UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

Alvaro RAMIREZ ESCALONA Petitioner, v. Warden, IRWIN COUNTY DETENTION CENTER, et al., Respondents.	Case No. 7:26-cv-145 **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Alvaro RAMIREZ ESCALONA (A# [redacted] is in the physical custody of Respondents at the Irwin Detention Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. This case is materially similar to *U.C.V. v. Warden, Irwin County Detention Center*, No. 7:26-cv-136-LAG-AGH, because Petitioner is not presently being detained at the border or port of entry following an initial inspection process. Although Petitioner was initially apprehended while attempting to enter the United States, DHS later released him from custody and placed him in standard § 1229a removal proceedings. Petitioner is not currently detained pursuant to a final order of removal under § 1231, and DHS has not established that he is subject to mandatory detention under § 1226(c). Under *J.A.M.*, *P.R.S.*, and *U.C.V.*, Petitioner's present detention should be analyzed under § 1226(a), not § 1225(b)(2), because he is now detained pending standard removal proceedings after having been released from DHS custody. Therefore, the Court should order Respondents to provide a § 1226(a)(2) bond hearing within seven days,

with DHS bearing the burden by clear and convincing evidence to establish danger or flight risk.

JURISDICTION

3. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Irwin County Detention Center, Ocilla, Georgia.

4. 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).

5. 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

6. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Middle District of Georgia, the judicial district in which Petitioner currently is detained.

7. 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 Middle District of Georgia.

REQUIREMENTS OF 28 U.S.C. § 2243

8. 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.*

9. In addition to the Court's authority under 28 U.S.C. § 2243, the Court may apply Rule 4 of the Rules Governing § 2254 Cases to this § 2241 action. Rule 4 authorizes the Court, after preliminary review, to order Respondents to file a response "or to take other action the judge may order." Because the same legal issue has already been resolved in this District in J.A.M., P.R.S., and U.C.V., Petitioner respectfully requests that the Court order immediate relief under Rule 4 and require Respondents to provide a § 1226(a) bond hearing within seven days.

PARTIES

10. Petitioner Alvaro RAMIREZ ESCALONA is a citizen of Venezuela who has been in immigration detention since April 12, 2026. Petitioner was taken into custody by Immigration and Customs Enforcement ("ICE"). ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

11. Respondent Warden of the Irwin County Detention Center, where Petitioner is detained. As Warden, he is responsible for the operations of the Irwin County Detention Center, including oversight of the individuals in ICE custody at the facility, and is therefore the immediate custodian of the Petitioner. Respondent Warden's business address is 132 Cotton Drive, Ocilla, Georgia 31774. He is sued in his official capacity

LEGAL FRAMEWORK

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

13. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally

entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

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

15. Last, 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).

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

17. 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).

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

19. 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)).

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

21. 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.

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

23. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

24. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is

[1] *Available at* https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission

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

25. Most recently, in *U.C.V. v. Warden, Irwin County Detention Center*, No. 7:26-cv-136-LAG-AGH, the court also applied *J.A.M.* and *P.R.S.* to materially similar facts and ordered Respondents to provide a § 1226(a) bond hearing within seven days. The Court recognized that where a noncitizen is "found in the country unlawfully and arrested" without having been inspected by an examining immigration officer, an immigration officer or immigration judge has discretion under § 1226(a) to grant release on bond unless a statutory exception applies under § 1226(c), and mandatory detention under § 1225(b)(2) is not authorized.

26. Subsequently, court after court—including all three federal districts in Georgia—has adopted the same reading of the INA's detention provisions and rejected ICE and EOIR's new interpretation. In *J.A.M. v. Streeval*, the Middle District of Georgia held that §1225(b)(2)(A) does not apply to a long-term resident arrested inside the United States who is not 'seeking admission,' concluded that § 1226(a) governs such detention, and ordered DHS to provide a bond hearing under § 1226(a)(2). *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094, at *5–8 (M.D. Ga. Nov. 1, 2025). Likewise, in *Aguirre Villa v. Normand*, the Southern District of Georgia rejected DHS's reliance on *Matter of Yajure Hurtado*, held that applying § 1225(b)(2)(A) to noncitizens arrested after years of residence 'renders § 1226 largely superfluous,' and granted habeas relief ordering bond hearings under § 1226(a). *Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969, at *8–10 (S.D. Ga. Nov. 4, 2025).

27. Court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g.*, *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 (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, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (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); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g.*, *Palma Perez v. Berg*, No. 8:25CV494, 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).

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

29. 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]."

30. 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. District courts within Georgia and the Eleventh Circuit have adopted this same reasoning, holding that Congress's decision to add a new mandatory-detention category for certain inadmissible noncitizens in § 1226(c)(1)(E) confirms that such individuals were not already subject to mandatory detention under § 1225(b)(2)(A). See *Aguirre Villa*, 2025 WL 3095969, at *8–9; Patel v. Parra*, No. 2:25-cv-00870-JES-NPM, 2025 WL 3____, at *9–11 (M.D. Fla. Dec. 1, 2025).*

31. 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.

32. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Consistent with this framework, *J.A.M.* held that § 1225(b)(2)(A) requires that an individual be both an 'applicant for admission' and an 'alien seeking admission,' and therefore does not encompass a noncitizen like Petitioner who was arrested after years of residence in the interior of the United States; in such circumstances, § 1226(a) governs and permits a bond hearing. *J.A.M.*, 2025 WL 3050094, at *6–8.*

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

FACTS

34. Petitioner has resided in the United States since 2021 and lives in Lakeland, TN.

35. Petitioner entered the United States in 2021 through the U.S. – Mexican border.

36. On April 12, 2026 Petitioner was arrested by Coweta County Sheriffs Office for driving with a suspended license. Petitioner was subsequently taken into custody by Immigration and Customs Enforcement ("ICE").

37. Subsequently after Petitioner's detention, he was placed in removal proceedings before the Immigration Court in Lumpkin, GA, pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

38 Petitioner has a pending preliminary Master Calendar Hearing scheduled for 05/20/2026 at 9:00AM before the Immigration court in Lumpkin, GA.

39. Petitioner is neither a flight risk nor a danger to the community. Petitioner has significant ties to the United States.

40. Following Petitioner's arrest and transfer to Irwin Immigration Court, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

41. Petitioner falls within the same category of noncitizens addressed in *J.A.M., P.R.S.*, and *U.C.V.* Petitioner is not an arriving alien apprehended at a port of entry. Petitioner is not in expedited removal under § 1225(b)(1). Petitioner is not detained under § 1231 pursuant to a final order of removal. Petitioner was arrested in the interior after having already entered and resided in the United States, was placed in standard § 1229a removal proceedings, and is being denied a bond hearing solely because DHS and EOIR now characterize all persons charged under § 1182(a)(6)(A)(i) as subject to § 1225(b)(2). Under *J.A.M., P.R.S.*, and *U.C.V.*, that interpretation is unlawful. Petitioner is detained under § 1226(a), unless Respondents can establish that a statutory exception under § 1226(c) applies.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

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

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

COUNT II
Violation of the Bond Regulations

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

46. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

47. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

48. 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 Due Process

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

50. 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).

51. Petitioner has a fundamental interest in liberty and being free from official restraint.

52. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

53. At any bond hearing ordered by this Court, due process requires DHS to bear the burden of proving by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk. *See J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331, 1335 (M.D. Ga. 2020).

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 Middle District of Georgia while this habeas petition is pending;

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

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner 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. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

DATED: May 5, 2026

Respectfully submitted,

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