

**UNITED STATES DISTRICT COURT FOR THE
DISTRICT OF NEW MEXICO**

[REDACTED]

Petitioners,

Case No. 25-cv-1145

v.

**VERIFIED PETITION
FOR WRIT OF HABEAS
CORPUS**

Joel GARCIA, Field Office Director of
Enforcement and Removal Operations, El Paso
Field Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND SECURITY;
Pamela BONDI, U.S. Attorney General;
Todd LYONS, Acting Director and Senior
Official Performing the Duties of the Director
of U.S. Immigration and Customs Enforcement;
George DEDOS, Warden of Cibola County
Correctional Center; in their official capacities,

Respondents.

INTRODUCTION

1. Petitioners [REDACTED], [REDACTED], and [REDACTED] are in the physical custody of Respondents at the Cibola County Correctional Center. They now face unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have improperly concluded Petitioners are subject to mandatory detention.

2. U.S. Immigration and Custody Enforcement (ICE) has charged Petitioners, in their removal proceedings in immigration court, 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 this allegation in Petitioners' removal proceedings, DHS denied Petitioners release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all 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. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedential decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Petitioners' detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioners who

previously entered and are now residing in the United States. Instead, such individuals are subject to detention pursuant to a different statute, 8 U.S.C. § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioners, are charged as inadmissible for having entered the United States without inspection.

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

7. Accordingly, Petitioners seek a writ of habeas corpus requiring that they be released from custody or, in the alternative, that this Court conduct bond hearings for Petitioners pursuant to 8 U.S.C. § 1226(a).

JURISDICTION

8. Petitioners are in the physical custody of Respondents. Petitioners are detained at the Cibola County Correctional Center in Milan, New Mexico.

9. 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).

10. 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

11. 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 District of New Mexico, the judicial district in which Petitioners are currently detained.

12. 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 District of New Mexico.

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the Petitioners are 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.*

14. 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).

PARTIES

15. Petitioner [REDACTED] is a citizen of Mexico who has been in immigration detention since June 20, 2025. After arresting Petitioner in Bartow, Florida, ICE did not set bond and Petitioner is unable to obtain review of his custody by an Immigration Judge (IJ), pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

16. Petitioner [REDACTED] is a citizen of Mexico who has been in immigration detention since July 15, 2025. After arresting Petitioner in Crestview, Florida, ICE

did not set bond and Petitioner is unable to obtain review of his custody by an Immigration Judge (IJ), pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

17. Petitioner [REDACTED] is a citizen of Honduras who has been in immigration detention since August 6, 2025. After arresting Petitioner in Lakeland, Florida, ICE did not set bond and Petitioner is unable to obtain review of his custody by an Immigration Judge (IJ), pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

18. Respondent **Joel Garcia** is the Director of the El Paso Field Office of ICE's Enforcement and Removal Operations division. As such, Mr. Garcia is Petitioners' immediate custodian and is responsible for Petitioners' detention and removal. He is named in his official capacity.

19. 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 Petitioners' detention. Ms. Noem has ultimate custodial authority over Petitioners and is sued in her official capacity.

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

21. 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 sued in her official capacity.

22. Respondent **Todd Lyons** is named in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement. As such, he is a legal custodian of Petitioners.

23. Respondent **George Dedos** is employed by CoreCivic, Inc. as Warden of the Cibola County Correctional Center, where Petitioners are detained. He has immediate physical custody of Petitioners. He is sued in his official capacity.

LEGAL FRAMEWORK

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

25. 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).

26. 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).

27. 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).

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

29. 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).

30. 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).

31. 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)).

32. 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.

33. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ claims that all persons who entered the United States without

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

inspection shall now be subject to the 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.

34. 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. 29 I. & N. Dec. 216 (BIA 2025).

35. 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.

36. 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 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).

37. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation, including Judge David Herrera Urias in the District of New Mexico and other District Courts in the Tenth Circuit. *See Salazar v. Dedos*, No. 1:25-cv-00835-DHU-JMR, 2025 WL 2676729, at *4 (D.N.M. Sept. 17, 2025) ("It is clear that § 1226, not § 1225, should have governed Petitioner's detention from the outset. As stated by the Supreme Court, 'U.S. immigration law authorizes the Government to detain certain [noncitizens]

seeking admission into the country under §§ 1225(b)(1) and (b)(2)’ and to “detain certain [noncitizens] *already in the country* pending the outcome of removal proceedings under §§1226(a) and (c).”’) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018)) (emphasis and alteration in *Salazar*); *Artola Arauz v. Baltazar*, No. 1:25-cv-03260-CNS, 2025 WL 3041840, at *3 (D. Colo. Oct. 31, 2025) (“Simply put, because Petitioner has lived in the United States for nearly 40 years and was not detained while attempting to enter the country, he is improperly subject to mandatory detention under § 1225(b)(2)(A) and should instead be detained under § 1226(a), consistent with Respondents’ initial determination and the plain text, legislative history, and past practices of the statutes at issue.”); *Loa Caballero v. Baltazar*, No. 1:25-cv-03120-NYW, 2025 WL 2977650, at *8 (D. Colo. Oct. 22, 2025) (“As another district court has observed, Respondents’ interpretation of § 1225 is ‘contrary to the agency’s own implementing regulations; its published guidance; the decisions of its immigration judges (until very recently); decades of practice; the Supreme Court’s gloss on the statutory scheme; and the overall logic of our immigration system.’ The Court joins the numerous courts across the country that have held that petitioners like Mr. Loa Caballero are subject to the discretionary detention framework of § 1226(a).”) (quoting *Romero v. Hyde*, --- F. Supp. 3d ----, 2025 WL 2403827, at *9 (D. Mass. Aug. 19, 2025)); *Moya Pineda v. Baltasar*, No. 1:25-cv-02955-GPG, ECF No. 21, at 3 (D. Colo. Oct. 20, 2025) (“Because Petitioner was not detained while attempting to enter the country and does not have other circumstances that would subject him to mandatory detention, Petitioner is not subject to § 1225(b)(2)(A)’s mandatory detention provision, nor does he fall outside of § 1226(a)’s discretionary detention provision based on any § 1226(c) exceptions and Respondents were wrong to detain him without an opportunity to seek release on bond. At bottom, the Court agrees with other courts that have, against substantially

similar factual backgrounds, concluded that detention without a bond hearing amounts to a due process violation.”) (internal citations and quotations omitted); *Garcia Cortes v. Noem*, No. 1:25-CV-02677-CNS, 2025 WL 2652880, at *1 (D. Colo. Sept. 16, 2025) (“The Court agrees with Petitioner that Respondents are wrong to conclude that his detention is mandatory under § 1225.”). Even outside the Tenth Circuit, as Judge Nina Y. Wang of the District of Colorado noted, “federal district courts have overwhelmingly rejected Respondents’ ‘broad interpretation of section 1225(b)(2).’” *Loa Caballero*, 2025 WL 2977650, at *5 (citing *Choglo Chafila v. Scott*, No. 2:25-cv-00437-SDN, 2025 WL 2688541, at *5 (D. Me. Sept. 22, 2025) (collecting cases); *Ochoa Ochoa v. Noem*, No. 25-cv-10865, 2025 WL 2938779, at *5 n.8 (N.D. Ill. Oct. 16, 2025) (collecting cases)).

38. 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 Petitioners.

39. 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].”

40. 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.

41. 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.

42. 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).

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

FACTS

Petitioner [REDACTED]

44. Petitioner [REDACTED] has resided in the United States since 1997 and has lived in Fort Mead, Florida this entire time.

45. On June 20, 2025, Petitioner [REDACTED] was stopped by local police for having tinted windows. The police detained him and transferred him to ICE custody. Petitioner is

now detained at the Cibola County Correctional Center, where he has been held since approximately September 16, 2025.

46. DHS placed Petitioner [REDACTED] in removal proceedings before the Otero Immigration Court 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.

47. Petitioner [REDACTED] is neither a flight risk nor a danger to the community. He has worked as a welder for 26 years and is the primary breadwinner for his family. His wife is a U.S. citizen and has several serious medical conditions, including lupus, diabetes, high blood pressure, fibromyalgia, COPD, and nerve damage in her spine. She is unable to work and, without Petitioner's presence and financial support, she can no longer attend medical appointments or afford any of her medications. Petitioner [REDACTED] has two U.S. citizen children. His 18-year-old daughter has had to drop out of school since Petitioner's detention because she can no longer afford to attend. Petitioner's 21-year-old son has had to work longer hours to support the family, forcing Petitioner's wife and daughter to help care for his 7-year-old son, who is nonverbal and autistic. After Petitioner's detention, the family lost their home and were homeless for two months. Petitioner has minimal criminal history: he has a misdemeanor battery charge from 2004 that was dismissed by the State of Florida one month after being filed. He also had one ticket from 2010 for driving without a license and tickets from 2013 and 2016 for driving with an expired license. He paid all necessary fines and completed the work-release program that a Florida court ordered following the most recent ticket. Petitioner is sufficiently trustworthy that he was asked by his church, Iglesia Ebenezer in Bowling Green, Florida, to take responsibility for receiving

monetary offerings from the community and distributing them to church programs. He has served in this volunteer role for the past two years.

48. Following Petitioner [REDACTED]'s arrest and transfer to Cibola County Correctional Center, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

49. As a result, Petitioner [REDACTED] remains in detention. He has already been in detention for nearly five months and, without relief from this Court, he faces the prospect of many more months, or even years, in immigration custody, separated from his family and community.

Petitioner [REDACTED]

50. Petitioner [REDACTED] has resided in the United States since 2007 and has lived in Florida since 2015.

51. On July 15, 2025, Petitioner [REDACTED] was arrested when he was detained for driving without a license following a traffic accident in Crestview, Florida. Petitioner is now detained at the Cibola County Correctional Center, where he has been held since September 19, 2025.

52. DHS placed Petitioner [REDACTED] in removal proceedings before the Otero Immigration Court 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.

53. Petitioner [REDACTED] is neither a flight risk nor a danger to the community. He has four children under age ten who are U.S. citizens. His six-year-old daughter has bronchobiliary

fistula; she was born with an extra intestine and has undergone multiple surgeries to address the condition. She has regular medical appointments, may go into liver failure at any time if she sustains an infection, and is considered medically disabled by the U.S. government. Petitioner [REDACTED]'s partner, the mother of all four children, is a U.S. citizen and has a heart condition that requires treatment. On September 20, 2025, two months after his detention and the day after his transfer to Cibola County Correctional Center, the family's home burned down and all their possessions were destroyed. The family has had to move in with nearby relatives but are about to lose their current living situation and will be homeless. Petitioner [REDACTED]'s criminal history is minimal: he received tickets for driving without a license in 2023 and 2025. Because he did not appear for a court hearing related to the 2023 ticket, he incurred a Failure to Appear charge and had to serve 30 days in jail and six months' probation. He successfully completed this sentence and paid all fines for this charge and the other tickets. Petitioner also has an outstanding traffic ticket for driving without a license related to the July 2025 accident that led to his current detention. He has worked as a painter of residential and commercial buildings for 17 years and has worked with Ricky Painting LLC since 2021. Prior to his detention, Petitioner [REDACTED] regularly performed painting and handyman work at a reduced cost for a local church, members of the church, and elderly people in the community.

54. Following Petitioner's arrest and transfer to Cibola County Correctional Center, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

55. As a result, Petitioner [REDACTED] remains in detention. He has already been in detention for four months and, without relief from this Court, he faces the prospect of many more months, or even years, in immigration custody, separated from his family and community.

Petitioner [REDACTED]

56. Petitioner [REDACTED] has resided in the United States since 2010 and has lived in Lakeland, Florida since 2015.

57. On August 6, 2025, Petitioner [REDACTED] was stopped by local police for having tinted windows. He was detained and transferred to ICE. Petitioner is now detained at the Cibola County Correctional Center, where he has been held since September 4, 2025.

58. DHS placed Petitioner [REDACTED] in removal proceedings before the Otero Immigration Court 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.

59. Petitioner [REDACTED] is neither a flight risk nor a danger to the community. Petitioner [REDACTED] was the primary breadwinner for his family. He has worked in carpentry for 11 years, the last four years at K-Ron Construction. He has three children. His youngest child, who is ten years old and a U.S. citizen, has autism, serious environmental allergies that require monthly treatment, and asthma. Prior to Petitioner's detention, his son had weekly behavioral and other therapy appointments for his autism but has been unable to attend because his mother has had to start working as a dishwasher due to Petitioner's absence. Petitioner [REDACTED] has minimal criminal history: he has incurred traffic tickets for not stopping at a stop sign and driving without a license in 2017, tickets for speeding and driving without a license in 2023, and the recent

ticket from August 2025 for having tinted windows and driving without a license. He has paid all tickets in full. Petitioner [REDACTED] also has a serious stomach condition, which has resulted in substantial pain and blood in his stool, that has not been diagnosed. He was scheduled to undergo a colonoscopy to assess the condition in August but was detained by ICE just a few days prior. ICE did not bring him to his appointment and have not provided any medical care for his condition.

60. Following Petitioner's arrest and transfer to Cibola County Correctional Center, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

61. As a result, Petitioner [REDACTED] remains in detention. He has already been in detention for over three months and, without relief from this Court, he faces the prospect of many more months, or even years, in immigration custody, separated from his family and community.

CLAIMS FOR RELIEF

COUNT I

Violation of the Immigration and Nationality Act (INA)

62. Petitioners incorporate by reference the allegations set forth in the preceding paragraphs.

63. 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.

64. The application of § 1225(b)(2) to Petitioners unlawfully mandates their continued detention and violates the INA.

COUNT II

Violation of the Bond Regulations

65. Petitioners incorporate by reference the allegations set forth in the preceding paragraphs.

66. 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. 10323 (Mar. 6, 1997) (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.

67. Nonetheless, pursuant to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), Respondents have a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

68. The application of § 1225(b)(2) to Petitioners unlawfully mandates their continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III

Violation of Due Process

69. Petitioners incorporate by reference the allegations set forth in the preceding paragraphs.

70. 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).

71. Petitioners have a fundamental interest in liberty and being free from official restraint.

72. The government’s detention of Petitioners, through Respondents, without a bond redetermination hearing before an Immigration Judge to determine whether they are a flight risk or danger to others violates their right to due process under the law under the Fifth Amendment to the United States Constitution.

PRAYER FOR RELIEF

WHEREFORE, Petitioners pray that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Order that Petitioners shall not be transferred outside the District of New Mexico 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 Petitioners on their own recognizance or, in the alternative, that this Court conduct bond hearings for Petitioners pursuant to 8 U.S.C. § 1226(a) within seven days;

- e. Declare that Petitioners' detention is unlawful;
- f. Award Petitioners 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 this 17th of November, 2025.

/s/ Natalie Cauley
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Attorneys for Petitioners

Verification by Someone Acting on Petitioners' Behalf Pursuant to 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioners because I am one of the Petitioners' attorneys. I have discussed with Petitioners the events described in this Petition. On the basis of those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

/s/ Natalie Cauley
Natalie Cauley

Date: November 17, 2025