

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

JOHNNY ENRIQUE BARBOZA-SIMANCA

A# 

Petitioner,

v.

Kristen Sullivan, Field Office Director of
Enforcement and Removal Operations,
ATLANTA ICE Field Office; Kristi NOEM,
Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; Pamela BONDI,
U.S. Attorney General; Michael Breckon,
Warden, FOLKSTON D RAY ICE
PROCESSING CENTER

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Johnny Enrique Barboza-Simanca, is in the physical custody of Respondents at the Folkston D Ray Ice Processing Center. He faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded that, contrary to the overwhelming weight of authority, he is subject to mandatory detention.

2. Petitioner, Johnny Enrique Barboza-Simanca, is a native and citizen of Venezuela who entered the United States on or about June 12th, 2023, at or near Eagle Pass, TX. He was apprehended and then released on his own recognizance and provided instructions to check in with a local ICE Field Office. *See Exhibit A, Notice to Appear, dated 11.19.2025 which states Petitioner was not admitted or paroled into the United States.* The Petitioner timely filed for Asylum, Withholding of Removal and Convention against Torture. *See Exhibit B, I589 Receipt Notice, with a Receipt Date of 06.10.2024.* In addition, the Petitioner filed for Temporary Protected Status under the 2023 designation for Venezuela. *See Exhibit C, I821 Receipt Notice, with a Receipt Date of 02.03.2024.*

3. The Petitioner has resided in the United States continuously since that time. He attended all routine ICE check-in's set by the Department of Homeland Security upon his entry. On December 9th, 2025, at his ICE check-in, Immigration authorities apprehended him and placed him in immigration custody pending completion of removal proceedings.

4. Nothing in Petitioner's circumstances has changed since his June 12th entry. Despite the lack of changes since his arrival, the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) concluded that Petitioner is subject to mandatory immigration detention because, they submit, he should be deemed to be "seeking

admission” to the United States. DHS and EOIR’s position in this case is pursuant to a new policy shift, changing the government’s decades-long practice. Respondents’ insistence that Petitioner is subject to mandatory detention is not only a significant shift from past practice but is contrary to the plain language of the INA and is also in violation of Petitioner’s Constitutional rights.

5. Any attempt to classify Petitioner as an “arriving alien” subject to mandatory detention under 8 U.S.C. § 1225(b), and to justify his continued confinement without bond on that basis, is legally erroneous. Petitioner’s custody is governed by 8 U.S.C. § 1226(a), which expressly contemplates discretionary detention and individualized determinations regarding release on bond. Respondents’ legal theory has been repudiated by a tidal wave of hundreds of district court decisions nationwide, including this Court, the Southern District of Georgia.

6. This case falls squarely within the parameters of *Villa v. Normand*, 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025), *report and recommendation adopted*, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025). *Villa* held that noncitizens found in the United States without inspection are entitled to discretionary bond hearings under Section 1226(a).

7. Additionally, Petitioner brings this petition for a writ of habeas corpus to seek enforcement of his rights as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.) Petitioner is in physical custody of Respondents at the Folkston D Ray ICE Processing Center. He continues to face unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration, Review (EOIR) in some instances refuse to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

8. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *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) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment).

9. The district court certified the following Bond Eligible Class: all noncitizens in the United States 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 mandatory 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 3289861, at *9 (C.D. Cal. Nov. 20, 2025). Under this class definition, there can arguably be two groups of people who have claims to relief. First, there are those who entered the United States, were not apprehended at or near the border or close in time to their entry, and who were later arrested by immigration authorities. Second, there are those who were apprehended at or near the border and close in time to their entry, were released on their recognizance, and then were re-detained by immigration authorities after residing in the United States.

10. This declaratory judgment held that Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under §

1225(b)(2)(A). *Maldonado Bautista*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). On December 19th, 2025, the district court issued a clarifying order in response to Plaintiffs' motion to clarify. Specifically, the district court: (1) entered a final judgment under Rule 54(b), making clear that all class members are entitled to benefit from the declaratory relief and confirming that class members are subject to detention under 1226(a) and not 1225(b)(2), (2) vacated a July 8th memo issued by DHS, (3) declined to vacate *Yajure Hurtado* but clarified that, " *Yajure Hurtado* is no longer controlling; the legal conclusion underlying the decision is no longer tenable. *Maldonado Bautista*, 2025 WL 3289861, at *11.

11. On February 18, 2026, this same court granted the plaintiffs' motion to enforce the court's prior judgment and vacated the Board of Immigration Appeals (BIA) decision *Matter of Yajure Hurtado* under the Administrative Procedure Act (APA). In vacating *Yajure Hurtado*, the court emphasized the DHS' continued refusal to abide by its holding that the legal conclusions in that case were no longer controlling. The court also ordered class wide notice so potentially affected detainees understand they may be entitled to request release on bond or conditional parole, and to seek a bond hearing.

12. Since February 18th, 2026, there still seems to be some debate amongst the Immigration Court as to whom are Bond Denial Class eligible members where the circumstances involve an individual who was apprehended at or near the border, released on his own recognizance and later detained.

13. On March 6th, 2026, the 9th Circuit Court of Appeals granted an administrative stay of the district court's orders in response to the Government's emergency motion for stay pending appeal. This decision, however, does not affect the district court's order in the Central

District of California. See *Bautista, et al. v. United States Department of Homeland Security, et al.*, No. 26-1044 (9th Cir. Feb 23, 2026).

14. This Court should therefore intervene and grant Petitioner's petition for writs of habeas corpus and either order his release from immigration custody or, in the alternative, require EOIR to conduct a bond hearing under 8 U.S.C. § 1226(a) at which DHS bears the burden of proof that continued detention is required.

JURISDICTION

15. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Folkston D Ray ICE Processing Center, Folkston, Georgia.

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

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

VENUE

18. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973) and *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), Venue lies in the United States District Court for the Southern District of Georgia, Waycross Division, the judicial district in which Petitioner is currently detained

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

REQUIREMENTS OF 28 U.S.C. § 2243

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

21. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted). This time limit “is subordinate to the Court’s discretionary authority to set deadlines under Rule 4[.]” *See Diaz-Ortega v. Lund*, 2019 U.S. Dist. LEXIS 250454 (W.D. La. June 28, 2019) (marks and citation omitted). Immediate relief is necessary particularly within the context of a detained court in the Executive Office of Immigration Review where a person may be ordered removed even where he has not been afforded a meaningful opportunity at a bond hearing.

PARTIES

22. Petitioner Johnny Enrique Barboza-Simanca is a native and citizen of Venezuela who has been in immigration detention since December of 2025. He is currently detained at the Folkston D Ray ICE Processing Center in Folkston, Georgia. *See Exhibit D, ICE Detainee Locator, dated 03.02.3026*. Despite Petitioner’s lack of any criminal history and his long-term residence in the United States, ICE did not set bond, and Petitioner was unable to obtain review

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

23. Respondent Kirsten Sullivan is the Field Office Director of the Atlanta Field Office of U.S. Immigration and Customs Enforcement's Enforcement and Removal Operations division. As Field Office Director, he is responsible for the custody, detention, and removal of individuals held within his jurisdiction, including Petitioner. He is sued in his official capacity.

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

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

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

27. Respondent Michael Breckon is the Warden of the Folkston D Ray ICE Processing Center, where Petitioner is detained. As Warden, he has immediate physical custody of Petitioner and is sued in his official capacity.

LEGAL FRAMEWORK

28. The INA provides for immigration detention under various sections, depending on the procedural circumstances of each case.

29. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens placed in standard removal proceedings before an Immigration Judge. See 8 U.S.C. § 1229(a). Individuals detained under § 1226(a) are entitled to a bond hearing at which an immigration judge determines whether they pose a danger to the community or a flight risk. See 8 C.F.R. §§ 1003.19(a), 1236.1(d). The mandatory detention provision at § 1226(c) applies only to noncitizens with certain specified criminal convictions. Because Petitioner has no criminal history whatsoever, he is plainly not subject to mandatory detention under § 1226(c) and is entitled to a bond hearing under § 1226(a).

30. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1), and for other recent arrivals who are seeking admission under § 1225(b)(2).

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

32. This case concerns the proper application of the immigration detention statutes, specifically, whether Petitioner's custody is governed by 8 U.S.C. § 1226(a), as the statute requires, or whether DHS may improperly subject him to mandatory detention under 8 U.S.C. § 1225(b)(2) despite his long-term residence in the United States.

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, 3009–582 to 3009–583, 3009–585. Section

1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

34. Following the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA), EOIR and the former Immigration and Naturalization Service (INS) issued regulations clarifying that individuals who entered the United States without inspection but were later apprehended inside the country were not considered detained under 8 U.S.C. § 1225. Instead, such individuals were to be detained under 8 U.S.C. § 1226(a), the statute governing standard removal proceedings and authorizing release on bond. 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). Petitioner falls squarely within this category, making DHS's reliance on § 1225 improper.

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

36. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected a well-established understanding of the statutory framework and reversed decades of practice.

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

38. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). There, the Board held that all noncitizens who entered the United States without admission or parole are considered applicants for admission and, therefore, are subject to detention under § 1225(b)(2)(A) and ineligible for IJ bond hearings.

39. Subsequently, court after court adopted the same reading of the Immigration Nationality Act’s (“INA”) detention authorities and rejected ICE and EOIR’s new interpretation. *See, e.g., Kostak v. Trump*, No. 3:25-CV-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV-25-11613-BEM, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV-25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *1 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-CV-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-CV-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15,

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

2025); *Romero v. Hyde*, No. CV-25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670, at *8 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-CV-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *See also, e.g., Palma Perez v. Berg*, No. 8:25-CV-494, 2025 WL 2531566 at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention”); *Jacinto v. Trump*, No. 4:25-CV-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-CV-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

40. Courts across the country have uniformly rejected DHS’s and EOIR’s new interpretation because it defies both the text of the INA and basic principles of due process. As the *Rodriguez Vazquez* court and numerous others have held, the plain language of the statutory scheme makes clear that 8 U.S.C. § 1226(a)—not § 1225(b)(2)—governs the detention of individuals in Petitioner’s circumstances: those who entered the United States long ago and were apprehended in the interior. Since Respondents adopted their new policies, dozens of federal courts have rejected this re-interpretation of the INA’s detention authorities, and have likewise refused to give effect to *Matter of Yajure Hurtado*, which embraces the same flawed statutory reading advanced by ICE.

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

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

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

44. By contrast, 8 U.S.C. § 1225(b)(2) applies only to individuals who are arriving at a U.S. port of entry or who are apprehended immediately after an unlawful entry while still at the border. The statute’s framework is expressly premised on inspections conducted at the border for individuals who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). As the Supreme Court has explained, this mandatory detention scheme operates “at the Nation’s borders and ports of entry, where the Government must determine whether a noncitizen seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does **not** apply to individuals like Petitioner, who entered the United States without inspection years ago, apprehended temporarily and were

immediately released on their recognizance and residing in the interior of the country at the time their most recent apprehension.

45. Although the Court may impose exhaustion requirements as a prudential matter, it should not do so in this case because further administrative exhaustion would be futile. The Immigration Court continues have an inconsistent position on individuals in this arguable second-class group.

FACTS

37. Petitioner Johnny Enrique Barboza-Simanca has resided in the United States since June 2023. He was briefly detained with some members of his family and released on his own recognizance which he has lived continuously in the United States. Petitioner entered the United States with his wife and has remained in stable residence and community life since that time. Petitioner has no criminal history, and nothing in his background suggests that he poses any danger to the community or risk of flight. He has demonstrated consistent cooperation with immigration authorities and has strong family and community ties in the United States.

38. In June 2023, after entering the United States without inspection near Piedras Negras, Petitioner was apprehended by Border Patrol and subsequently placed in removal proceedings under 8 U.S.C. § 1229a. DHS charged Petitioner as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) based on his entry without inspection. Petitioner has complied with all requirements imposed upon him in his immigration case and has remained available to the government throughout the pendency of his proceedings.

39. Following Petitioner's apprehension and transfer to the Folkston D Ray ICE Processing Center, ICE issued a custody determination ordering that Petitioner remain detained without any opportunity to post bond or be released on alternative conditions of supervision.

ICE's decision was based solely on its erroneous conclusion that Petitioner is subject to mandatory detention, notwithstanding his lack of any criminal history and his eligibility for a custody redetermination under 8 U.S.C. § 1226(a).

40. Although *the Matter of Yajure Hurtado* was expressly vacated, some immigration judges continue to conclude that individuals initially detained at the border and later released on their own recognizance are not entitled to a bond hearing pursuant to *Maldonado Bautista*.

41. As a result, Petitioner remains in detention. Without relief from this court, Petitioner faces the prospect of months, or even years, in immigration custody, separated from his family and community.

CLAIMS FOR RELIEF

COUNT I

Violation of the Immigration Nationality Act

42. Petitioner realleges and incorporates the paragraphs described above.

43. This case concerns the proper interpretation and application of the detention provisions at 8 U.S.C. §§ 1226(a) and 1225(b)(2), specifically, whether DHS may classify Petitioner as an arriving noncitizen subject to mandatory detention under § 1225(b)(2), or whether his custody is governed by § 1226(a), which entitles him to a bond hearing.

44. Section 1225 provides for expedited removal processing and mandatory detention for certain noncitizens who are seeking admission at the border or who are apprehended immediately upon entry. See *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). As relevant here, § 1225(b)(2)(A) states that “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that the alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section

1229a.” 8 U.S.C. § 1225(b)(2)(A). Courts interpreting this provision have held that, outside a narrow exception, detention under § 1225(b)(2) is mandatory and does not permit bond hearings. *Lopez Benitez*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *3 (S.D.N.Y. Aug. 13, 2025). Detention under § 1225(b)(2)(A) continues “until removal proceedings have concluded.” *Id.* However, by its plain terms, § 1225(b)(2) applies only to individuals seeking admission at the border, not to those like Petitioner, who entered the United States years ago and were later apprehended in the interior. When § 1225 “authorizes the Government to detain certain aliens seeking admission into the country,” § 1226 “authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings.” *Jennings*, 583 U.S. at 289 (emphasis added).

45. Separate from § 1225(b)(2), 8 U.S.C. § 1226(a) sets out the “default rule” governing the detention of noncitizens already present within the United States. *Jennings*, 583 U.S. at 288. § 1226(a) authorizes DHS to arrest and detain a noncitizen pending completion of removal proceedings, and it expressly provides that the Attorney General **may** continue detention or **may** release the individual on bond or conditional parole. 8 U.S.C. § 1226(a). Courts have long recognized that § 1226(a) establishes a discretionary detention framework that includes the right to a bond hearing. *Lopez Benitez*, 2025 WL 2371588, at *3. Although an immigration officer makes the initial custody determination, a noncitizen detained under § 1226(a), including individuals like Petitioner, who entered the United States years ago and were apprehended in the interior, has the right to seek a bond hearing before an Immigration Judge. 8 C.F.R. § 1236.1(c)(8), (d)(1). At such a hearing, the noncitizens bear the burden to show they are neither a danger nor a flight risk. *Hernandez v. Sessions*, 872 F.3d 976, 982 (9th Cir. 2017).

46. The government nevertheless contends that § 1225(b) applies to all noncitizens who entered the United States without inspection, regardless of how long ago they entered, where they were apprehended, or whether they were engaged in any action “seeking admission.” This interpretation ignores the plain meaning and present-tense nature of the statutory phrase “seeking admission.” “Seeking” means actively “asking for” or “attempting to obtain,” MERRIAM-WEBSTER, <https://www.merriam-webster.com/dictionary/seeking> (last visited December 11, 2025), and thus refers to conduct occurring at or near the time of attempted entry. “Admission,” in turn, refers to the lawful entry of a noncitizen into the United States after inspection. 8 U.S.C. § 1101(a)(13)(A). And “entry” has long been defined as “a crossing into the territorial limits of the United States.” *Hing Sum v. Holder*, 602 F.3d 1092, 1100–01 (9th Cir. 2010). By applying § 1225(b) to Petitioner, who entered the United States years ago and was apprehended while residing in the interior, the government stretches the statute far beyond its text and purpose.

47. Put together, this would mean that a person “seeking admission” is a person who is actively seeking lawful entry.

48. Courts across the country and specifically, this court has reached the same conclusion that an: “alien seeking admission” plainly describes individual taking some action, and, given the placement in the statute, that action would likely occur at the border upon inspection. *Villa v. Normand*, No. 5:25-cv-00089 (S.D. Ga. Nov 14, 2025).

49. DHS’s position that § 1225(b)(2) applies to noncitizens who have been living in the United States for months or years is inconsistent with the statutory text and with the Supreme Court’s analysis in *Jennings*, which makes clear that § 1225 applies to arriving noncitizens at the border. Numerous federal district courts have rejected DHS’s reinterpretation, holding that

individuals apprehended in the interior, like Petitioner, are detained under § 1226(a) and are entitled to a bond hearing. See, e.g., *Lopez Benitez*, No. 25-CIV-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Gomes*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025); *Martinez*, No. CV 25-11613-BEM, 2025 WL 2084238, at *9 (D. Mass. July 24, 2025); *Vasquez Garcia*, No. 25-CV-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Benitez*, No. 5:25-CV-02190, Doc. 11 (C.D. Cal. Aug. 26, 2025). This growing consensus further confirms that Respondents' attempt to classify Petitioner as subject to § 1225(b)(2) is unlawful.

50. Accordingly, the mandatory detention provision of 8 U.S.C. § 1225(b)(2) does not apply to individuals like Petitioner, who were residing in the interior of the country at the time and then they were apprehended. While Petitioner was briefly detained upon his entry, he was released on his recognizance. He was not 'seeking admission' when he was most recently apprehended by DHS. His detention is therefore governed by § 1226(a), not § 1225(b)(2).

COUNT II

Violation of Procedural Due Process

51. Procedural due process requires the government to provide adequate safeguards to ensure arbitrary deprivation of an individual's liberty interest, including the ability to challenge the basis for detention. See *Lopez-Campos*, 2025 WL 2496379, at *10.

52. To determine whether a civil detention violates a detainee's procedural due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319, (1976). Pursuant to *Mathews*, courts weigh the following three factors: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute

procedural safeguards”; and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335.

53. First, Petitioner has a significant interest at stake. Being free from physical detention by one’s own government “is the most elemental of liberty interests. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). And his continued detention, without any ability to articulate that he is neither a flight risk nor a danger to the community, undermines his fundamental liberty interest in being free from restraint.

54. Second, there is a substantial risk that Petitioner has been erroneously deprived of his liberty under the procedures used in this case, and readily available safeguards would prevent that error. The Government maintains that § 1226(a) does not apply to Petitioner and that it may instead detain him mandatorily under § 1225(b)(2). That position rests on a sweeping reinterpretation of the INA that contradicts the statute’s text, decades of agency practice, and longstanding judicial precedent. Federal courts across the country have repeatedly rejected DHS’s expanded reading of § 1225(b)(2), concluding that individuals apprehended in the interior, like Petitioner, are detained under § 1226(a) and therefore entitled to a bond hearing. See, e.g., *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499 (W.D. Wash. Sept. 30, 2025); *Lopez Benitez*, No. 25-CIV-5937, 2025 WL 2267803 (S.D.N.Y. Aug. 8, 2025); *Martinez*, No. CV-25-11613-BEM, 2025 WL 2084238, at *9 (D. Mass. July 24, 2025); *Gomes*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Vasquez Garcia*, No. 25-CV-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Arrazola-Gonzalez*, No. 5:25-CV-01789-ODW, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025). The uniformity of these

decisions underscores the grave risk that Petitioner's continued detention under § 1225(b)(2) is erroneous, an error easily avoided through the well-established procedural safeguard of a bond hearing under § 1226(a).

55. Therefore, the risk of erroneous deprivation of Petitioner's liberty is high; insofar as, the deprivation of liberty is not based on any individual, factual determination of dangers to the community or flight risks. Rather his deprivation of liberty is based solely on the Government's sudden interpretation that section 1225 mandatory detention provision applies to Petitioner as a matter of law.

56. Lastly, prior to the Government's abrupt change in its interpretation of section 1225 and section 1226, the immigration courts routinely held bond hearings in the detained setting. The detained immigration courts had a procedure in place on how to request bond hearings, and most, if not all, routinely took place through an internet-based hearing. As a result, there would be no additional burdens placed on the government.

COUNT III

Violation of Substantive Due Process

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

58. As described above, freedom from government custody "lies at the heart of the liberty" protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 690. For that reason, nonpunitive government detention violates the Due Process Clause unless the detention is ordered "in certain special and narrow ... circumstances, where a special justification ...

outweighs the individual's constitutionally protected interest in avoiding physical restraint.” *Id.* (citations omitted).

59. In the context of civil immigration detention, the two “regulatory goals” of the Immigration and Nationality Act provisions governing such detention “ensuring the appearance of aliens at future immigration proceedings” and “preventing danger to the community” can provide such “special justification.” *Id.* (citations omitted). “Civil immigration detention is permissible only to prevent flight or protect against danger to the community.” *Zadvydas*, 533 U.S. at 690. Although “[t]he government has legitimate interests in protecting the public and in ensuring that noncitizens in removal proceedings appear for hearings,” “the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions.” *Hernandez*, 872 F.3d at 990, 994.

60. After Petitioner’s entry into the United States in June 2023, he lived openly in the country and was not taken into immigration custody until years later, when DHS apprehended him in the interior. His current detention is not the result of any change in his personal circumstances, criminal history, or conduct indeed, Petitioner has no criminal record whatsoever. Rather, his continued confinement stems solely from DHS’s recent and erroneous reinterpretation of the INA, under which the agency now classifies long-resident noncitizens like Petitioner as subject to mandatory detention under § 1225(b)(2). Detaining Petitioner based solely on this policy shift, without any individualized assessment of the factors traditionally evaluated in civil immigration detention, is fundamentally incompatible with the Constitution’s guarantee of due process.

61. Petitioner is neither a danger to the community nor a flight risk. He has no criminal history at all, and nothing in his background suggests otherwise. Since entering the United States in 2023, Petitioner has developed meaningful ties to his community and has demonstrated consistent compliance with immigration authorities. He has been represented by counsel throughout his proceedings and has made himself fully available for all required appointments and obligations. There is simply no basis, statutory or factual, to justify his continued detention without the opportunity for a bond hearing.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter.
- b. Order that Petitioner shall not be transferred outside the Southern District of Georgia while this habeas petition is pending.
- c. Issue an Order to Show Cause ordering Respondents to show why this Petition should not be granted immediately.
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner immediately or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days.
- e. Declare that Petitioner's detention is unlawful.
- f. Grant any other and further relief that this Court deems just and proper.

DATED 11th of March 2026.

Respectfully submitted,

A handwritten signature in black ink, appearing to read "Rachel Effron Sharma", with a long horizontal flourish extending to the right.

Rachel Effron Sharma
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DECLARATION OF LOCAL COUNSEL REGARDING VERIFICATION

I am local counsel for Petitioner in this matter. I have not yet had direct contact with Petitioner in order to verify this petition. The Petition for writ of habeas corpus is based on information provided by lead counsel and local counsel's review of all available records. Counsel will file a verification from Petitioner as soon as counsel receives it, or in the alternate, lead counsel will file a complete verification once admitted pro hac vice. Due to Petitioner being detained far from his counsel, it will take extra time to obtain verification from Petitioner directly, but because this is an urgent matter, counsel requests leave of the court to file the verification as soon as it is available.

Dated this 11th day of March 2026.



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