

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JUAN MOISES YAC PASTOR,

Petitioner,

v.

Kevin RAYCRAFT, Field Office Acting
Director of Enforcement and Removal
Operations, Detroit 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; THE GEO
GROUP INC., facility operators; John DOE,
Warden of North Lake Correctional Facility (or
his/her successors),

Respondents.

Case No. 25-cv-1301

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner JUAN MOISES YAC PASTOR is in the physical custody of
3 Respondents at the North Lake Correctional Facility. He now faces unlawful detention because
4 the Department of Homeland Security (DHS) and the Executive Office of Immigration Review
5 (EOIR) have concluded Petitioner is subject to mandatory detention.

6 2. Petitioner is charged with, *inter alia*, having entered the United States without
7 inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

8 3. Based on this allegation in Petitioner's removal proceeding, DHS denied
9 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
10 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
11 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
12 inspection—to be an “applicant for admission” under 8 U.S.C. § 1225(b)(2)(A) and therefore
13 subject to mandatory detention.

14 4. Petitioner seeks a bond redetermination hearing before an Immigration Judge of
15 the Executive Office for Immigration Review. However, following *Matter of Yajure Hurtado*, 29
16 I&N Dec. 216 (BIA 2025), EOIR now declines jurisdiction to consider bond for individuals
17 deemed “applicants for admission” under § 1225(b)(2)(A). As a result, despite Petitioner's
18 twenty-six years of continuous residence in the United States, deep family ties, and lack of
19 danger or flight risk, he remains mandatorily detained without any opportunity for individualized
20 review. This categorical denial of bond authority results in indefinite detention without
21 administrative recourse, raising serious constitutional concerns that warrant this Court's
22 intervention under 28 U.S.C. § 2241.

5. Petitioner's 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 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.

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 Petitioner.

7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within fourteen (7) days.

JURISDICTION

8. Petitioner is a resident of Illinois, in the physical custody of Respondents. Petitioner is detained at the North Lake Correctional Facility, 1805 W. 32nd Street, Baldwin, MI, 49304.

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.

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

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 Western District of Michigan, the Southern Division, the judicial district in which Petitioner currently is 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 Southern Division of the Western District of Michigan.

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 petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the 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

1 15. Petitioner JUAN MOISES YAC PASTOR is a citizen of Guatemala who has
2 been in immigration detention since October 21, 2025. After arresting Petitioner in Illinois, ICE
3 did not set bond; to date, an Immigration Judge has not set bond because she was deemed an
4 “applicant for admission.” Petitioner has resided in the United States since he arrived in or
5 around 1999.

6 16. Respondent, Kevin Raycraft, is the Director of the Detroit Field Office of ICE’s
7 Enforcement and Removal Operations division. As such, Kevin Raycraft is Petitioner’s
8 immediate custodian and is responsible for Petitioner’s detention and removal. He is named in
9 his official capacity.

10 17. Respondent Kristi Noem is the Secretary of the Department of Homeland
11 Security. She is responsible for the implementation and enforcement of the Immigration and
12 Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms.
13 Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

17 19. Respondent Pamela Bondi is the Attorney General of the United States. She is
18 responsible for the Department of Justice, of which the Executive Office for Immigration Review
19 and the immigration court system it operates is a component agency. She is sued in her official
20 capacity.

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

21. Respondent The Geo Group, Inc. is the private entity under contract with ICE operating the North Lake Correctional Facility, where Petitioner is detained. They have immediate physical custody of Petitioner. They are sued in their official capacity.

22. Respondent John Doe (or his/her successors) is employed by The Geo Group, Inc. as Warden of the North Lake Correctional Facility, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

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

24. 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).

25. 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).

26. 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).

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

28. 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.

1 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
2 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1,
3 139 Stat. 3 (2025).

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

9 30. Thus, in the decades that followed, most people who entered without inspection
10 and were placed in standard removal proceedings received bond hearings, unless their criminal
11 history rendered them ineligible. That practice was consistent with many more decades of prior
12 practice, in which noncitizens who were not deemed “arriving” were entitled to a custody
13 hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep.
14 No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority
15 previously found at § 1252(a)).

16 31. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
17 rejected well-established understanding of the statutory framework and reversed decades of
18 practice.

19 32. The new policy, entitled “Interim Guidance Regarding Detention Authority for
20 Applicants for Admission,”¹ claims that all persons who entered the United States without
21 inspection shall now be deemed “applicants for admission” under 8 U.S.C. § 1225, and therefore
22 are subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies

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

1 regardless of when a person is apprehended, and affects those who have resided in the United
2 States for months, years, and even decades.

3 33. In a May 22, 2025, unpublished decision from the Board of Immigration Appeals
4 (BIA), EOIR adopts this same position.² That decision holds that all noncitizens who entered the
5 United States without admission or parole are considered applicants for admission and are
6 ineligible for immigration judge bond hearings.

7 34. ICE and EOIR have adopted this position even though federal courts have
8 rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration
9 court stopped providing bond hearings for persons who entered the United States without
10 inspection and who have since resided here, the U.S. District Court in the Western District of
11 Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not §
12 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States.
13 *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24,
14 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass.
15 July 7, 2025) (granting habeas petition based on same conclusion).

16 35. DHS's and DOJ's interpretation defies the INA. As the *Rodriguez Vazquez* court
17 explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b),
18 applies to people like Petitioner.

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

22
23
24 ² Available at <https://nwirp.org/our-work/impact-litigation/assets/vazquez/59-1%20ex%20A%20decision.pdf>.

37. 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*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

38. 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.

39. 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).

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

FACTS

41. Petitioner has resided in the United States since 1999 and lives in Rockford, Illinois with his two U.S. citizen children.

1 42. On or about October 21, 2025, Petitioner was detained in Elgin, Illinois while he
2 was commuting to work. He was processed at the ICE correctional facility in Broadview, IL
3 before being transferred to the North Lake Correctional Facility in Michigan. He is being held at
4 the ICE Detention center in Wayne County, Baldwin, MI, operated by The Geo Group, Inc.

5 43. DHS has not placed Petitioner in removal proceedings before the Detroit
6 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*,
7 being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States
8 without inspection.

9 44. Petitioner is the father of two U.S. citizen children, ages 14 and 1, all of whom
10 depend on him for emotional and financial support. He last entered the United States in 1999 at
11 the age of twenty-three and has lived continuously in this country for approximately twenty-six
12 years. During that time, he has built a stable family and meaningful ties within his community.
13 Petitioner has maintained consistent employment, paid taxes, and contributed positively to his
14 community and his children's school activities. He has no criminal history, has complied with all
15 prior immigration requirements to the best of his ability, and poses neither a flight risk nor any
16 danger to the community.

17 45. Following Petitioner's arrest and transfer to North Lake Correctional Facility, ICE
18 issued a custody determination to continue Petitioner's detention without an opportunity to post
19 bond or be released on other conditions.

20 46. Petitioner has not had any bond redetermination hearing before an IJ and there is
21 no court proceedings attached to her A-number in the EOIR system.

1 47. To date, no IJ has issued a decision that the court lacks jurisdiction to conduct a
2 bond redetermination hearing because Petitioner was an applicant for admission under §
3 1225(b)(2)(A).

4 48. As a result, Petitioner remains in detention. Without relief from this court, he
5 faces the prospect of months, or even years, in immigration custody, separated from his children,
6 family and community.

7 49. Any appeal to the BIA is futile. DHS's new policy was issued "in coordination
8 with DOJ," which oversees the immigration courts. Further, as noted, the most recent
9 unpublished BIA decision on this issue held that persons like Petitioner are subject to mandatory
10 detention as applicants for admission. Finally, in the *Rodriguez Vazquez* litigation, where EOIR
11 and the Attorney General are defendants, DOJ has affirmed its position that individuals like
12 Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A). *See* Mot.
13 to Dismiss, *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC (W.D. Wash. June 6,
14 2025), Dkt. 49 at 27–31.

15
16 **CLAIMS FOR RELIEF**

17 **COUNT I**

18 **Violation of the INA**

19 50. Petitioner incorporates by reference the allegations of fact set forth in the
20 preceding paragraphs.

21 51. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
22 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
23 relevant here, it does not apply to those who previously entered the country and have been
24

1 residing in the United States prior to being apprehended and placed in removal proceedings by
2 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
3 § 1225(b)(1), § 1226(c), or § 1231.

4 52. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued
5 detention and violates the INA.

6
7 **COUNT II**

8
9 **Violation of Due Process**

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

12 54. The government may not deprive a person of life, liberty, or property without due
13 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government
14 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
15 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653
(2001).

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

18 56. The government’s detention of Petitioner without a bond redetermination hearing
19 to determine whether she is a flight risk or danger to others violates her right to due process.

20
21 **PRAYER FOR RELIEF**

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

23 a. Assume jurisdiction over this matter;
24

- 1 b. Issue a writ of habeas corpus requiring that Respondents release Petitioner or
2 provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 7
3 days;
- 4 c. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
5 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
6 law; and
- 7 d. Grant any other and further relief that this Court deems just and proper.

8
9 Dated: October 27, 2025

Respectfully Submitted by:

10 /s/ William A. Quiceno

11 Kempster, Corcoran, Quiceno &
12 Lenz- Calvo, Ltd.
13 332 S. Michigan Avenue, Suite 1428
14 Chicago, IL 60604
15 (312) 341-9730
16 Atty. Code: 6243695