

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

JAIME SALINAS MONDRAGON,

Petitioner,

v.

George STERLING, Field Office
Director of Enforcement and Removal
Operations, ATLANTA 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; EXECUTIVE
OFFICE FOR IMMIGRATION
REVIEW; Jason STREEVAL, Warden
of STEWART DETENTION CENTER,

Respondents.

Case No. 4:25-cv-00317

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

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2 1. Petitioner Mr. Jaime Salinas Mondragon is in the physical custody of
3 Respondents at the Stewart Detention Center. He now faces unlawful detention
4 because the Department of Homeland Security (DHS) and the Executive Office of
5 Immigration Review (EOIR) have concluded Petitioner is subject to mandatory
6 detention.
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8 2. Petitioner is charged with, inter alia, having entered the United States
9 without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

10 3. Based on this allegation in Petitioner's removal proceedings, DHS
11 denied Petitioner release from immigration custody, consistent with a new DHS
12 policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement
13 (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e.,
14 those who entered the United States without admission or inspection—to be subject
15 to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released
16 on bond.
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18 4. Similarly, on September 5, 2025, the Board of Immigration Appeals
19 (BIA or Board) issued a precedent decision, binding on all immigration judges,
20 holding that an immigration judge has no authority to consider bond requests for any
21 person who entered the United States without admission. *See Matter of Yajure*
22 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such
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1 individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore
2 ineligible to be released on bond.

3 5. Petitioner's detention on this basis violates the plain language of the
4 Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to
5 individuals like Petitioner who previously entered and are now residing in the United
6 States. Instead, such individuals are subject to a different statute, § 1226(a), that
7 allows for release on conditional parole or bond. That statute expressly applies to
8 people who, like Petitioner, are charged as inadmissible for having entered the
9 United States without inspection.
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11 6. Respondents' new legal interpretation is plainly contrary to the
12 statutory framework and contrary to decades of agency practice applying § 1226(a)
13 to people like Petitioner.
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15 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he
16 be released unless Respondents provide a bond hearing under § 1226(a) within seven
17 days.
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19 **JURISDICTION**

20 8. Petitioner is in the physical custody of Respondents. Petitioner is
21 detained at the Stewart Detention Center in Lumpkin, Georgia
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1 a return “within three days unless for good cause additional time, not exceeding
2 twenty days, is allowed.” *Id.*

3 14. Habeas corpus is “perhaps the most important writ known to the
4 constitutional law . . . affording as it does a *swift* and imperative remedy in all
5 cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)
6 (emphasis added). “The application for the writ usurps the attention and displaces
7 the calendar of the judge or justice who entertains it and receives prompt action
8 from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116,
9 1120 (9th Cir. 2000) (citation omitted).
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11 **PARTIES**

12 15. Petitioner Mr. Jaime Salinas Mondragon is native and citizen of
13 Mexico who has been in immigration detention since October 2, 2025. After
14 arresting Petitioner, ICE did not set bond and Petitioner is unable to obtain review
15 of his custody by an IJ, pursuant to the Board’s decision in *Matter of Yajure*
16 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
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18 16. Respondent George Sterling is the Director of the Atlanta Field
19 Office of ICE’s Enforcement and Removal Operations division. As such, George
20 Sterling is Petitioner’s immediate custodian and is responsible for Petitioner’s
21 detention and removal. He is named in his official capacity.
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1 17. Respondent Kristi Noem is the Secretary of the Department of
2 Homeland Security. She is responsible for the implementation and enforcement of
3 the Immigration and Nationality Act (INA), and oversees ICE, which is
4 responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority
5 over Petitioner and is sued in her official capacity.
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7 18. Respondent Department of Homeland Security (DHS) is the federal
8 agency responsible for implementing and enforcing the INA, including the
9 detention and removal of noncitizens.
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11 19. Respondent Pamela Bondi is the Attorney General of the United
12 States. She is responsible for the Department of Justice, of which the Executive
13 Office for Immigration Review and the immigration court system it operates is a
14 component agency. She is sued in her official capacity.

15 20. Respondent Executive Office for Immigration Review (EOIR) is the
16 federal agency responsible for implementing and enforcing the INA in removal
17 proceedings, including for custody redeterminations in bond hearings.
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19 21. Respondent; Jason Streeval is employed by CoreCivic as Warden of
20 the Stewart Detention Center, where Petitioner is detained. He has immediate
21 physical custody of Petitioner. He is sued in his official capacity.
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LEGAL FRAMEWORK

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

23. 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).

24. 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).

25. 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).

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

27. 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

1 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this
2 year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

3 28. Following the enactment of the IIRIRA, EOIR drafted new regulations
4 explaining that, in general, people who entered the country without inspection were
5 not considered detained under § 1225 and that they were instead detained under §
6 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal
7 of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg.
8 10312, 10323 (Mar. 6, 1997).

9 29. Thus, in the decades that followed, most people who entered without
10 inspection and were placed in standard removal proceedings received bond hearings,
11 unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c).
12 That practice was consistent with many more decades of prior practice, in which
13 noncitizens who were not deemed “arriving” were entitled to a custody hearing
14 before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R.
15 Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the
16 detention authority previously found at § 1252(a)).
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18 30. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new
19 policy that rejected well-established understanding of the statutory framework and
20 reversed decades of practice.
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1 31. The new policy, entitled “Interim Guidance Regarding Detention
2 Authority for Applicants for Admission,”¹ claims that all persons who entered the
3 United States without inspection shall now be subject to mandatory detention
4 provision under § 1225(b)(2)(A). The policy applies regardless of when a person is
5 apprehended and affects those who have resided in the United States for months,
6 years, and even decades.

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

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

17 34. Even before ICE or the BIA introduced these nationwide policies, IJs
18 in the Tacoma, Washington, immigration court stopped providing bond hearings for
19 persons who entered the United States without inspection and who have since
20 resided here. There, the U.S. District Court in the Western District of Washington
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24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 found that such a reading of the INA is likely unlawful and that § 1226(a), not §
2 1225(b), applies to noncitizens who are not apprehended upon arrival to the United
3 States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

4 35. Subsequently, court after court has adopted the same reading of the
5 INA's detention authorities and rejected ICE and EOIR's new interpretation. *See*,
6 *e.g.*, *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7,
7 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025
8 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX
9 DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and*
10 *recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133
11 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
12 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-
13 SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v.*
14 *Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15,
15 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19,
16 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug.
17 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263
18 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025
19 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-
20 KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-
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1 CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27,
2 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL
3 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-
4 DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v.*
5 *Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8,
6 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich.
7 Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D.
8 Mass. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL
9 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that
10 § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-
11 cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same);
12 *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb.
13 Aug. 14, 2025) (same).

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

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

3 38. The text of § 1226 also explicitly applies to people charged as being
4 inadmissible, including those who entered without inspection. *See* 8 U.S.C. §
5 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by
6 default, such people are afforded a bond hearing under subsection (a). As the
7 *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific exceptions’
8 to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute
9 generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
10 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also*
11 *Gomes*, 2025 WL 1869299, at *7.

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

17 40. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry
18 or who recently entered the United States. The statute’s entire framework is
19 premised on inspections at the border of people who are “seeking admission” to the
20 United States. 8 U.S.C.
21 § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
22 detention scheme applies “at the Nation’s borders and ports of entry, where the
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1 Government must determine whether a [noncitizen] seeking to enter the country is
2 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

3 41. Accordingly, the mandatory detention provision of § 1225(b)(2)(A)
4 does not apply to people like Petitioner, who have already entered and were residing
5 in the United States at the time they were apprehended.
6

7 **FACTS**

8 42. Petitioner has resided in the United States since November 1998 and
9 lives in Lilburn, GA.

10 43. On October 2, 2025, Petitioner was arrested mediatly after concluding
11 his court hearing for the driving without a license case. Petitioner is now detained at
12 the Stewart Detention Center.
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14 44. DHS placed Petitioner in removal proceedings before the Stewart
15 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with,
16 *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who
17 entered the United States without inspection.
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19 45. The Petitioner, a native and citizen of Mexico, has established
20 significant equities in the United States, where he has resided continuously since
21 1998, after arriving at approximately 15 years of age. Born on March 27, 1983, he
22 has built his entire adult life, career, and family in this country. He is the proud father
23 of a U.S. citizen child,  Salinas, born on January 17, 2025, who is now
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1 eight months old. The Petitioner lives in a domestic partnership with Daniel's mother,
2 Argelia Hernandez, and together they provide a stable and nurturing home for their
3 son. The child was born with [REDACTED],
4 medical conditions that required surgery and ongoing treatment, underscoring the
5 importance of the Petitioner's continued presence and support in the United States.
6 The Petitioner is a hardworking individual who has been employed as a cook in an
7 Asian restaurant for many years, consistently filing his taxes and contributing to his
8 community. He is also an active member of Our Lady of the Americas Catholic
9 Church and a homeowner, further reflecting his deep ties and commitment to this
10 country. Petitioner is neither a flight risk nor a danger to the community.
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13 46. Following Petitioner's arrest and transfer to the Stewart Detention
14 Center, ICE issued a custody determination to continue Petitioner's detention
15 without an opportunity to post bond or be released on other conditions.

16 47. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable
17 to consider Petitioner's bond request.

18 48. As a result, Petitioner remains in detention. Without relief from this
19 court, he faces the prospect of months, or even years, in immigration custody,
20 separated from their family and community.
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CLAIMS FOR RELIEF

COUNT I
Violation of the INA

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

50. 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.

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

COUNT II
Violation of the Bond Regulations

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

53. 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

1 Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants
2 for admission, [noncitizens] who are present without having been admitted or
3 paroled (formerly referred to as [noncitizens] who entered without inspection) will
4 be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis
5 added). The agencies thus made clear that individuals who had entered without
6 inspection were eligible for consideration for bond and bond hearings before IJs
7 under 8 U.S.C. § 1226 and its implementing regulations.

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

11 55. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
12 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

14 **COUNT III**
15 **Violation of Due Process**

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

18 57. The government may not deprive a person of life, liberty, or property without
19 due process of law. U.S. Const. amend. V. “Freedom from imprisonment—
20 from government custody, detention, or other forms of physical restraint—
21 lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533
22 U.S. 678, 690 (2001).
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1 58. Petitioner has a fundamental interest in liberty and being free from official
2 restraint.

3 59. The government's detention of Petitioner without a bond redetermination
4 hearing to determine whether he is a flight risk or danger to others violates
5 his right to due process.
6

7 **PRAYER FOR RELIEF**

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

- 9 a. Assume jurisdiction over this matter;
- 10 b. Order that Petitioner shall not be transferred outside the Middle District
11 of Georgia while this habeas petition is pending;
- 12 c. Issue an Order to Show Cause ordering Respondents to show cause why
13 this Petition should not be granted within three days;
- 14 d. Issue a Writ of Habeas Corpus requiring that Respondents release
15 Petitioner or, in the alternative, provide Petitioner with a bond hearing
16 pursuant to 8 U.S.C. § 1226(a) within seven days;
- 17 e. Declare that Petitioner's detention is unlawful;
- 18 f. Award Petitioner attorney's fees and costs under the Equal Access to
19 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other
20 basis justified under law; and
- 21 g. Grant any other and further relief that this Court deems just and proper.
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1 DATED this 10th day of October, 2025.

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