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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA**

11 HALIL TEKIN,

12 *Petitioner,*

13 v.

14 Tony Normand, Warden of the Folkston
15 ICE Processing Center (Annex); Ladeon
16 Francis, Field Office Director for ICE
17 Atlanta Field Office; TODD LYONS,
18 Acting Director of Immigration and
19 Customs Enforcement; KRISTI NOEM,
20 Secretary of the U.S. Department of
21 Homeland Security; PAMELA BONDI,
22 Attorney General of the United States.

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Respondents.

Case No. . CV 526-289

**VERIFIED PETITION FOR
HABEAS CORPUS**

INTRODUCTION

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2 1. Petitioner, Halil Tekin, is being unlawfully detained by Respondents and deprived
3 of release on bond. Petitioner was born in Turkey and entered the United States on or about
4 October 26, 2023. He entered the U.S. without inspection and was briefly detained by
5 Department of Homeland Security (“DHS”). Upon information and belief, Petitioner was
6 released by DHS and served with a Notice to Appear (“NTA”), which designated him as “an
7 alien present in the United States who has not been admitted or paroled” and charged him with
8 removability pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act
9 (“INA”) as an “alien present in the United States without being admitted or paroled, or who
10 arrived in the United States at any time or place other than as designated by the Attorney
11 General.”

12 2. Following Petitioner’s release, he timely filed a Form I-589, Application for
13 Asylum, with the immigration court on March 14, 2024. On or about August 21, 2025,
14 Petitioner was detained by Immigration and Customs Enforcement (“ICE”). He is now detained
15 at the Folkston ICE Processing Center (Annex).

16 3. Petitioner is subject to pre-final order of removal detention under 8 U.S.C. §
17 1226(a). Noncitizens detained under section 1226(a) are subject to discretionary detention and
18 can request a change in custody redetermination (i.e. bond hearing) with an Immigration Judge
19 (“IJ”).

20 4. However, on July 8, 2025, DHS issued an internal Interim Guidance (“Policy”)
21 that took the baseless position that—contrary to statutory principles and governing case law—
22 noncitizens like Petitioner who entered the United States without permission or parole are
23 subject to mandatory detention under 8 U.S.C. § 1225(b) instead of discretionary detention
24 under section 1226(a). On September 5, 2025, the Board of Immigration Appeals (“BIA”)
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1 issued a decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) that sided with
2 DHS' position.

3 5. DHS' contention that Petitioner is subject to mandatory detention under 8 U.S.C.
4 § 1225(b) is without merit. DHS' Policy has upended decades of DHS' own interpretation of
5 bond eligibility under sections 1226(a) and 1225(b). The vast majority of district courts across
6 the country that have addressed this issue have rejected DHS' arguments and found that it
7 violates the INA and noncitizens' due process rights.

8 6. For the foregoing reasons, the Court should grant habeas relief and direct
9 Respondents to release Petitioner.

10 JURISDICTION

11 7. This action arises under the Constitution of the United States and the INA, 8 U.S.C.
12 § 1101 *et seq.*

13 8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus),
14 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution
15 (Suspension Clause).

16 9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et*
17 *seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
18 § 1651.

19 VENUE

20 10. Venue is proper because Petitioner is detained at the Folkston ICE Processing
21 Center (Annex), which is within the jurisdiction of this District. Venue is also proper in this
22 District because Respondents are officers, employees, or agencies of the United States. *See* 28
23 U.S.C. § 1391(e).

PARTIES

11. Respondent Tony Normand is sued in his official capacity as Warden of the Folkston ICE Processing Center (Annex). Respondent Normand is the physical custodian of Petitioner.

12. Respondent Ladeon Francis is sued in his official capacity as the Field Office Director for ICE Atlanta Field Office. Respondent Francis is a legal custodian of Petitioner and has the authority to release him.

13. Respondent Todd Lyons is sued in his official capacity as the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). Respondent Lyons is a legal custodian of Petitioner and has authority to release him.

14. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security ("DHS"). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the INA, and oversees ICE, the component agency responsible for Petitioner's detention and custody. Respondent Noem is a legal custodian of Petitioner.

15. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice. 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 BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

16. Petitioner entered the United States on or about October 26, 2023.

17. Upon information and belief, Petitioner was briefly detained and then released from detention, although Petitioner does not recall under what authority he was released.

1 18. Petitioner was released by DHS and served with a Notice to Appear (“NTA”),
2 which designated him as “an alien present in the United States who has not been admitted or
3 paroled” and charged him with removability pursuant to section 212(a)(6)(A)(i) of the
4 Immigration and Nationality Act (“INA”) as an “alien present in the United States without being
5 admitted or paroled, or who arrived in the United States at any time or place other than as
6 designated by the Attorney General.” *See* Ex. A, Notice to Appear.

7 19. Following Petitioner’s release, he timely filed a Form I-589, Application for
8 Asylum, with the immigration court on March 14, 2024. That application remains pending in
9 immigration court.

10 20. Petitioner has continuously resided in the United States. Petitioner has no criminal
11 convictions. A prior criminal charge was filed but subsequently dismissed in its entirety.

12 21. On August 21, 2025, Petitioner was arrested by Immigration and Customs
13 Enforcement (“ICE”) agents.

14 **LEGAL FRAMEWORK**

15 22. The INA prescribes three basic forms of detention for noncitizens in removal
16 proceedings. First, 8 U.S.C. § 1226(a) authorizes the detention of noncitizens in standard non-
17 expedited removal proceedings before an IJ. *See* 8 U.S.C. § 1226(a); 8 U.S.C. § 1229a.
18 Individuals in section 1226(a) detention are entitled to a bond hearing at the outset of their
19 detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested,
20 charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. §
21 1226(c).

22 23. Second, the INA provides for mandatory detention of noncitizens subject to
23 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
24 referred to under 8 U.S.C. § 1225(b)(2).
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1 24. Finally, the INA also provides for detention of noncitizens who are subject to final
2 orders of removal, including individuals in withholding-only proceedings, *see* 8 U.S.C. §
3 1231(a)–(b).

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

9 26. Following enactment of the IIRIRA, the EOIR drafted new regulations explaining
10 that, in general, people who entered the country without inspection were not considered
11 detained under section 1225 and that they were instead detained under section 1226(a). *See*
12 *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of*
13 *Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). In the
14 decades that followed, most noncitizens who entered without inspection—unless they were
15 subject to some other detention authority—received bond hearings. This practice was also
16 consistent with the practice prior to the enactment of the IIRIRA, in which noncitizens who
17 were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing
18 officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996)
19 (noting that section 1226(a) simply “restates” the detention authority previously found at
20 section 1252(a)).

21 27. On July 8, 2025, DHS issued a memo to all employees of ICE stating that “[t]his
22 message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has
23 revisited its legal position on detention and release authorities. DHS has determined that section
24 235 of the Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236
25 [8 U.S.C. § 1226], is the applicable immigration detention authority for all applicants for
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admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed." The memo further stated DHS' new position with regard to custody determinations as follows:

An "applicant for admission" is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1) [8 U.S.C. § 1225(a)(1)]. **Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) [8 U.S.C. § 1225(b)] and may not be released from ICE custody except by INA § 212(d)(5) parole.** These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated. **The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)].**

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

See <https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission> (last accessed August 4, 2025) (emphasis original).

28. As a result, DHS now considers *all* noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including long-time U.S. residents, to be subject to mandatory detention under section 1225(b) and ineligible for release on bond. Conversely, according to DHS "[t]he only aliens eligible for a custody

1 determination and release on recognizance, bond, or other conditions under INA § 236(a) [8
2 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and
3 chargeable with deportability under INA § 237, with the exception of those subject to
4 mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)].” *Id.*

5 29. On September 5, 2025, the BIA issued a decision in *Matter of Yajure Hurtado*, 29
6 I&N Dec. 216 (BIA 2025) holding that, based on the plain language of section 1225(b)(2)(A),
7 IJs lack authority to hear bond requests or to grant bond to aliens who are present in the United
8 States without admission.

9 **CLAIMS FOR RELIEF**

10 **COUNT ONE**

11 **Violation of Fifth Amendment Right to Substantive Due Process**

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

13 31. Petitioner is challenging DHS’ unlawful custody determination that Petitioner is
14 subject to detention under 8 U.S.C. § 1225(b) and is ineligible for bond and his continued
15 detention under the automatic stay provision at 8 C.F.R. § 1003.19(i)(2), which violates
16 Petitioner’s right to substantive due process of law afforded him through the Fifth Amendment
17 to the United States Constitution.

18 32. The Fifth Amendment provides in pertinent part: “No person shall be . . . deprived
19 of life, liberty, or property, without due process of law[.]” U.S. Const. amend. V. “Freedom
20 from imprisonment—from government custody, detention, or other forms of physical
21 restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678,
22 690 (2001).

23 33. Petitioner is clearly detained pursuant to 8 U.S.C. § 1226(a) and is eligible for
24 release on bond. Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b).

1 Respondents have violated Petitioner's due process rights under the Fifth Amendment by
2 detaining him without the possibility of release on bond.

3 34. As a remedy, the Court should order Petitioner released from detention, or
4 alternatively direct that an IJ hold a constitutionally adequate bond hearing.

5
6 **COUNT TWO**

7 **Violation of Petitioner's Procedural Due Process Rights**

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

9 36. In *Mathews v. Eldridge*, the U.S. Supreme Court set forth the factors to consider
10 in determining if government action deprives an individual's Fifth Amendment right to
11 procedural due process or whether the government process is constitutionally adequate. 424
12 U.S. 319 (1976) The *Mathews* factors are as follows: First, the private interest that will be
13 affected by the official action; [S]econd, the risk of an erroneous deprivation of such interest
14 through the procedures used, and the probable value, if any, of additional or substitute
15 procedural safeguards; [Third], the Government's interest, including the function involved and
16 the fiscal and administrative burdens that the additional or substitute procedural requirement
17 would entail. *Id.* at 335.

18 37. As to the private interest factor, it is the "most elemental of liberty interests."
19 *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner "has perhaps the most acute private
20 interest known to personkind short of life itself: bodily freedom." *Leal-Hernandez v. Noem*, No.
21 1:25-cv-02428, 2025 LX 327685, at *34 (D. Md. Aug. 24, 2025).

22 38. With respect to the second factor, erroneous deprivation of Petitioner's liberty is
23 at risk. Petitioner is not subject to detention under 8 U.S.C. § 1225(b) as DHS claims.

24 39. As to the third factor, there is no significant governmental interest in continuing
25 to hold Petitioner in custody.
26

COUNT THREE

Violation of the Immigration and Nationality Act ("INA")

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

41. Application of 8 U.S.C. § 1225(b) to Petitioner is a violation of the INA because he is instead subject to discretionary detention under 8 U.S.C. § 1226(a).

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Enjoin Respondents from transferring Petitioner during the pendency of the instant action;
- (3) Declare that Petitioner's continued detention violates the Immigration and Nationality Act, 8 U.S.C. § 1226(a); and/or the Fifth Amendment to the U.S. Constitution;
- (4) Order Petitioner released from detention;
- (5) Grant Equal Access to Justice Act ("EAJA") fees and costs; and
- (6) Grant any other further relief this Court deems just and proper.

Respectfully submitted this 3rd day of March, 2026,

/s/ Stephen Elijah Bennett

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, and I submit this verification on his behalf. Because Petitioner is detained at the Folkston ICE Processing Center (Annex) and immediate relief is sought, counsel verifies this petition on his behalf pursuant to 28 U.S.C. § 2242. 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 3rd day of March, 2026.

/s/Muhammed Gulen
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