establish contact with any of the individuals specified after making the number of attempts indicated above (Item 3 c), and after assistance to establish contact was given or offered.

TIMOTHY J. HARRIS

April 29, 2019


Signature of Officer

Date

U.S. Department of Justice
Executive Office for Immigration Review
Immigration Court

OMB# 1125-0004

**Alien's Change of Address Form/
Immigration Court**

If you move or change your phone number, the law requires you to file this Change of Address Form with the Immigration Court. You must file this form within five (5) working days of a change in your address or phone number. You will only receive notification as to the time, date, and place of hearing or other official correspondence at the address which you provide. Changes in address or telephone numbers communicated through any means except this form, e.g., pleadings, motion papers, correspondence, telephone calls, applications for relief, etc. will not be recognized and the address information and record will remain unchanged.

Failure to appear at any hearing before an Immigration Judge, when notice of that hearing or other official correspondence was served on you or sent to the address you provided, may result in one or more of the following actions:

- If you are not already detained, you may be taken into custody by the Department of Homeland Security (DHS) and held for further action; and

If you are in removal proceedings:

Your hearing may be held in your absence under Section 240 of the Immigration and Nationality Act (INA), and an order of removal may be entered against you. Furthermore, you may become ineligible for the following forms of relief from removal for a period of 10 years after the date of the entry of the final order:

1. Voluntary Departure as provided for in Section 240B of the INA;
2. Cancellation of Removal as provided for in Section 240A of the INA;
3. Adjustment of Status or Change of Status as provided for in Section(s) 245, 248, or 249 of the INA.

If you are in deportation proceedings:

Your hearing may be held in your absence under Section 242B of the Immigration and Nationality Act (INA) (1995), and an order of deportation may be entered against you. Furthermore, you may become ineligible for the following forms of relief from deportation for a period of 5 years after the date of the entry of the final order:

1. Voluntary Departure as provided for in Section 242(b) of the INA (1995);
2. Suspension of Deportation or Voluntary Departure as provided for in Section 244 of the INA (1995);
3. Adjustment of Status or Change of Status as provided for in Section(s) 245, 248, or 249 of the INA (1995).

If you are in exclusion proceedings:

Your application for admission to the United States may be considered withdrawn, and your hearing may be held in your absence and an order of exclusion and deportation entered against you.

Name: MENDOZ-Cruz, Jose Fernando

Alien Number: A 

My OLD address was:

(“In care of” other person, if any)

(Number, Street, Apartment)

(City, State and ZIP Code)

(Country, if other than U.S.)

My NEW address is:

(“In care of” other person, if any)

(Number, Street, Apartment)

(City, State and ZIP Code)

(Country, if other than U.S.)

(New Telephone Number)



SIGN HERE →

X Enemed

Signature

4/29/19

Date

PROOF OF SERVICE (You Must Complete This)

I _____ mailed or delivered a copy of this Change of Address Form on _____

(Name)

_____ to the Office of the Chief Counsel for the DHS (U.S. Immigration and Customs Enforcement-ICE) at

(Date)

(Number and Street, City, State, Zip Code)



SIGN HERE →

X _____

Signature

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

ORDER OF SUPERVISION (Outprocessing Checklist)

All Aliens

- ☐ Probation/Parole Officer Notified
- ☐ Obtain address where living and telephone number
- ☐ Enter into IDENT
- ☐ NCIC Check
- ☐ Travel Document Application

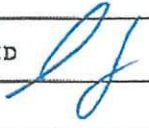
Sex Offenders

- ☐ Probation/Parole Officer Notified
- ☐ Registered as sex-offender as required by state statute within 7 days
- ☐ Victim/Witness Coordinator Notified
- ☐ Victim/Witness Notified
- ☐ Written Proof of Counseling

Substance Abusers

- ☐ Probation/Parole Officer Notified
- ☐ Written Proof of Counseling

Completed By

ICE Official ZAMORA, DAVID 	Date 04/30/2019
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Concurrence By

Supervisory ICE Official HANSON, STANLEY 	Date 04/30/2019
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OREC - SPANISH

Ya no es necesario que se presente en esta oficina.

Debe llamar al 1-800-898-7180 una semana después de hoy y seguir las instrucciones a continuación. La línea telefónica solo está en inglés y español.

- 1. Escucha / espera 35-40 segundos para las instrucciones en español.**
- 2. Presione 2 y escuche las instrucciones.**
- 3. Ingrese el número de registro de extranjero y escuche las instrucciones.**
- 4. Verifique el número de registro de extranjero correcto presionando 1.**
- 5. Escuche y verifique el apellido correcto, luego ingrese 1 para confirmar.**
- 6. Ingrese 1 para escuchar la próxima cita en la corte**
- 7. Si no hay una cita en la corte, llame nuevamente cada semana hasta que se genere una.**

**Una vez que haya una cita en la corte, es su responsabilidad informar en persona.
La dirección del corte es:**

**Robert Nix Federal Bldg and Courthouse
900 Market Street, Suite 504
Philadelphia, PA 19107**

Si se muda a una dirección diferente, debe notificar al corte mediante el formulario EOIR-33. Formulario EOIR-33 debe ser enviado por correo. También puede entregarlo personalmente en la dirección arriba. Si no tiene este formulario, pregúntele al oficial de la ventana o vaya al sitio web a continuación:

<https://www.justice.gov/sites/default/files/pages/attachments/2015/07/24/eoir33icphiladelphia.pdf>

No se presente en esta oficina a menos que reciba una notificación que le indique que lo haga.