

**IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF VIRGINIA
ALEXANDRIA DIVISION**

JUAN ANGEL ZELAYA ARIAS

Petitioner,

v.

PAMELA BONDI, in her official capacity as U.S. Attorney General; KRISTI NOEM, in her official capacity as U.S. Secretary of Homeland Security; TODD M. LYONS, in his official capacity as Acting Director, U.S. Immigration and Customs Enforcement; JOSEPH SIMON, in his official capacity as Field Office Director of the U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations Washington Field Office; and PAUL PERRY, in his official capacity as warden of the Caroline County Detention Center,
Respondents.

**PETITION FOR A WRIT OF
HABEAS CORPUS**

Case No.

INTRODUCTION

1. Petitioner Juan Angel Zelaya Arias (“Mr. Zelaya Arias”), a native and citizen of Honduras, challenges his unlawful detention by the Department of Homeland Security (“DHS”) because despite having lived in the United States for 20 years, he like so many other has been subjected to the government’s new policy of designating all noncitizens who entered the country without inspection, to mandatory detention under 8 U.S.C. §1225(b)(2)(A).

2. Mr. Zelaya Arias was apprehended by immigration officials for the first time in September 2025 and charged with being present without being admitted or paroled under 8 U.S.C. § 1182 (a)(6)(A)(i) and is being detained without access to a bond hearing, in violation of the

Immigration and Nationality Act, its implementing regulations and the Due Process Clause of the Fifth Amendment.

JURISDICTION AND VENUE

3. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 (the general grant of habeas authority to the district court); Art I § 9, cl. 2 of the U.S. Constitution (“Suspension Clause”); and 28 U.S.C. § 1331 (federal question jurisdiction), and 28 U.S.C. §§2201, 2202 (Declaratory Judgment Act).

4. Federal district courts have jurisdiction to hear habeas claims by noncitizens challenging the lawfulness of their detention. *See e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

5. Administrative exhaustion is unnecessary and would be futile. *See Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542 (E.D. Va. 1999). As explained below, the Board of Immigration Appeals’ decision in *Matter of Yajure Hurtado* precludes Mr. Zelaya Arias’s pursuit of a remedy in immigration court. 29 I&N Dec. 216 (BIA 2025).

6. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at the Caroline Detention Facility. Additionally, a substantial part of the events or omissions that give rise to this action occurred or continue to occur within this division at the Immigration and Customs Enforcement (“ICE”) Washington Field Office in Chantilly, Virginia.

PARTIES

7. Petitioner Juan Angel Zelaya Arias is a native and citizen of Honduras who entered the U.S. in 2005 and has an application for asylum pending. He is currently detained at the Caroline Detention Facility.

8. Respondent Pamela Bondi is the Attorney General of the U.S. She oversees the immigration court system, housed within the Executive Office for Immigration Review (“EOIR”), and includes all immigration judges and the Board of Immigration Appeals (“BIA”). She is sued in her official capacity.

9. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security. DHS oversees ICE, which is responsible for administering and enforcing immigration laws. Secretary Noem is the ultimate legal custodian of Petitioner. She is sued in her official capacity.

10. Respondent Todd Lyons is the Acting Director of ICE, the agency currently detaining Petitioner. He is the individual who issued an order to detain individuals like Petitioner, and also has legal custody over Petitioner. He is sued in his official capacity.

11. Respondent Joseph Simon is the Field Office Director of the ICE Enforcement and Removal Operations (ERO) Washington Field Office and is the federal agent charged with overseeing all ICE detention centers in Virginia, including Caroline Detention Facility. Mr. Simon is the legal custodian of Petitioner. He is sued in his official capacity.

12. Respondent Paul Perry is the Warden of the Caroline Detention Facility, a county jail that contracts with ICE to detain non-citizens. He is responsible for overseeing the administration and management of the Caroline Detention Facility. Mr. Perry is the immediate custodian of Petitioner. He is sued in his official capacity.

FACTUAL ALLEGATIONS

13. Mr. Zelaya Arias is a native and citizen of Honduras. In 2005, he fled his home country due to persecution he faced on a protected ground.

14. In 2005, Mr. Zelaya Arias entered the U.S. without inspection, crossing the U.S. – Mexico border.

15. After arriving in the U.S., Mr. Zelaya Arias settled in Newport News, Virginia, and built a stable life working tirelessly in construction and home remodeling. Mr. Zelaya Arias' four children live in the U.S. and for the past 20 years he has built a business and earned a reputation of being a hardworking and responsible individual. Prior to June 2025, Mr. Zelaya Arias' only encounters with law enforcement involved minor traffic infractions.

16. In June 2025, however, he was arrested for driving under the influence and possession of drug paraphernalia and was sentenced to 180 days with 175 days suspended and 90 days with 90 days suspended, respectively.

17. On September 7, 2025, Mr. Zelaya Arias was apprehended and taken into custody by immigration officials for the first time in his life. Upon his apprehension, ICE charged him with being "present in the United States without being admitted or paroled," pursuant to 8 U.S.C. §1182(a)(6)(A)(i). Ex. A, Notice to Appear.

18. On October 14, 2025, Mr. Zelaya Arias filed an application for asylum, INA withholding of removal, and withholding of removal under the U.N. Convention Against Torture.

Legal Background

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

20. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Generally, noncitizens are entitled to a bond hearing at the outset of their detention. 8 U.S.C. § 1226(a); *see also* 8 C.F.R. §§

1003.19(a), 1236.1(d). However, there are several categories of noncitizens who are subject to mandatory detention under the INA.

21. First, noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, 8 U.S.C. § 1226(c).

22. 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).

23. Last, the INA also provides for detention of noncitizens who have received a final order of removal from the U.S., including individuals in withholding-only proceedings, 8 U.S.C. § 1231(a)–(b).

24. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

25. Following IIRIRA’s enactment, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and were instead detained under § 1226(a), making them eligible to be released on bond. 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) (“Despite 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”).

26. In the decades that followed, most people who entered without inspection and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an immigration judge, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the U.S., even if without inspection, were entitled to a custody hearing before an immigration judge or other hearing officer. *See e.g., Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (discussing Section 1226(a) as the “default rule” for detaining noncitizens “already present in the United States”); *Miranda v. Garland*, 34 F.4th 338, 346 (4th Cir. 2022) (same); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025, at *9 (D. Md. Aug. 24, 2025) (“Since at least 1996, the INA has mandated the detention of arriving aliens and certain criminal non-citizens detained in the United States.”). The Board of Immigration Appeals has long held to this interpretation. For everyone else, 8 U.S.C. § 1226(a) provides DHS the discretion to detain noncitizens, subject to review during a custody hearing before an immigration judge.”); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255, at *9 (E.D. Va. Sept. 19, 2025) (“Before July 8, 2025, ‘DHS’s long-standing interpretation has been that § 1226(a) applie[d] to those who have crossed the border between ports of entry and are shortly thereafter apprehended.’”) (quoting Transcript of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022)). *See also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

27. In the past several months, Respondents have adopted an entirely new interpretation of the statute. On May 22, 2025, the BIA issued an unpublished decision holding that all

noncitizens who entered the U.S. without admission or parole are considered applicants for admission and are therefore ineligible for immigration judge bond hearings under 8 U.S.C. § 1225(b)(2)(A). *Matter of Q. LI*, 29 I&N Dec. 66 (BIA 2025).

28. On July 8, 2025, ICE, in coordination with the Department of Justice (“DOJ”), announced a corresponding policy that rejected the well-established understanding of the statutory and regulatory framework and reversed decades of practice. This policy applies nationwide.

29. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the U.S. without inspection shall now be deemed subject to mandatory detention under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the U.S. for months, years, and even decades.

30. According to news reports, immigration officials within the Trump administration requested this new policy in response to Congress’s recent appropriation of billions of dollars to expand the immigration system, given that ICE will soon have the capacity to detain more than twice as many people on any given day.¹

31. The new policy is reportedly in furtherance of the administration’s mass deportation strategy by seeking to coerce noncitizens to relinquish any relief from deportation they may be entitled to by consenting to their deportation.²

¹ See Michelle Hackman, *New ICE Policy Blocks Detained Migrants From Seeking Bond*, Wall Street Journal (July 15, 2025), <https://www.wsj.com/politics/policy/new-ice-policy-blocks-detained-migrants-from-seeking-bond-f557402a> [<https://perma.cc/K8NY-DAAZ>].

² See Kyle Cheney, *Trump’s new detention policy targets millions of immigrants. Judges keep saying it’s illegal*, Politico (Sept. 20, 2025), <https://www.politico.com/news/2025/09/20/ice-detention-immigration-policy-00573850>; see also DHS, *New Milestone: Over 2 Million Illegal Aliens Out of the United States in Less Than 250 Days* (Sept 23, 2025), <https://www.dhs.gov/news/2025/09/23/new-milestone-over-2-million-illegal-aliens-out-united-states-less-250-days> (“All of these successes will make arresting, detaining, and deporting illegal

32. On September 5, 2025, the BIA issued a second decision seemingly reiterating its holding in *Matter of Q-LI*, that any noncitizen who is present in the U.S. without having been inspected or admitted is subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

33. As instructed by these decisions, the immigration judges sitting in the Annandale Immigration Court, where Mr. Zelaya Arias' immigration case is pending, are now holding that they lack jurisdiction to determine bond for any person who has entered the U.S. without inspection, even if that person has been in the U.S. for years or decades. Instead, consistent with the BIA decisions and the new DHS policy, the immigration judges are concluding that such people are subject to mandatory detention under § 1225(b)(2)(A).

34. Courts in this district have soundly rejected Respondents' attempts to misclassify noncitizens arrested in the interior of the U.S. as subject to mandatory detention under §1225. *See e.g., Luna Quispe v. Crawford*, 2025 WL 2783799 (E.D. Va. Sep. 29, 2025) (Trenga, J.); *Quispe-Ardiles v. Noem*, 2025 WL 2783800 (E.D. Va. Sep. 30, 2025) (Nachmanoff, J.); *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. 2025) (Brinkema, J.); *see also Singh v. Bondi*, 1:25-cv-1525, Dkt. 8 (E.D. Va. Oct. 8, 2025) (Nachmanoff, J.); *Lopez-Sanabria v. Bondi*, 1:25-cv-1511, Dkt. 9 (E.D. Va. Oct. 3, 2025) (same); *Ortiz Ventura v. Noem*, 1:25-cv-1429, Dkt. 16 (E.D. Va. Oct. 2, 2025) (same); *Maldonado Merlos v. Noem*, 1:25-cv-1645, Dkt. 11 (E.D. Va. Oct. 9, 2025) (Brinkema, J.); *Guerra Leon v. Noem*, 1:25-cv-1634, Dkt. 12 (E.D. Va. Oct. 8) (same); *Perez Bibiano v. Lyons*, 1:25-cv-1590, Dkt. 8 (E.D. Va. Oct. 2, 2025) (same); *Diaz Gonzalez v. Lyons*, 1:25-cv-1583, Dkt. 8 (E.D.

aliens more efficient and streamlined than ever before – paving the way to continue the surge in deportations.”).

Va. Oct. 1, 2025) (same); *Gomez Alonzo v. Lyons*, 1:25-cv-1587, Dkt. 16 (E.D. Va. Oct. 1, 2025) (same); *Vargas Nunez v. Lyons*, 1:25-cv-1574, Dkt. 10 (E.D. Va. Oct. 1, 2025) (same).

CLAIMS FOR RELIEF

Count I:

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Bond Redetermination Hearing

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

36. Mr. Zelaya Arias is a noncitizen who has been “already present in the United States” for 20 years prior to his immigration detention. *Jennings*, 583 U.S. at 303. He is not, nor has he ever been classified as an “arriving alien,” has no disqualifying criminal arrests or convictions, and is therefore entitled to a bond redetermination by an immigration judge pursuant to 8 U.S.C. § 1226(a).

37. Upon information and belief, Respondents have misclassified Mr. Zelaya Arias as subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A), and Respondent Bondi and her designees will not give Mr. Zelaya Arias a bond redetermination pursuant to *Q. Li*, 29 I&N Dec. at 66, and *Yajure Hurtado*, 29 I&N Dec. at 216.

38. Respondent’s misclassification of Mr. Zelaya Arias under §1225(b)(2)(A) unlawfully mandates his continued detention and violates the Immigration and Nationality Act.

Count II:

Violation of the Fifth Amendment to the U.S. Constitution

Unlawful Detention

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

40. The Fifth Amendment provides that “[n]o person” shall be “be deprived of life, liberty, or property, without due process of law.”

41. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690.

42. Moreover, “[t]he Due Process Clause applies to all ‘persons’ within the U.S., including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 693.

43. The government’s mandatory detention of Mr. Zelaya Arias without consideration for release on bond or access to a bond hearing violates his due process rights.

Count III:
Violation of the Administrative Procedures Act
Unlawful Denial of Release on Bond

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

45. Courts must “hold unlawful and set aside agency action” that is “arbitrary capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

46. In subjecting Mr. Zelaya Arias to mandatory detention under §1225(b)(2)(A), Respondents have violated the INA, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, and adopted a new policy that contradicts its regulations without providing meaningful notice or opportunity to comment, despite the substantive rights of noncitizens, such as Petitioner.

47. Moreover, Respondents have failed to articulate reasoned explanations for their decisions, which represent changes in the agencies’ policies and positions; have considered factors that Congress did not intend to be considered; have entirely failed to consider important aspects of the problem; and have offered explanations for their decisions that run counter to the evidence before the agencies.

48. The application of 8 U.S.C. §1225(b)(2)(A) to Mr. Zelaya Arias is arbitrary, capricious, and not in accordance with law, and as such violates the APA. *See* 5 U.S.C. §706(2).

PRAYER FOR RELIEF

WHEREFORE, Mr. Zelaya Arias respectfully asks that this Court:

- a. Assume jurisdiction over the matter;
- b. Order that Mr. Zelaya Arias shall not be transferred outside of the Eastern District of Virginia while this case is pending;
- c. Issue a writ of habeas corpus within three days of the filing of this petition, requiring that Respondents show cause why the relief Mr. Zelaya Arias seeks should not be granted, and set a hearing on this matter within five days of Respondents' return on the order to show cause, pursuant to 28 U.S.C. § 2244;
- d. Order Mr. Zelaya Arias' immediate release, subject to any appropriate conditions, or require that he be provided a bond hearing pursuant to 8 U.S.C. §1226(a);
- e. Declare that the continued immigration detention of Mr. Zelaya Arias violates 8 U.S.C. § 1226(a);
- f. Declare that the continued immigration detention of Mr. Zelaya Arias violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution;
- g. Set aside Respondents' unlawful no-bond policy under the APA, 5 U.S.C. § 706(2), as contrary to law, arbitrary and capricious, and contrary to constitutional right;
- h. Grant any other and further relief this Court deems just and proper.

Date: October 29, 2025

Respectfully submitted,

/s/ Tanishka Cruz

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Counsel for Petitioner

CERTIFICATE OF SERVICE

I, Tanishka V. Cruz, Esq., the undersigned, hereby certify that on this date, I uploaded the foregoing, with all attachments thereto, to this court's CM/ECF system, which will send a Notice of Electronic Filing (NEF) to all case participants. I will furthermore send a copy by certified U.S. mail, return receipt requested, to:

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Date: October 29, 2025

Respectfully submitted,

/s/ Tanishka Cruz
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**VERIFICATION BY SOMEONE ACTING ON PETITIONERS' BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioner because I am the attorney for Petitioner. I have discussed with Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: October 29, 2025

Respectfully submitted,

s/ _____

Tanishka V. Cruz