UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

JONATHAN JOEL REYES-MARTINEZ,

Petitioner,

v.

KRISTEN SULLIVAN, Field Office Director of Enforcement and Removal Operations, ATLANTA Field Office, Immigration and Customs Enforcement;
MARKWAYNE MULLINS, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY;
TODD BLANCHE, U.S. Attorney General;
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW;
JASON STREEVAL, Warden of STEWART DETENTION CENTER,

Respondents.

Case No.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner **JONATHAN JOEL REYES-MARTINEZ** brings this petition for a writ of habeas corpus to seek enforcement of the Immigration and Nationality Act's (INA) provisions for bond hearings before an Immigration Judge. Petitioner is in the physical custody of Respondents at the **Stewart Detention Center in Lumpkin, Georgia**. Petitioner now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have continued to deny bond hearings under INA 236, instead treating unlawful entrants, even of longstanding residence in the U.S., under the mandatory detention scheme at INA 235.

2. Immigration Judges at Stewart Immigration Detention Center continue to decline jurisdiction, despite the fact that hundreds of Courts have found DHS's policy regarding detention of unlawful entrants without bond hearings to be unlawful. The Executive Office for Immigration Review and its subagency the Immigration Court and the Department of Homeland Security (DHS) have now created a de facto procedural detour: what would previously have been a straightforward, discretionary procedure where a detained Respondent could vindicate his rights expeditiously and economically by requesting a bond hearing. EOIR now in effect requires this honorable Court to, once again, order the agency to hold the very bond hearing which the statute requires.

JURISDICTION

3. Petitioner is in the physical custody of Respondents. Petitioner is detained at the STEWART DETENTION CENTER in LUMPKIN, GEORGIA. Exhibit 1, Detainee Locator.

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. 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).

10. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved for class members in *Maldonado Bautista*.

PARTIES

11. Petitioner JONATHAN JOEL REYES-MARTINEZ is alleged to be a citizen of HONDURAS who is in immigration detention at Stewart Immigration Detention Center under the auspices of the Stewart Immigration Court in Lumpkin, Georgia, where Respondents continue to require a Federal District Court Order before they will grant a bond hearing.

12. Respondent KRISTEN SULLIVAN is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division; however, on information and belief, the DHS is rotating their Field Office Director without publishing a schedule of rotation. As such, KRISTEN SULLIVAN or his unknown, unannounced provisional replacement is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He or his acting counterpart is named in his or her official capacity.

13. Respondent MARKWAYNE MULLINS 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. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

15. Respondent TODD BLANCHE is the 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 her official capacity.

16. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

17. Respondent, Warden Jason Streeval, is employed by the private, for-profit detention corporation contracted by the Government as an agent to confine immigrants at Stewart Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

CLAIMS FOR RELIEF

COUNT I
Violation of the INA and Bond Regulations

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

19. 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.

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

21. 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 II
Violation of Due Process

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

23. 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).

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

25. 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.

LEGAL FRAMEWORK

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

27. 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).

28. 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).

29. 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).

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

31. 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).

32. 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).

33. 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)).

34. In *Jennings v. Rodriguez*, the Department of Homeland Security (DHS) explicitly acknowledged that individuals who have already entered the United States and are not apprehended within 100 miles of the border or within 14 days of entry are subject to discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under § 1225(b). During oral argument on November 30, 2016, then–Solicitor General Ian Gershengorn stated: "If they are not detained within 100 miles of the border or within 14 days… then they are under 1226(a) and not 1226(c)" and further clarified, in response to a question concerning "an alien who has come into the United States illegally without being admitted [and] who takes up residence 50 miles from the border," the Government responded, "The answer is they are held under 1226(a) and that they get a bond hearing…" Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. (2018) (No. 15-1204). DHS reiterated that such individuals "would be held under 1226(a)" and cited the administrative record to support that position. *Id.* These statements reflect DHS's prior litigation stance that § 1226(a) governs detention for noncitizens who have entered and are residing in the United States, a position directly contrary to the agency's current interpretation applying § 1225(b)(2)(A) to such individuals. Having prevailed in *Jennings* after taking this position,

they should be estopped from taking the contrary position now simply because their political or litigation interests have changed. Estoppel in this case is necessary to preserve the predictability inherent in the rule of law and due process under the Fifth Amendment, as well as to protect the integrity of the judicial system.

35. 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.

36. 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.

37. 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.

38. Since Respondents adopted their new policies, several 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.

39. A growing number of federal courts have rejected ICE and EOIR's expanded interpretation of the Immigration and Nationality Act's detention provisions. These courts have consistently held that § 1226(a), not § 1225(b)(2), governs the detention authority

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

applicable in these cases. For example, courts in Massachusetts, Arizona, New York, Minnesota, California, and Nebraska have reached this conclusion. See. *Gomes v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025), *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025), *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE (D. Minn Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM (D. Mass. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25 CV 06248 BLF (N.D. Cal. Aug. 21, 2025); *Palma Perez v. Berg*, No. 8:25CV494 (D. Neb. Sept. 3, 2025).

40. As of December 18th, 2025, the DHS policy was VACATED. *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3549826, at *8–9 (C.D. Cal. Dec. 18, 2025) (vacating DHS's July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission" under the Administrative Procedure Act); *id.*, 2025 WL 3549854, at *2 (entering final judgment as to Counts I–III).

41. These decisions reflect a clear judicial consensus, now binding nationally as to class members, that the government's reliance on § 1225(b)(2) is misplaced in cases involving those whose immigration status lawfully falls under § 1226(a).

42. 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.

43. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States and were not free to mingle with the general population after being free from official restraint. 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).

44. One quirk in this case would present an additional issue for this honorable Court were it not easily explained as an irregularity, whether by policy or mistake: the Petitioner is simultaneously charged as an Arriving Alien and as having entered the U.S. without inspection. An individual in removal proceedings cannot simultaneously be charged as an arriving alien and as one who entered without inspection, because the two classifications rest on mutually exclusive legal predicates. "Entry" is a term of art that requires physical presence combined with freedom from official restraint. *Matter of Patel*, 20 I. & N. Dec. 368, 370 (B.I.A. 1991). An arriving alien, however, has not effected an "entry" at all, because applicants for admission—even those physically located just inside the border—remain legally treated as seeking to enter, not as persons who have entered the United States. As Justice Alito explained, "§ 1225(b) … authorizes the detention of certain aliens seeking to enter the country," emphasizing that such individuals are processed as applicants for admission even when already within U.S. territory. *Jennings v. Rodriguez*, 583 U.S. ___, slip op. at 3 (2018). One cannot both seek to enter the country as an arriving alien and also enter the country – for the immigrant to be classified as an Arriving Alien who seeks entry precludes the factual allegation of unlawful entry without inspection. Clearly, the box designation was in error.

45. Because arriving aliens are processed under 8 U.S.C. § 1225(b) and remain under official restraint, the government cannot charge them simultaneously under 8 U.S.C. § 1182(a)(6)(A)(i) as individuals who "entered without inspection," a charge that presupposes the completion of an "entry" as defined in *Patel*. The distinct statutory detention regimes further underscore this incompatibility. arriving aliens fall within the mandatory § 1225(b) framework, whereas those alleged to have entered without inspection fall under § 1226. Consequently, DHS must select a single, legally coherent classification and may not pursue allegations premised on contradictory theories of entry status

FACTS

46. Petitioner JONATHAN JOEL REYES-MARTINEZ is a citizen of HONDURAS who has resided in the United States for decades. He entered without inspection and was not apprehended upon arrival. On July 17th, 2026, Petitioner was apprehended while working, then transferred to DHS custody at the Stewart Detention Center. ICE did not set bond.

47. DHS's charging document designates Petitioner as an Alien who has not been admitted or paroled. There is no date or time listed for Petitioner's entry or arrival.

48. Petitioner is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. DHS has charged Petitioner as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) and placed her in removal proceedings pursuant to 8 U.S.C. § 1229a. Petitioner is a member of the Bond Eligible Class certified in Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.), which includes noncitizens without lawful status who entered without inspection and are not subject to mandatory detention under the INA.

49. Despite the intervention of hundreds of Federal District Courts holding that class members are detained under 8 U.S.C. § 1226(a) and entitled to consideration for release on bond—Respondents continue to apply § 1225(b)(2) and deny bond hearings to class members, including Petitioner. Immigration Judges at Stewart Detention Center have refused jurisdiction, citing agency directives to disregard the Court's earlier rulings, and insisting on awaiting guidance from the 11th Circuit or EOIR to assume jurisdiction. Respondents' continued detention of Petitioner violates the INA.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

d. 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

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

DATED this 13th day of August, 2026.

/s/ Sarah P. Cornejo

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