UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

TOMAS SALGADO QUEBRADO
Petitioner,

Case No. 1:25-cv-14993

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

ORAL ARGUMENT REQUESTED

Samuel OLSON, Field Office Director of Enforcement and Removal Operations, Chicago Field Office, Immigration and Customs Enforcement, U.S. DEPARTMENT OF HOMELAND SECURITY; Kristi NOEM, Secretary, U.S. Department of Homeland Security; Pamela BONDI, U.S. Attorney General.

Respondents.

INTRODUCTION

1. This petition arises from the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

2. Petitioner Tomas Salgado Quebrado is a resident of Chicago, Illinois.

3. Petitioner came to the United States from Mexico approximately 27 years ago, and has lived and worked in the United States ever since. He lives with his wife and three young United States citizen children, including a young son with autism.

4. On the morning of December 10, 2025, Petitioner was arrested by Immigration and Customs Enforcement (ICE).

5. On information and belief, Petitioner is currently being detained and processed at the Broadview ICE Facility, located at 1930 Beach Street in Broadview, Illinois.

6. After processing, ICE will likely transfer him to a detention facility out of state.

7. Petitioner will not be able to request a bond hearing before an Immigration Judge (IJ) or be released on bond because of a new policy and legal interpretation by ICE and the Department of Justice.

8. The denial of bond is a new policy issued on July 8, 2025,[1] instructing all ICE employees to no longer apply 8 U.S.C. § 1226(a) to people charged with being inadmissible under § 1182(a)(6)(A)(i)—i.e., those who initially entered the United States without inspection. Instead, under the new policy, ICE employees are to subject people like Petitioner to mandatory detention without bond under § 1225(b)(2)(A), no matter how long they have resided in the United States.

9. The policy was joined by Board of Immigration Appeals (BIA) in their precedential decision, *Matter of YAJURE HURTADO,* 29 I & N Dec. 216, issued on September 5, 2025.[2]

10. BIA decisions are binding authority on Immigration Judges and holds that IJs no longer have jurisdiction to hold bond hearings for detained individuals like Petitioner.

11. As a result, Petitioner will remain in mandatory detention. Absent relief from this Court, he faces the prospect of months or years in immigration custody, separated from his family

[1] Available at https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission [https://perma.cc/8SP7-TDDD]

[2] Available at https://www.justice.gov/eoir/media/1413311/dl?inline

and community, and while being deprived an individualized hearing justifying his detention in violation of the INA and Due Process.

12. Respondents' new legal interpretation, which has caused Respondent to be detained without bond, is plainly contrary to the statutory framework of the INA and contrary to both agency regulations and decades of consistent agency practice applying § 1226(a) to people like Respondent. It also violates his right to due process by depriving him of his liberty without any consideration of whether such a deprivation is warranted.

13. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released from custody unless Respondents provide him a bond hearing under § 1226(a) within 3 days.

14. There is no reason to delay issuing the writ until after Petitioner has been transferred to another detention facility.

JURISDICTION

15. 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).

16. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

17. Venue is proper in the Northern District of Illinois under 28 U.S.C. § 2241 and 28 U.S.C. § 1391. Petitioner is detained at the direction, and is in the immediate custody, of

Respondent Samuel Olsen and/or the Warden of ICE Processing Center in Broadview, in this District. *See, Webster v. Daniels,* 784 F.3d 1123, 1144 (7th Cir. 2015).

18. 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 and relevant facts occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

19. 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.*

20. 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

21. Petitioner Tomas Salgado Quebrado is a citizen of Mexico and resident of this District.

22. On information and belief, Petitioner is currently detained for processing at the Broadview ICE facility in Broadview, Illinois.

23. Respondent Samuel Olson is the Acting Director of the Chicago Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Director Olson is

Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

24. Alternatively, the unknown Warden of the Broadview ICE Facility is Petitioner's immediate custodian and is responsible for Petitioner's detention. He is named in his official capacity.

25. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

27. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review (EOIR) and the immigration system it operates is a component agency. She is sued in her official capacity.

28. Respondent Executive Office for Immigration Review is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

FACTS

29. Petitioner Tomas Salgado Quebrado has resided in the United States for the last 27 years and resides in Palatine, Illinois.

30. Petitioner is the father to three minor U.S. citizen children.

31. On information and belief, Petitioner is currently detained at the Broadview Processing Center, located in Broadview, Illinois.

32. On information and belief, ICE charged Petitioner, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

33. Petitioner is neither a flight risk nor a danger to the community. He has lived with his wife in Chicago for nearly two years after fleeing Venezuela due to his fear of being targeted by violence stemming from political upheaval. He has work authorization and has been employed consistently as a delivery driver for multiple employers, working to support himself and his family, including a younger son with autism.

LEGAL FRAMEWORK

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

35. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they are to be removed can be detained but are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d).[3] *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Section 1226(a) is the statute that, for decades, has been applied to people like Petitioner who have been living in the United States and are charged with inadmissibility under § 1182(a)(6)(A)(i).

[3] Section § 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. § 1226(c). That exception is not relevant here – Petitioner has no criminal record.

36. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioner.

37. Third, the INA also provides for detention of noncitizens who have already been ordered removed, *see* 8 U.S.C. § 1231(a)–(b). Section 1231 is not relevant here.

38. This case concerns Respondents' policy as applied towards individuals like Petitioner – namely that he is subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a).

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

40. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997) (explaining that "[d]espite being applicants for admission, [noncitizens] 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.").

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

42. However, on July 8, 2025, ICE, "in coordination with" DOJ, suddenly announced a new governmental policy that rejected the well-established understanding of the statutory framework and reversed decades of agency practice.

43. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States without inspection are subject to mandatory detention without bond under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

44. Further, in a September 5, 2025, decision, the Board of Immigration Appeals (BIA) issued a decision that holds that all noncitizens who entered the United States without admission or parole are ineligible for bond hearings before an immigration judge. *See, Matter of YAJURE HURTADO,* 29 I & N Dec. 216.

45. In particular, the Respondents have determined that immigration judges no longer have jurisdiction to hold bond hearings for noncitizens like Petitioner. The BIA's decision is binding on all immigration judges.

46. This novel interpretation has been roundly rejected by federal district courts almost unanimously. *See, e.g. Sanchez v. Olson*, No. 25 CV 12453, 2025 U.S. Dist. LEXIS 211062, at *7 (N.D. Ill. Oct. 27, 2025)("almost every district court" has rejected DHS/DOJ interpretation); *Vazquez v. Bostock*, 2025 U.S. Dist. LEXIS 193611, 2025 WL 2782499, at *1 (W.D. Wash. Sept. 30, 2025) (collecting cases); *Buenrostro-Mendez v. Bondi*, 2025 U.S. Dist. LEXIS 201967, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025) ("As almost every district court to consider this issue has concluded, the statutory text, the statute's history, Congressional intent, and § 1226(a)'s application for the past three decades support finding that § 1226 applies to these circumstances."))

47. DHS's and DOJ's interpretation defies the INA. As the above courts explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

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

49. 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).

50. 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.

51. 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). *See Jennings*, 583 U.S. at 287 (explaining 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.").

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

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

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

54. 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.

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

COUNT II
Violation of Due Process

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

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

58. Petitioner has a fundamental interest in liberty and being free from official restraint.

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

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents release Petitioner from custody immediately,

c. or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 3 days;

d. Enjoin Respondents from transferring the Petitioner from the jurisdiction of this District pending these proceedings;

e. Declare that 8 U.S.C. § 1226(a)—and not 8 U.S.C. § 1225(b)(2)(A) — is the appropriate statutory provision that governs Petitioner detention and eligibility for

bond because he is not a recent arrival "seeking admission" to the United States, and instead was already residing in the United States when he was apprehended and charged as inadmissible for having allegedly entered the United States without inspection;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

Dated: December 10, 2025

Respectfully submitted,

/s/ Michael Drew
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Attorneys for Petitioner

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have either independently confirmed the events described in this Petition and Complaint or discussed the events with Petitioner's family. On the basis of those discussions and my own investigation, I hereby verify that the statements made in this Petition and Complaint are true and correct to the best of my knowledge.

/s/ Michael Drew

Attorney for Petitioner