UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION

Frander Reyes-Carazo Petitioner, v. SAM OLSON Field Office Director of Enforcement and Removal Operations, Chicago 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, WARDEN DOE, Warden of Broadview Processing Center Respondents.	Case No. 1:25-cv-15062 **PETITION FOR WRIT OF HABEAS CORPUS** **ORAL ARGUMENT REQUESTED**

INTRODUCTION

1. Petitioner Frander Reyes-Carazo ("Petitioner" or "Mr. Reyes-Carazo") is in the physical custody of Respondents at the Broadview Processing Center in Chicago, Illinois. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review ("EOIR") of the Department of Justice (DOJ) have erroneously concluded Petitioner is subject to mandatory detention.

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

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

4. Any request by Petitioner for bond determination before EOIR would be futile. DHS's policy states that it was developed "in coordination with the Department of Justice," and in a recent published decision by the Board of Immigration Appeals (BIA), *Matter of Yajure Hurtado,* 29*I&N* Dec. 216 (BIA

2025). Respondent EOIR adopted the same position as DHS, classifying noncitizens like Petitioner as applicants for admission and statutorily ineligible for bond under § 1225(b)(2)(A).

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. Respondent's 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. Further, Plaintiff fears that he will be transferred to another jurisdiction by Respondents in an effort to move him away from legal counsel,[1] which also threatens to separate him from his family, community, and his participation as a plaintiff in a federal lawsuit which is presently proceeding in the Northern District of Illinois.

[1] Eric Levenson and Gloria Pazmino, *Why ICE Is Really Moving Detainees Over A Thousand Miles from Where They Were Arrested*, CNN, (Apr. 10, 2025), https://www.cnn.com/2025/04/10/us/immigration-detainees-trump-ice-students-visa;

8. Accordingly, Petitioner seeks an order prohibiting Respondents from transferring Petitioner outside of the state of Illinois, holding that to do so would be a violation of the Due Process Clause of the Fifth Amendment to the United States Constitution and also an Order to Show Cause requiring that the Petitioner be released unless Respondents provide a bond hearing under § 1226 (a) within fourteen days.

JURISDICTION

9. The petitioner is in the physical custody of Respondents. Petitioner is detained at the Broadview Processing Center, located at 1930 Beach Street in Broadview, Illinois.

10. This Court has jurisdiction under 28 U.S.C § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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

VENUE

12. 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 Northern District of Illinois, the judicial district in which Petitioner currently is detained.

13. Venue is also properly in the 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 Northern District of Illinois.

REQUIREMENTS OF 28 U.S.C. § 2243

14. 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.*

15. 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 in 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

16. Petitioner Frander Reyes-Carazo, is a citizen of Nicaragua who has been in immigration detention since December 10, 2025, and on information and belief,

Mr. Frander Reyes Carazo is currently detained at the Broadview Processing Center in Broadview, Illinois, under the direct control of Respondents and their agents.

17. Respondent SAM OLSON is the Director of the Chicago Field Office of ICE's Enforcement and Removal Operations division. As such, Respondent Olson is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

18. Respondent KRISTI NOEM is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (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.

19. 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.

20. 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 and the immigration court system it operates is a component agency. She is sued in her official capacity.

21. 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.

22. On information and belief, Respondent WARDEN DOE is employed by the Department of Homeland Security as Warden of the Broadview Processing Center, located at 1930 Beach Street in Broadview, Illinois, where Petitioner is detained. This individual has immediate physical custody of Petitioner. Respondent WARDEN DOE is sued in their 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 immigration judge ("IJ"). See 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 §§ 122 (a) and 1225(b) and 1225(b)(2).

28. The detention provisions at *§* 1226(a) and *§* 1225 (b)(2) were enacted as part of Illegal Immigration 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).

29. Following the 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. 10312, 10323 (Mar. 6, 1997).

30. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, 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)).

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

32. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"2 claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention provision 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.

33. On September 5, 2025, the Board of Immigration Appeals (BIA) issued a published decision adopting this same position. See *Matter of Yajure Hurtado,* 29 I&N Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings.

34. ICE and EOIR have adopted this position even though numerous federal courts have rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington[2] found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash.* Apr. 24, 2025*); see also Gomes v. Hyde, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D.Mass. July 7, 2025) (granting habeas petition based on same conclusion); see also Gomes v. Hyde, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (*same*).* Accordingly, federal courts have roundly rejected Respondents' erroneous interpretation of the INA since ICE implemented its July 8, 2025 memo. *See Martinez V. Hyde,* CV-2511613-BEM, 2025 WL 2084238 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis,* No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug.13, 2025); *Garcia Jimenez v. Kramer,* No. 4:25-cv-03162-JFB-RCC, 2025 WL 2374223 (D. Neb. Aug. 14, 2025); *Aguilar Maldonado v. Olson,* No.25-CV-3142 (SRN/SGE), 2025 WL 2374411 (D. Minn. Aug. 15,

[2] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

2025); *Arrazola-Gonzalez v Noem,* 5:25-cv-01789-ODW-DFM, 2025 WL 2379285 (C.D. CA Aug 15, 2025); *Jacinto v.Trump, et al.,* 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 (D. Neb. August 19, 2025); *Leal- Hernandez v. Noem* 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Minn. Aug. 24, 2025); *Herrera Torralba v. Knight,* 2:25-cv-03166-RFB-DJA (D. Nev. Sep. 5, 2025).

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

36. 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]."

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 2023 and lives in Illinois.

42. Around December 10, 2025, Petitioner was arrested by ICE officers in Chicago at his ICE check in appointment without a warrant, and potentially in violation of the *Nava* Settlement.

43. As of December 11, 2025, Petitioner is detained at the Broadview Processing Center, located at 1930 Beach Street in Broadview, Illinois.

45. Petitioner has a pending I-589 Application for Asylum and for Withholding of Removal timely filed with Immigration Court. As far as undersigned counsel is aware, he has no criminal history.

47. Petitioner is neither a flight risk nor a danger to the community.

49. Following Petitioner's arrest and incarceration at the Broadview Processing Center, he has not been given the opportunity to post bond or be released on other conditions.

50. Any request for bond redetermination before EOIR is futile, as the BIA recently held in a published decision that persons like Petitioner are subject to mandatory detention as applicants for admission under § 1225(b)(2)(A).

51. As a result, Petitioner remains in mandatory detention. Absent relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community, and without the ability to prosecute the civil rights claims currently pending before a court in this district while being

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

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

53. 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.

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

COUNT II

Violation of Due Process

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

56. 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).

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

58. 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 an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.

c. Declare that transfer of Petitioner outside of the jurisdiction of the United States and the state of Illinois violates the Due Process Clause of the Fifth Amendment, and 8 U.S.C. § 1229a(b)(4)(A), 8 U.S.C. § 1362, 8 C.F.R. § 292.5, 8 C.F.R. § 1292.1, and, 8 C.F.R. § 1003.61.

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner

provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within three days;

e. 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

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

Dated: December 11, 2025

Respectfully submitted,
By: /s/ Isuf Kola
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VERIFICATION PURSUANT 28 U.S.C. § 2242

I represent Petitioner Frander Reyes-Carazo, and I submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dates this 11th day of December, 2025

_____/*s*/Isuf Kola_____
Attorney for the Petitioner