

UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Allan Esau Esquivel Barnica,

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Petitioner,

§

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V.

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KRISTI NOEM, Secretary of the United States
Department of Homeland Security;

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PAMELA BONDI, United States Attorney
General;

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Civil Case No. 1:26-cv-00074

MIGUEL VERGARA, San Antonio Field Office
Director for Enforcement and Removal, U.S.

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Immigration and Customs Enforcement,

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Department of Homeland Security;

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CHARLOTTE COLLINS, Warden, T. Don Hutto
Detention Center, Taylor, Texas;

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UNITED STATES DEPARTMENT OF
HOMELAND SECURITY;

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UNITED STATES IMMIGRATION AND
CUSTOMS ENFORCEMENT;

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EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW;

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Respondents.

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241

1. The U.S. Department of Homeland Security (“DHS”) and the U.S. Department of Justice (“DOJ”) have recently reversed decades of settled immigration practice by denying immigration bond hearings to individuals like Petitioner, who was arrested inside the United States. This reversal is based on the Board of Immigration Appeals' precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), issued on September 5, 2025.

2. Under longstanding practice, individuals arrested inside the United States are subject to detention under 8 U.S.C. § 1226, which generally allows for release on bond during removal proceedings. However, following *Matter of Yajure Hurtado*, DHS and DOJ are classifying such individuals as subject to 8 U.S.C. § 1225, which does not provide for bond hearings, based solely on their initial entry without inspection—often years or decades ago. This misclassification is contrary to nearly 30 years of law and practice post-IIRIRA and is being applied uniformly, including in Texas.

3. As a result, DHS is unlawfully detaining Petitioner without the possibility of release or a bond hearing, despite legal requirements for such under § 1226. Multiple federal courts nationwide, including in Texas, have ruled against this interpretation. See, e.g., *Turcios Blanco v. Noem*, No. 1:25-CV-02111-RP (W.D. Tex. Jan. 12, 2026) (habeas granted); *Rojas Vargas v. Bondi*, No. 1:25-cv-01699-DAE (W.D. Tex. Nov. 5, 2025); *Gonzalez Guerrero v. Noem*, No. 1:25-CV-1334-RP (W.D. Tex. Oct. 27, 2025); *Hernandez-Ramiro v. Bondi*, No. 5:25-cv-01207-XR (W.D. Tex. Oct. 15, 2025); *Padron Covarrubias v. Vergara*, No. 5:25-CV-112 (S.D. Tex. Oct. 8, 2025); *Buenrostro-Mendez v. Bondi*, No. 4:25-cv-03726 (S.D. Tex. Oct. 7, 2025). DHS and DOJ continue to violate statutory, regulatory, and constitutional rights through this policy. Petitioner brings this action to prevent unlawful deprivation of liberty without due process.

4. Additionally, DOJ and DHS are willfully defying federal court orders. On December 18, 2025, in *Maldonado Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025), a district court granted final judgment declaring that noncitizens in the Bond Eligible Class are not subject to mandatory detention and are entitled to release on bond by immigration officers or a custody determination hearing before an Immigration Judge. The district court vacated DHS's policy classifying noncitizens arrested within the United States as "applicants for admission" under 8 U.S.C. § 1225(b). The Bond Eligible Class consists of all noncitizens in the United States without lawful status who entered or will enter without inspection, were not or will not be apprehended upon arrival, and are not or will not be subject to mandatory detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time of DHS's initial custody determination. Nonetheless, Immigration Judges claim no jurisdiction because the ruling did not vacate *Matter of Yajure Hurtado*, is not binding, and is under appeal.

5. Therefore, Petitioner Allan Esau Esquivel Barnica, through counsel, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to challenge his unlawful detention without bond by Immigration and Customs Enforcement (ICE) at the T. Don Hutto Detention Center, Taylor, Texas. Petitioner seeks immediate release on a reasonable bond and conditions. This petition raises constitutional claims and pure questions of law, over which this Court has jurisdiction.

I. INTRODUCTION

6. Petitioner, an 18-year-old citizen of Honduras, entered the United States on or about June 7, 2022, at the age of 15. He has resided continuously in the Austin, Texas area since then.

7. Petitioner filed an I-360 Petition for Special Immigrant Juvenile Status (SIJS) on May 30, 2025, which remains pending (receipt dated July 7, 2025). The petition is based on state court findings of abandonment, placing him in the sole managing conservatorship of his mother, Jenny Leticia Barnica Rodriguez, making it *prima facie* approvable.

8. On July 6, 2025, Petitioner was arrested in Travis County, Texas, for aggravated assault with a deadly weapon (Cause No. D-1-DC-25-205276). The charge was dismissed on October 30, 2025. The following day, October 31, 2025, Petitioner was transferred to ICE custody, and removal proceedings were reinstituted. He has been detained at T. Don Hutto since.

9. On September 5, 2025, the BIA issued *Matter of Yajure Hurtado*, interpreting § 1225(b) to mandate detention for all "applicants for admission," including EWIs who are long-term residents apprehended in the interior years after entry. This violates the INA and Fifth Amendment due process.

10. In light of this unlawful practice, Petitioner cannot seek a bond redetermination hearing before an Immigration Judge or the BIA, as they claim no jurisdiction. The only remedy is this Court's order for release on reasonable bond and conditions.

II. JURISDICTION AND VENUE

11. Petitioner is in physical custody at T. Don Hutto Detention Center, Taylor, Texas.

12. This action arises under the U.S. Constitution and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101–1537.

13. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question) to review the lawfulness of Petitioner's detention, raising Fifth

Amendment due process violations and pure questions of law (whether DOJ defies federal orders and whether *Yajure Hurtado*'s interpretation of § 1225(b) is erroneous, as detention is governed by § 1226(a)).

14. Venue is proper in the Western District of Texas, as Petitioner is detained in Taylor, Texas.

III. EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. No statutory exhaustion is required for § 2241 habeas petitions.

16. Under *Matter of Yajure Hurtado*, Immigration Judges lack jurisdiction to hear bond requests for noncitizens present without admission or parole, classified as "applicants for admission" under § 1225(b)(2)(A). No administrative remedies are available.

IV. FACTUAL ALLEGATIONS AND IRREPARABLE HARM

17. Petitioner's ongoing detention causes irreparable harm. He has significant positive equities: entered the U.S. as a minor at age 15, state court findings of abandonment, pending SIJS providing a viable pathway to lawful status, over three years of continuous residence in Texas, and the criminal charge leading to his ICE transfer dismissed with no resulting conviction.

V. CLAIMS FOR RELIEF

A. Violation of the INA

18. Mandatory detention under § 1225(b)(2) does not apply to long-term EWI residents like Petitioner, who should be detained under § 1226(a) with bond eligibility. Application of § 1225(b)(2) violates the INA.

B. Violation of Bond Regulations

19. Post-IIRIRA interim rule (62 Fed. Reg. 10323) confirms EWIs are eligible for bond under § 1226. DHS's policy violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

C. Violation of Federal Court Orders

20. DOJ and DHS defy *Maldonado Bautista*'s judgment vacating the policy.

Petitioner is a class member, entitled to bond consideration.

D. Violation of Due Process

21. Detention without bond opportunity deprives liberty without due process. U.S. Const. amend. V; *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

VI. RELIEF REQUESTED

Petitioner prays that this Court:

- (a) Assume jurisdiction;
- (b) Order no transfer outside the Western District while pending;
- (c) Issue Order to Show Cause within three days under 28 U.S.C. § 2243;
- (d) Issue writ ordering immediate release on reasonable bond and conditions;
- (e) Declare detention unlawful;
- (g) Grant other just relief.

I declare under penalty of perjury that the information is true and correct.

Respectfully submitted, January 12, 2026.



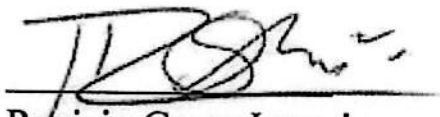
Patricio Garza Izaguirre
Attorney for the Petitioner
Garza & Narvaez, PLLC
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Austin, TX 78752
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CERTIFICATE OF SERVICE

I, Patricio Garza Izaguirre, certify that on this date a true and correct copy of this **EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**, and all the attached documents described in the index above, were served to the following by the CM/ECF system:

1. KRISTI NOEM, Secretary of the United States Department of Homeland Security;
2. PAMELA BONDI, United States Attorney General;
3. MIGUEL VERGARA, San Antonio Field Office Director for Enforcement and Removal, U.S. Immigration and Customs Enforcement, Department of Homeland Security;
4. CHARLOTTE COLLINS, Warden, T. Don Hutto Detention Center, Taylor, Texas;
5. UNITED STATES DEPARTMENT OF HOMELAND SECURITY;
6. UNITED STATES IMMIGRATION AND CUSTOMS ENFORCEMENT;
7. EXECUTIVE OFFICE FOR IMMIGRATION REVIEW

On December 22, 2025


Patricio Garza Izaguirre
Attorney for the Petitioner

Garza & Narvaez, PLLC
7600 Chevy Chase Dr - STE 118
Austin, TX 78752

TX SBN 24087568

EXHIBITS:

- A. I-360 Receipt Notice (July 7, 2025)
- B. Order Dismissing Criminal Charge (Oct. 30, 2025)
- C. Notice to Appear (Aug. 3, 2022)
- D. Letters from attorneys supporting an order of release.b d