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

EVELIN PEREZ LOPEZ,

Petitioner,

v.

WARDEN, in his official capacity as Warden of the Irwin County Detention Center; LADEON FRANCIS, in his official capacity as Field Office Director of Enforcement and Removal Operations, Atlanta Field Office, Immigration and Customs Enforcement; MARKWAYNE MULLIN, in his official capacity as Secretary, U.S. Department of Homeland Security; TODD BLANCHE, in his official capacity as acting U.S. Attorney General,

Respondents.

CIVIL ACTION NO.:

PETITION FOR WRIT OF HABEAS CORPUS

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INTRODUCTION

1. Petitioner Evelin Perez Lopez is in the physical custody of Respondents at the Irwin County Detention Center located in Ocilla, Georgia. She 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. Petitioner is likely to be charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on Petitioner's manner of entry, DHS has denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act ("INA"). Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a),

that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

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

6. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be released immediately. In the alternative, Petitioner requests that Respondents provide a new custody redetermination hearing under § 1226(a) within seven days whereby the Immigration Judge does have jurisdiction over Petitioner's custody redetermination request, or else release Petitioner after seven days have passed.

JURISDICTION

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

8. 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).

9. 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

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies with the district court having jurisdiction over the custodian of the detainee. In the case at hand, venue is proper with the United States District Court for the Middle District of Georgia, the judicial district encompassing the Irwin County Detention Center located in Ocilla, Georgia in Irwin County, Georgia.

11. 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

12. 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.*

13. 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).

PARTIES

14. Petitioner Evelin Perez Lopez is a citizen of the Honduras who entered the United States in or around 2022. Petitioner is currently detained at the Irwin County Detention Center in the custody, and under the direct control, of Respondents and their agents. After arresting Petitioner, ICE did not set bond.

15. Respondent Warden of the Irwin County Detention Center is employed by CoreCivic as Warden of the Folkston ICE Processing Center where Petitioner is detained. They have immediate physical custody of Petitioner. They are sued in their official capacity.

16. Respondent LaDeon Francis is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division. As such, LaDeon Francis is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

17. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is

responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

18. Respondent Todd Blanche is the acting Attorney General of the United States. He 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. He is sued in his official capacity.

LEGAL FRAMEWORK

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

20. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a. Individuals detained pursuant to § 1226(a) 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).

21. 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).

22. 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).

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

24. 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 last year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

25. 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).

26. 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 Immigration Judge 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)).

27. 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.

28. 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 a mandatory detention provision under § 1225(b)(2)(A). This interpretation of the statute applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

29. On September 5, 2025, the BIA adopted the 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 mandatory detention under § 1225(b)(2)(A) and are therefore ineligible for bond hearings.

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

30. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Indeed, this Court has followed suit in numerous recent decisions, finding petitioners such as those similarly situated to the petitioners in the consolidated cases of *Villa v. Normand*, No. 5:25-CV-89, 2025 WL 3113200 (S.D. Ga. Oct. 16, 2025) are entitled to relief.

31. Even before ICE or the BIA introduced these nationwide policies, Immigration Judges 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 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).

32. Subsequently, several courts have adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. Most notably, the Central District of California declared that indefinite detention of individuals such as Plaintiff is unlawful; and vacated the underlying DHS Policy that the Government relied on to continue detaining individuals like Plaintiff. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d -

---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). Then, on February 18, 2026, District Court Judge Sunshine Suzanne Sykes of the Central District of California granted a motion to enforce its previous decision and further issued an order vacating the Board of Immigration Appeal's decision in *Matter of Yajure Hurtado*. *See Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). Unfortunately, the Ninth Circuit Court of Appeals temporarily stayed the district court's 12/18/25 declaratory judgment and 2/18/26 order pending a ruling on the government's emergency motion for a stay pending appeal.

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

34. 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]."

35. The text of § 1226 also explicitly applies to people charged as being inadmissible. *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.

36. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States.

37. 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).

38. Accordingly, the detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who are charged with inadmissibility pursuant to 8 U.S.C. § 1182(a)(6)(A)(i).

FACTS

39. Petitioner has resided in the United States since approximately 2022 and lives in Little River, South Carolina.

40. Petitioner resides with her mother and four her siblings, including one who is a United States citizen.

41. According to Petitioner, on or about March 23, 2026, she was arrested and taken in to DHS ICE custody during a traffic stop. Petitioner is now detained by DHS at the Irwin County Detention Center located in Ocilla, Georgia.

42. The Petitioner maintains a fixed address as she lives with her family in Little River, South Carolina. Petitioner has significant ties to the community and is not a flight risk.

43. To the knowledge of undersigned counsel, Petitioner has not been arrested for any dangerous or violent criminal violations. As such, Petitioner is not a danger to the community.

44. Following Petitioner's arrest and transfer to the Irwin County Detention Center, ICE likely issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

45. Without relief from this court, Petitioner faces the prospect of months, or even years, in immigration custody, separated from her family and community.

CLAIMS FOR RELIEF

COUNT I

Violation of the Immigration and Nationality Act

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

47. 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 for years 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.

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

COUNT II

Violation of the Bond Regulations

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

50. 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 Immigration Judges under 8 U.S.C. § 1226 and its implementing regulations.

51. Nonetheless, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

52. 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 Fifth Amendment Right to Due Process

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

54. 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).

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

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

57. Petitioner has a right to a fair and impartial 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 Middle District Court 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 immediately release Petitioner; or, in the alternative, release Petitioner if they do not provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days of the order;

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.

It is RESPECTFULLY SUBMITTED this 4th day of June, 2026.

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