

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Western District of Michigan

Jose Adrian Leon Gonzalez

Petitioner

v.

Angela Dunbar, Warden, North Lake
Processing Center, et al.

Respondent

(name of warden or authorized person having custody of petitioner)

Case No. 25-1510

(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Jose Adrian Leon Gonzalez
- (b) Other names you have used:
2. Place of confinement:
 - (a) Name of institution: North Lake Processing Center
 - (b) Address: 1805 West 32nd St.
Baldwin, MI 49304
 - (c) Your identification number: A 
3. Are you currently being held on orders by:
☒ Federal authorities ☐ State authorities ☐ Other - explain:
U.S. DHS/ICE
4. Are you currently:
☐ A pretrial detainee (waiting for trial on criminal charges)
☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
If you are currently serving a sentence, provide:
 - (a) Name and location of court that sentenced you:
 - (b) Docket number of criminal case:
 - (c) Date of sentencing:☒ Being held on an immigration charge
☐ Other (explain):

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Decision or Action You Are Challenging

5. What are you challenging in this petition:

☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

☐ Pretrial detention

☒ Immigration detention

☐ Detainer

☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)

☐ Disciplinary proceedings

☐ Other (explain):

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: U.S. DHS/ICE, Detroit Field Office, 985 Michigan Avenue, Suite 207, Detroit, MI 48226

(b) Docket number, case number, or opinion number: _____

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Detention with no legal authority to do so, being indefinitely held without a bond hearing

(d) Date of the decision or action: 11/05/2025

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes

☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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(b) If you answered "No," explain why you did not appeal: The Futility Doctrine applies .

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

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- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: No conviction or sentence imposed. This involves ICE placing a person in custody without due process or reason

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes ☐ No

If "Yes," provide:

- (a) Date you were taken into immigration custody: 11/05/2025
(b) Date of the removal or reinstatement order: _____
(c) Did you file an appeal with the Board of Immigration Appeals?

☐ Yes ☒ No

If "Yes," provide:

- (1) Date of filing: _____
(2) Case number: _____
(3) Result: _____
(4) Date of result: _____
(5) Issues raised: _____

- (d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☒ No

If "Yes," provide:

- (1) Name of court: _____
(2) Date of filing: _____
(3) Case number: _____

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(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes

☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application: _____

(b) Name of the authority, agency, or court: _____

(c) Date of filing: _____

(d) Docket number, case number, or opinion number: _____

(e) Result: _____

(f) Date of result: _____

(g) Issues raised: _____

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground.

GROUND ONE: Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

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(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Petitioner is entitled to a bond hearing. Petitioner has not been, and will not be, provided with a bond hearing as required by law. Petitioner's continuing detention is therefore unlawful.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

GROUND TWO: Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19 Unlawful Denial of Release on Bond

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

The agencies have made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under existing regulations. Petitioner's continuing detention is a violation of said regulations.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

GROUND THREE: Violation of 8 U.S.C. § 1252(b)(2) Unlawful Detention Under This Provision

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Upon information and belief, Petitioner has resided in the U.S. since 1983. He is therefore neither an arriving alien nor an alien who is now seeking admission to the United States. Because this statute does not apply to Petitioner, Respondents' detention of him under this provision is unlawful.

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☒ No

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GROUND FOUR: Violation of Fifth Amendment Right to Due Process

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

Prolonged detention without a bond hearing is unconstitutional. Petitioner is being deprived of liberty without a constitutionally adequate process, as ICE has not provided Petitioner an opportunity to contest custody.

(b) Did you present Ground Four in all appeals that were available to you?

☒ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: Ground Five: Petitioner's Release is Mandated by the Castañon-Nava v. DHS Consent Decree, Extended by the Northern District of Illinois on October 7, 2025. No appeals were available for Ground Five.

Request for Relief

15. State exactly what you want the court to do: Assume jurisdiction over this matter; Order that Petitioner not be transferred outside of this District; Issue an Order to Show Cause ordering Respondents to show cause why his Petition should not be granted within three days; Declare that Petitioner's detention is unlawful; Issue a Writ of Habeas Corpus ordering Respondents to release him from custody or provide him with a bond hearing pursuant to 8 U.S.C § 1226(a) or the Due Process Clause within seven days; Award him his attorney's fees and costs; Grant him any further relief.

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Declaration Under Penalty Of Perjury

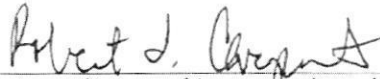
If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date:

11/20/2025

Signature of Petitioner



Signature of Attorney or other authorized person, if any

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION**

Jose Adrian Leon Gonzalez,	)	
	)	
Petitioner,	)	C/A No.
v.	)	
	)	
Angela Dunbar, <i>in her official capacity</i> as	)	PETITION FOR WRIT OF HABEAS CORPUS
Warden of the ERO North Lake	)	AND COMPLAINT FOR DECLARATORY AND
Processing Center, Baldwin, MI,	)	INJUNCTIVE RELIEF
	)	
Robert Lynch, <i>in his official capacity</i> as	)	
ICE Field Office Director of Enforcement	)	A # 
and Removal Operations, Detroit, U.S.	)	
Immigrations and Customs	)	
Enforcement; U.S. Department of	)	
Homeland Security;	)	
	)	
TODD M. LYONS, <i>in his official capacity</i>	)	
as Acting Director, Immigration and	)	
Customs Enforcement, U.S. Department	)	
of Homeland Security;	)	
	)	
KRISTI NOEM, <i>in her official capacity</i> as	)	
Secretary, U.S. Department of Homeland	)	
Security; and	)	
	)	
PAMELA JO BONDI, <i>in her official</i>	)	
<i>capacity</i> as Attorney General of the	)	
United States;	)	
	)	
Respondents.	)	
	)	

INTRODUCTION

1. Petitioner-Plaintiff ("Petitioner") is a citizen of Mexico has resided in the U.S. for more than twenty (20) years. He is a single parent to three children, and widowed as his wife and their mother, passed away in 2020 after suffering a severe seizure. On

information and belief, U.S. Border Patrol agents apprehended him in Chicago, while he was working with his adult son, landscaping. On or around November 5, 2025, ICE agents came onto the private property at which they were working, refused to show a warrant, and forced Mr. Leon Gonzalez into a black SUV, speeding from the scene. They processed him at the Broadview, IL ICE facility, and moved him to the North Lake Processing Center in Baldwin, Lake County, Michigan. ICE issued a Notice to Appear, alleging Leon Gonzalez is an alien present in the US who has not been admitted or paroled. *See Exhibit A, Notice to Appear.* His three children are 21, 15 and 12, with the latter two enjoying US Citizenship. They are the qualifying relatives for his bid for cancellation of removal under INA §240A(b), the relief he will request when released.

2. Petitioner is currently detained at the ERO North Lake Processing Center, in Baldwin, Lake County, Michigan. *See ICE Detainee Locator Results, Exhibit B.*
3. On September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a precedential decision that unlawfully reinterpreted the Immigration and Nationality Act (“INA”). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Prior to this decision, noncitizens like Petitioner who had lived in the U.S. for many years and were apprehended by ICE in the interior of the country were detained pursuant to 8 U.S.C. § 1226(a) and eligible to seek bond hearings before Immigration Judges (“IJs”). Instead, in conflict with nearly thirty years of legal precedent, Petitioner is now considered subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and has no opportunity for release on bond while his removal proceedings are pending. This new interpretation, charging that all immigration judges, practitioners and federal

judges, had it wrong for nearly thirty-years, crumbles upon scrutiny.

4. Petitioner need not seek bond, nor administratively appeal, as it would be futile to do so. ICE has refused to issue a bond to date, and the immigration court is mandated to follow the legally infirm *Hurtado* decision.
5. Petitioner's detention pursuant to § 1225(b)(2)(A) violates the plain language of the INA and its implementing regulations. Petitioner, who has resided in the U.S. for more than twenty years and who was apprehended in the interior of the U.S., should not be considered an "applicant for admission" who is "seeking admission." Rather, he should be detained pursuant 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond.
6. Petitioner seeks declaratory relief that he is subject to detention under § 1226(a) and its implementing regulations and asks that this Court either order Respondents to release Petitioner from custody or provide him with a bond hearing.

CUSTODY

7. Petitioner is currently in the custody of Immigration and Customs Enforcement ("ICE") at the Northlake Correction Center in Baldwin, Michigan. *See* ICE Detainee Locator Results, Exhibit B. He is therefore in "'custody' of [the DHS] within the meaning of the habeas corpus statute." *Jones v. Cunningham*, 371 U.S. 236, 243 (1963).

JURISDICTION

8. This court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et. seq.*

9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et. seq.*, the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).
10. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging both the lawfulness and the constitutionality of their detention. *See Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*
12. Petitioner is "in custody" for the purpose of § 2241 because Petitioner was arrested and detained by Respondents.

VENUE

13. Venue is properly before this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees or officers of the United States acting in their official capacity and because Petitioner is currently detained in Baldwin, Michigan, at the North Lake Processing Center. *See* Exhibit B.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

14. Administrative exhaustion is unnecessary as it would be futile. *See, e.g., Aguilar v. Lewis*, 50 F. Supp. 2d 539, 542-43 (E.D. Va. 1999).
15. It would be futile for Petitioner to seek a custody redetermination hearing before an

I] because of the BIA recent decision holding that anyone who has entered the U.S. without inspection is now considered an “applicant for admission” who is “seeking admission” and therefore subject to mandatory detention under § 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Zaragoza Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sept. 8, 2025) (noting that BIA’s decision in *Yajure Hurtado* renders exhaustion futile).

16. Additionally, the agency does not have jurisdiction to review Petitioner’s claim of unlawful custody in violation of his due process rights, and it would therefore be futile for him to pursue administrative remedies. *Reno v Amer.-Arab Anti-Discrim. Comm.*, 525 U.S. 471, 119 S.Ct. 936, 142 L.Ed.2d 940 (1999) (finding exhaustion to be a “futile exercise because the agency does not have jurisdiction to review” constitutional claims).

PARTIES

17. Petitioner is from Mexico and has resided in the U.S. since 2005. He is currently detained in the Northlake Detention Center in Baldwin, Michigan and has been since he was apprehended in Chicago while working as a landscaper.
18. Respondent Angela Dunbar is sued in her official capacity as Warden of the North Lake Processing Center. In her official capacity, Respondent Angela Dunbar is Petitioner’s immediate custodian.
19. Respondent is sued in his official capacity as Field Office Director, Detroit Field Office, Enforcement and Removal Operations, ICE. In his official capacity, Respondent is the legal custodian of Petitioner.
20. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of ICE. As

the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.

21. Respondent Kristi Noem is sued in her official capacity as Secretary of Homeland Security. As the head of the U.S. Department of Homeland Security, the agency tasked with enforcing immigration laws, Secretary Noem is Petitioner's ultimate legal custodian.

22. Respondent Pamela Jo Bondi is sued in her official capacity as the Attorney General of the United States. As Attorney General, she has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

LEGAL BACKGROUND AND ARGUMENT

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

24. First, individuals detained pursuant to 8 U.S.C. § 1226(a) are generally entitled to a bond hearing, unless they have been arrested, charged with, or convicted of certain crimes and are subject to mandatory detention. *See* 8 U.S.C. §§ 1226(a), 1226(c) (listing grounds for mandatory detention); *see also* 8 C.F.R. §§ 1003.19(a) (immigration judges may review custody determinations made by DHS), 1236.1(d) (same).

25. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) as well as other recent arrivals deemed to be "seeking admission" under § 1225(b)(2).

26. Third, the INA authorizes detention of noncitizens who have received a final order of removal, including those in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)-(b).

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, 300-582 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).
28. Following the enactment of the IIRIRA, the U.S. Department of Justice’s Executive Office of Immigration Review (“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) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formed referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination”).
29. For decades, the vast majority of foreign nationals who entered without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an Immigration Judge (“IJ”), 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 United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that §

1226(a) simply “restates” the detention authority previously found at § 1252(a)).

30. For decades, long-term residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country have been detained pursuant to § 1226 and entitled to bond hearings before an IJ, unless barred from doing so due to their criminal history.

31. In July 2025, however, ICE began asserting that all individuals who entered without inspection should be considered “seeking admission” and therefore subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

32. On September 5, 2025, the BIA issued a precedential decision adopting this interpretation, departing from the INA’s text, federal precedent, and existing regulations. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

33. Defendants’ new legal interpretation is plainly contrary to the statutory framework and its implementing regulations. Indeed, for decades, Defendants had applied § 1226(a) to people like the Petitioner. Defendants’ new policies are thus not only contrary to law, but are arbitrary and capricious in violation of the Administrative Procedure Act (“APA”). They were also adopted without complying with the procedural requirements of the APA.

34. Numerous federal courts have rejected this interpretation and instead have consistently found that § 1226, not § 1225(b)(2), authorizes detention of noncitizens who entered without inspection and were later apprehended in the interior of the country. *See e.g., Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025) (noting court’s disagreement with BIA’s analysis in *Yajure Hurtado*); *Leal-Hernandez v. Noem*, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588

(S.D.N.Y. Aug. 13, 2025); *Jimenez v. FCI Berlin, Warden*, No. 25-cv-326-LM-AJ (D.N.H. Sept. 8, 2025); *Kostak v. Trump*, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Cuevas Guzman v. Andrews*, 2025 WL 2617256, at *3 n.4 (E.D. Cal. Sept. 9, 2025); *see also Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO (HC) (E.D. Cal. Sept. 23, 2025), attached hereto as Exhibit C; *Lopez v. Hardin*, No. 2:25-cv-830-KCD-NPM (M.D. Fla. Sept. 25, 2025), attached hereto as Exhibit D; *Chafra v. Scott*, No. 2:25-cv-00437-SDN (D. Maine Sept. 21, 2025), attached hereto as Exhibit E; and *Juarez Mendez v. Raycroft et al.*, 25-cv-01323 (WD MI, November 18, 2025), attached hereto as Exhibit F.

35. Under the Supreme Court's recent decision in *Loper Bright v. Raimondo*, this Court should independently interpret the statute and give the BIA's expansive interpretation of § 1225(b)(2) no weight, as it conflicts with the statute, regulations, and precedent. 603 U.S. 369 (2024).

36. 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. Following IIRIRA, the Executive Office for Immigration Review ("EOIR") issued regulations clarifying that individuals who entered the country without inspection were not considered detained under § 1225, but rather 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) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

37. The statutory context and structure also make clear that § 1226 applies to individuals who have not been admitted and entered without inspection. In 2025, Congress added new mandatory detention grounds to § 1226(c) that apply only to noncitizens who have not been admitted. *See* The Laken Riley Act, Pub. L. No. 119-1, § 2, 139 Stat. 3, 3 (2025) (8 U.S.C. § 1226(c)(1)(E)).
38. By specifically referencing inadmissibility for entry without inspection under 8 U.S.C. § 1182(6)(A), Congress made clear that such individuals are otherwise covered by § 1226(a). Thus, § 1226 plainly applies to noncitizens charged as inadmissible, including those present without admission or parole.
39. The Supreme Court has explained that § 1225(b) is concerned “primarily [with those] seeking entry,” and is generally imposed “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, 297, 2987 (2018). In contrast, Section 1226 “authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings.” *Id.* at 289 (emphases added).
40. Furthermore, § 1225(b)(2) specifically applies only to those “seeking admission,” and the implementing regulations at 8 C.F.R. § 1.2 address noncitizens who are “coming or attempting to come into the United States.” The use of the present progressive tense would exclude noncitizens like Petitioner who are apprehended in the interior years after they entered, as they are no longer “seeking admission” or “coming [...] into the United States.” *See Martinez v. Hyde*, 2025 WL 2084238 at *6 (D. Mass. July 24, 2025) (citing the use of present and present progressive tense to support

conclusion that INA § 1225(b)(2) does not apply to individuals apprehended in the interior); *see also Al Otro Lado v. McAleenan*, 394 F. Supp. 3d 1168, 1200 (S.D. Cal. 2019) (construing “is arriving” in INA § 235(b)(1)(A)(i) and observing that “[t]he use of the present progressive, like use of the present participle, denotes an ongoing process”).

41. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to Petitioner, who had entered the U.S. approximately twenty (20) years ago.

STATEMENT OF FACTS

42. Petitioner is a citizen of Mexico.

43. Upon information and belief, Petitioner has resided in the U.S. since 2005.

44. Upon information and belief, Petitioner has never been arrested or charged with any crime.

45. He is now detained at The North Lake Processing Center, Balwin, MI. *See* Exhibit B.

46. Without relief from this Court, he faces continued detention without a bond hearing because *Matter of Hurtado* applies squarely and purports to deprive the immigration court of jurisdiction to issue bond.

COUNT I: Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Release on Bond

47. Petitioner restates and realleges all paragraphs as if fully set forth here.

48. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

49. Under § 1226(a) and its associated regulations, Petitioner is entitled to a bond hearing. *See* 8 C.F.R. 236.1(d) & 1003.19(a)-(f).

50. Petitioner has not been, and will not be, provided with a bond hearing as required by law.

51. Petitioner's continuing detention is therefore unlawful.

COUNT II:
Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1 and 1003.19
Unlawful Denial of Release on Bond

52. Petitioner restates and realleges paragraphs 1 to 47 as if fully set forth here.

53. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service ("INS") issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323. 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.

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

COUNT III:
Violation of 8 U.S.C. § 1252(b)(2)
Unlawful Detention Under This Provision

55. Petitioner restates and realleges paragraphs 1 to 47 as if fully set forth here.

56. Title 8 U.S.C. § 1225(b) is concerned primarily with those seeking entry to the United

States and is generally imposed at the Nation's borders and ports of entry, where the Government must determine whether a noncitizen seeking to enter the country is admissible.

57. Upon information and belief, Petitioner has resided in the U.S. since 2005. He is therefore neither an arriving alien nor an alien who is now seeking admission to the United States.

58. Because 8 U.S.C. § 1252(b) does not apply to Petitioner, Respondents' detention of him under this provision is unlawful.

**COUNT IV:
Violation of Fifth Amendment Right to Due Process**

59. Petitioner restates and realleges paragraphs 1 to 47 as if fully set forth here.

60. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V.

61. The Supreme Court has repeatedly emphasized that the Constitution generally requires a hearing before the government deprives a person of liberty or property. *Zinerman v. Burch*, 494 U.S. 113, 127 (1990).

62. Under the *Mathews v. Eldridge* framework, the balance of interests strongly favors Petitioner's release.

63. Petitioner's private interest in freedom from detention is profound. The interest in being free from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004); *see also Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("Freedom from imprisonment—from government custody, detention, or

other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.”).

64. The risk of erroneous deprivation is exceptionally high. Petitioner has never been arrested and has deep ties to the community.

65. The government’s interest in detaining Petitioner without due process is minimal. Immigration detention is civil, not punitive, and may only be used to prevent danger to the community or ensure appearance at immigration proceedings. *See Zadvydas*, 533 U.S. at 690.

66. Furthermore, the “fiscal and administrative burdens” of providing Petitioner with a bond hearing are minimal, particularly when weighed against the significant liberty interests at stake. *See Mathews*, 424 U.S. at 334–35.

67. Considering these factors, Petitioner respectfully requests that this Court order his immediate release from custody or provide him with a bond hearing.

COUNT V:

Petitioner’s Release is Mandated by the *Castañon-Nava v. DHS* Consent Decree, Extended by the Northern District of Illinois on October 7, 2025

68. Petitioner restates and realleges paragraphs 1 to 47 as if fully set forth here.

69. Although Petitioner is currently detained in Baldwin, Michigan, his arrest occurred on November 7, 2025, in Chicago. This fits squarely within the geographic scope of the Chicago Field Office and the class certified in *Castañon-Nava v. DHS*, attached hereto as Exhibit G. In *Castañon-Nava v. DHS*, a settlement class constituting all current and future persons arrested without a warrant for a civil violation of U.S.

immigration laws within the Chicago Field Office's area of responsibility was certified.¹ The procedural protections and legal standards established by the Court should therefore apply to Petitioner.

70. The court in *Castañon-Nava* found that ICE had engaged in a sustained pattern of warrantless field arrests, without individualized probable cause and without following the procedures mandated by the consent decree. On October 7, 2025, the Northern District of Illinois extended the consent decree through February 2, 2026, reaffirming that ICE must comply with the Broadcast and all restrictions on warrantless arrests during the extension period.
71. Petitioner was arrested on November 7, 2025, in Chicago without a warrant, while performing his work as a landscaper. His arrest reflects the same unlawful pattern, and because the agreement specifically governs ICE's conduct within the Chicago Field Office's jurisdiction, he falls within the category of individuals the Court intended to protect. ICE's actions in detaining him mirror the conduct that led the Court to impose and extend the decree: warrantless field arrest without individualized probable cause or adherence to procedural safeguards.
72. Under these circumstances, the reasoning and protections of *Castañon-Nava* should apply to the Petitioner. The court's extension of the consent decree demonstrates that all persons arrested without a warrant in the Chicago area during the extension period are entitled to the same protections. Applying the settlement standards, ICE's arrest of Petitioner was inconsistent with the court-approved procedures, and therefore, his detention is arbitrary, capricious, and unlawful. Moreover, there is nothing on the record to suggest that Petitioner poses a "high public safety risk."
73. Petitioner was simply performing his job as a landscaper when ICE detained him. In the absence of any showing that Petitioner has a criminal history or presents a public safety threat, continued detention is inconsistent with both the procedural

¹ *Castañon-Nava et al. v. Department of Homeland Security et al.*, No. 18-cv-03757, Mem. Op. & Order (N.D. Ill. Oct. 7, 2025).

safeguards and the probable-cause standards reaffirmed by the Court. Relief in the form of immediate release is warranted.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court will:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner not be transferred outside of this District;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why his Petition should not be granted within three days;
- (4) Declare that Petitioner's detention is unlawful;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release him from custody or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) or the Due Process Clause within seven days;
- (6) Award him his attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (7) Grant him any further relief this Court deems just and proper.

Date: November 20, 2025

Respectfully Submitted,

/s/Robert Carpenter

Carpenter & Capt, Chtd.
3073 W. John Beers Rd.
Stevensville, MI 49127
t (312) 803-5110
e rcarpenter@carpenterandcapt.com

Attorney for the Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent the Petitioner, Jose Adrian Leon Gonzalez, and submit this verification on

his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief under 28 U.S.C. § 2242 or under the U.S. Constitution are true and correct to the best of my knowledge.

Dated this 20th day of November, 2025.

/s/Robert Carpenter