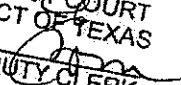


FILED
JAN 14 2026
JUDGE LEON SCHYDLER
U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY 
DEPUTY CLERK

UNITED STATES DISTRICT COURT
[WESTERN DISTRICT OF TEXAS]
[EL PASO DIVISION]

Chuanping Sun,

Petitioner,

v.

JOEL GARCIA, *in his official capacity as Field Office Director of El Paso, Immigration and Customs Enforcement*; KRISTI NOEM, *in her official capacity as Secretary of the U.S. Department of Homeland Security*; PAMELA BONDI, *in her official capacity as Attorney General of the United States*; SCARLET GRANT, *in her official capacity as Warden, Ero El Paso Camp East Montana*; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,

Respondents.

Case No. 1:25-cv-

PETITION FOR WRIT OF
HABEAS CORPUS

EP 26 CV 0050

INTRODUCTION

1. Petitioner, Chuanping Sun, is in the physical custody of Respondents at Ero El Paso Camp East Montana, 6920 Digital Road, El Paso, TX 79936. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

4. ICE's detention of Petitioner is arbitrary, unsupported by statute, unconstitutional, and effectuated without any procedural safeguards. This Court should immediately order his release with adequate procedural protections. ICE's conduct fails to comply basic procedural protections required under the Constitution. *Mathews v. Eldridge*, 424 U.S. 319 (1976).

5. Accordingly, Petitioner seeks a writ of habeas corpus ordering his immediate release from custody.

JURISDICTION

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at Ero El Paso Camp East Montana at 6920 Digital Road, El Paso, TX 79936.

7. 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).

8. 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

9. 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 Western District of Texas, the judicial district in which Petitioner currently is detained.

10. 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 occurred in the Western District of Texas.

REQUIREMENTS OF 28 U.S.C. § 2243

11. 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, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

12. 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

13. Petitioner Chuanping Sun is a citizen of China who has been detained by Immigration and Customs Enforcement (“ICE”) since October 27, 2025, following his arrest at US Highway 27 & Kings Ridge Blvd, Clermont, FL 34711.

14. Defendant Scarlet Grant is the Warden of Ero El Paso Camp East Montana, located within this division of this District. In that capacity, he is the immediate physical custodian of Petitioner. Warden Grant is sued in her official capacity.

15. Defendant Joel Garcia is the Field Office Director of Immigration Customs Enforcement for the El Paso office. In that capacity, Director Garcia oversees all ICE activities within the El Paso region, which includes Western District of Texas. Director Garcia is sued in his official capacity.

16. 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.

17. 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.

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

LEGAL FRAMEWORK

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 IJ. *See* 8 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).

21. 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).

22. 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).

23. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

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(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

25. 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).

26. 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 pursuant to 8 U.S.C. § 1226(c). 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)).

27. As recently as January 2025, the Laken Riley Act was enacted. This law amended the mandatory detention provision of INA § 236(c) to apply to aliens who are inadmissible under INA § 212(a)(6)(A), and were arrested for, convicted of, or committed a class of crimes related to theft or injury.² If the intent was for aliens charged under INA § 212(a)(6)(A) to be detained under INA § 235, then amending the provisions of INA § 236(c) in this manner would have been unnecessary. Likewise, “[w]hen Congress creates “specific exceptions” to a statute’s applicability, it “proves” that absent those exceptions, the statute generally applies. *Rodriguez Vazquez vs Bostock*, 2025 WL1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). A contrary interpretation would override the purpose of the statute. *See Yao v. Almodovar*, No. 25-cv-9982 (PAE), at 18 (S.D.N.Y. Dec. 17, 2025) (finding that such interpretation of the Laken Riley Act “is at odds with modern-day principle of statutory construction. A foundational tenet of such is that the purpose of a statute as derived from the statements of legislators *cannot* override its plain text.”) (emphasis included) citing *W. Va. Univ. Hosps., Inc. v. Casey*, 499 U.S. 83, 111 (1991) (Scalia, J.); *Conn. Nat’l Bank v. Germain*, 503 U.S.

249, 253–54 (1992) (Thomas, J.); John F. Manning, *Textualism and the Equity of the Statute*, 101 Colum. L. Rev. 1, 6–7 (2001)

28. 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.

29. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ claims that all persons who entered the United States without inspection shall now be 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.

30. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

31. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

32. Even before ICE or the BIA introduced these nationwide policies, 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. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not

¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

33. Subsequently, numerous federal courts adopted the same interpretation of the INA's detention provisions and rejected ICE and EOIR's contrary construction. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.

Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at 2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at 3 (D. Neb. Aug. 19, 2025) *Id.*; *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at 2 (D. Neb. Aug. 14, 2025) *Id.*

34. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

35. 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[ed] the inadmissibility or deportability of [all] [noncitizen].”

36. 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.

37. 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 [all] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

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

39. Although a person present without admission may be classified as an “applicant for admission,” that status does not make them a person “seeking admission” under § 1225(b). Treating those terms as synonymous collapses two separate concepts Congress deliberately distinguished. Because Petitioner resides in the United States and is in standard § 1229a proceedings, his detention is authorized, if at all, under § 1226(a). Applying § 1225(b)(2)(A) to individuals in Petitioner’s circumstances would disregard the statutory structure and render superfluous. *See Yao v. Almodovar*, No. 25-cv-9982 (PAE), at 11-13 (S.D.N.Y. Dec. 17, 2025) (holding that “as a matter of statutory construction [...] § 1225 applies to arriving noncitizens, and § 1226 governs the process of arresting and detaining noncitizens who have entered the United States and remained here pending their removal.”) citing *J.G.O.*, 2025 WL 3040142, at *4; *Esperanza*, 2025 WL 3513983, at *5–6; *Tumba Huamani*, 2025 WL 3079014, at *3–4; *Cardenas v. Almodovar*, No. 25 Civ. 9169, 2025 WL 3215573, at *2 (S.D.N.Y. Nov. 18, 2025). A noncitizen “cannot be subject to both §§ 1225 and 1226.” *Lopez Benitez*, 795 F. Supp. 3d at 485; *see also Villegas*, 2025 WL 3215597, at *2; *Campbell v. Almodovar*, No. 25 Civ. 9509, 2025 WL 3538351, at *1 (S.D.N.Y. Dec. 10, 2025); *Gonzalez*, 2025 WL 2961626, at *4.

Recent Persuasive Authority Further Confirms the Unlawfulness of DHS’s § 1225 Detention Policy

40. A recent merits decision addressing the same DHS detention policy at issue here confirms that the government’s reliance on 8 U.S.C. § 1225(b)(2)(A) to detain noncitizens arrested inside the United States is contrary to law. In *Lazaro Maldonado Bautista et al. v.*

Santacruz, No. 5:25-cv-01873-SSS-BFM, the district court granted partial summary judgment invalidating DHS's July 8, 2025 policy, which directed ICE to treat noncitizens arrested in the interior of the United States and charged as inadmissible as subject to mandatory detention under § 1225 rather than discretionary detention under § 1226(a).

41. Under the certified class definition, noncitizens are class members if they: (1) entered the United States without inspection; (2) were not apprehended upon arrival; and (3) are not detained under § 1226(c), § 1225(b)(1), or § 1231 at the time DHS made their initial custody determination. The *Maldonado* court emphasized that the statutory inquiry is governed by longstanding principles of immigration detention: for decades, EWIs not apprehended at the border were treated as individuals detained under § 1226(a), eligible for individualized custody determinations and bond hearings.

42. The court explained that applying § 1225(b)(2)(A) to noncitizens arrested long after entry would effectively nullify § 1226(a) and conflict with the structure and text of the INA. Section 1226(a), the court emphasized, has long functioned as the default detention authority for noncitizens already present in the United States and placed in removal proceedings under 8 U.S.C. § 1229a. Interpreting § 1225 to govern such detention would improperly collapse two distinct statutory regimes and erase the role Congress assigned to § 1226(a).

43. The court also rejected the government's reliance on *Jennings v. Rodriguez*, 583 U.S. 281 (2018). As the court explained, *Jennings* expressly recognized § 1226(a) as authorizing detention of noncitizens already in the United States pending the outcome of removal proceedings and did not support DHS's attempt to subject interior arrests to mandatory detention under § 1225. *See Maldonado Bautista* at 16–17 (citing *Jennings* at 289). Applying traditional tools of statutory interpretation, the court concluded that DHS's expansive interpretation of

“applicants for admission” would impermissibly nullify portions of the INA through executive reinterpretation, a result incompatible with separation-of-powers principles. *Id.* at 19 (citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024)). In reaching that conclusion, the court emphasized that § 1226 nowhere employs the terms “applicant for admission,” “admission,” or “admitted” in the manner DHS sought to import from § 1225, underscoring that Congress intentionally assigned different functions to the two provisions. *Id.* at 19.

44. Finally, the court carefully delineated the scope of the relief it was authorized to grant. In the concluding portion of its order, the court clarified that its ruling was not intended to mandate habeas relief for all class members nationwide, and that any classwide order compelling government compliance on a national basis would implicate the limitations set forth in 8 U.S.C. § 1252(f)(1). *Id.* at *23. That limitation, however, does not diminish the relevance of the court’s statutory and constitutional analysis here. Petitioner does not seek classwide or nationwide relief, nor does he ask this Court to enjoin the operation of the immigration laws. Rather, Petitioner seeks only individualized habeas relief under 28 U.S.C. § 2241 based on the unlawfulness of his own detention. Section 1252(f)(1) does not bar such relief, and the court’s careful adherence to that provision in *Maldonado Bautista* underscores that its conclusions regarding the meaning of §1225 and §1226, the misreading of *Jennings*, and the due process deficiencies of DHS’s policy were reached independently of any request for nationwide injunctive relief.

FACTS

45. On information and belief Although the Notice to Appear alleges entry at an unknown date, Petitioner has resided in the United States since approximately October 18, 2017. Petitioner currently resides at  New York 

46. On information and belief, on October 27, 2025, Petitioner was stopped by local traffic police in Clermont and was subsequently transferred into the custody of ICE. Petitioner is presently detained at Ero El Paso Camp East Montana located at 6920 Digital Road, El Paso, TX 79936.

47. DHS placed Petitioner in removal proceedings before the New York Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

48. Petitioner is employed at a restaurant in New York and maintains a stable source of income and a fixed residence. He is a person of good moral character and has never had any criminal record. Petitioner's wife and sister both reside in the United States, and he maintains close family ties within the country. Petitioner is neither a flight risk nor a danger to the community.

50. According to official ICE Detainee Locator System, Petitioner is presently detained at Ero El Paso Camp East Montana, 6920 Digital Road, El Paso, TX 79936, within the jurisdiction of this Court. A true and correct copy of this record is attached hereto as **Exhibit A**.

49. ICE served Petitioner with a Notice to Appear (NTA) initiating removal proceedings under 8 U.S.C. § 1229(a). The NTA charges Petitioner as removable under the INA and was filed with the EOIR in New York. A true and correct copy of the NTA is attached hereto as **Exhibit B**.

50. Petitioner is included as a derivative beneficiary on his wife's pending Form I-589, Application for Asylum and for Withholding of Removal, which was filed prior to his detention and remains pending. Petitioner has a Master Calendar Hearing scheduled for March

13, 2026, at 8:30 a.m. This pending application reflects that Petitioner is actively pursuing lawful relief from removal. A true and correct copy of the Automated Case Information screenshot reflecting the pending asylum application is attached hereto as **Exhibit C**.

51. On November 19, 2025, and December 10, 2025, Petitioner sought bond hearings before an Immigration Judge; however, on both occasions, the Immigration Judge denied the requests for lack of jurisdiction pursuant to *Matter of Yajure Hurtado*. A true and correct copy of the Immigration Judge's bond decisions are attached hereto as **Exhibit D**.

52. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from their family and community.

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 government's own custody paperwork frequently cites § 1226 as the basis for detention, reflecting the longstanding agency practice and regulatory understanding that individuals in Petitioner's posture fall under § 1226(a). Attempts to recharacterize detention

under §1225(b) only after litigation begins deserve little weight, as agencies must justify their actions on the grounds they relied on at the time the action was taken. A shifting litigation position cannot retroactively validate a detention that was never grounded in §1225(b) to begin with.

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

COUNT II
Violation of the Bond Regulations

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

58. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service 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 (emphasis added). 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.

59. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

60. 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 Due Process

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

62. 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 (2001).

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

64. 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.

65. Petitioner’s detention violates the Due Process Clause because ICE re-detained Petitioner at a routine check-in without providing any of the procedural safeguards required when the government seeks to deprive an individual of liberty. The Supreme Court’s framework in *Mathews v. Eldridge*, 424 U.S. 319 (1976), governs this analysis. Under *Mathews*, courts balance three considerations: the weight of the private interest at stake, the risk of erroneous deprivation under existing procedures and the value of additional safeguards, and the government’s interest in avoiding additional procedures. Each factor strongly favors Petitioner and demonstrates that the detention is unconstitutional.

66. Even if the statutory question were settled, Petitioner’s detention violates the Constitution. The Due Process Clause prohibits the government from depriving a person of physical liberty without procedural safeguards. Detention at a routine check-in, imposed without

notice, without an individualized assessment of risk, and without any opportunity to be heard, is fundamentally incompatible with constitutional requirements.

EXHAUSTION

67. Petitioner has satisfied any applicable exhaustion requirement. Petitioner affirmatively sought a custody redetermination hearing before the Immigration Court. The Immigration Judge denied the request not on the merits, but on the ground that the Immigration Court lacked jurisdiction to conduct a bond hearing under the government's asserted detention authority. Where an immigration judge expressly declines jurisdiction, no further administrative remedy is available to exhaust, and requiring additional pursuit of administrative review would be futile. Under these circumstances, prudential exhaustion is satisfied.

68. There is no statutory requirement that an immigration detainee exhaust administrative remedies, including an appeal of a bond determination to the BIA, before seeking habeas relief under 28 U.S.C. § 2241. Courts in this District have repeatedly held that exhaustion in immigration-detention habeas cases is a judicially-created, prudential doctrine, not a jurisdictional bar. *See Nolasco Rodriguez v. Decker*, 507 F. Supp. 3d 179 (S.D.N.Y. 2020). Under the doctrine of exhaustion of administrative remedies, "a party may not seek federal judicial review of an adverse administrative determination until the party has first sought all possible relief within the agency itself." *Howell v. I.N.S.*, 72 F.3d 288, 291 (2d Cir. 1995) (quoting *Guitard v. U.S. Sec'y of Navy*, 967 F.2d 737, 740 (2d Cir. 1992)).

69. Because Congress has imposed no statutory exhaustion requirement on habeas challenges to immigration detention, courts in this District treat exhaustion as a judicially-created prudential standard rather than a mandatory prerequisite. *Joseph v. Decker*, No. 18-cv-2640

(RA), 2018 WL 6075067, at *5 (S.D.N.Y. Nov. 21, 2018); *see also Beharry v. Ashcroft*, 329 F.3d 51, 62 (2d Cir. 2003). Further, failure to exhaust administrative remedies may be excused “when such exhaustion would be futile or where the agency has predetermined the issue before it.” *Rosenthal v. Killian*, 667 F. Supp. 2d 364, 366 (S.D.N.Y. 2009) (quoting *Garcia v. Shanahan*, 615 F. Supp. 2d 175, 180 (S.D.N.Y. 2009)); *see also Beharry*, 329 F.3d at 62. Failing to attempt to use administrative remedies is not necessarily dispositive of the exhaustion question if the ultimate outcome of such administrative remedies would be futile. *Velasco Lopez v. Decker*, No. 19-cv -2912 (ALC), 2019 WL 2655806, at *2 (S.D.N.Y. May 15, 2019) (excusing exhaustion on futility grounds though petitioner had not appealed to the BIA); *see also Garcia v. Decker*, No. 20-cv -1345 (LJL), 2020 WL 1435007, at *8 (S.D.N.Y. Mar. 24, 2020); Joseph, 2018 WL 6075067, at *5.

70. Given this binding precedent, pursuing an administrative appeal would serve no practical purpose. Exhaustion is unnecessary “where the agency’s position appears already set and recourse to administrative remedies is very likely futile.” *Vasquez-Rodriguez v. Garland*, 7 F.4th (9th Cir. 2021). Because immigration judges are bound by BIA decisions, *Hurtado* forecloses any finding of jurisdiction to consider custody redetermination for noncitizens in Petitioner’s position. As a result, only judicial intervention can remove the barrier imposed by *Hurtado* and permit Petitioner to meaningfully pursue the administrative remedies otherwise available to her.

71. Likewise, a bond hearing is not a realistic or adequate remedy for Petitioner. The record demonstrates an ongoing pattern of violations by the agency. In practice, immigration bond hearings are routinely denied on boilerplate findings that a detainee is a “flight risk” or

“danger to the community,” even where the detainee has strong family, community, and legal ties to the United States and is actively pursuing relief from removal.

72. That risk is compounded in Petitioner’s case. As a practical matter, a detained noncitizen cannot marshal the type of corroborative evidence that immigration courts routinely expect within a very short window. Obtaining character letters from employers, landlords, pastors, community members, or friends requires time, mail or electronic communication, translation, and, frequently, notarization. Petitioner has been given only a very short window in which to request and collect such letters, while simultaneously trying to communicate with counsel and navigate detention-facility restrictions on phone calls, email, and visitation. Under these conditions, “preparing” for a bond hearing is largely illusory: the detainee appears in court without the documentary support that could demonstrate ties to the community and rebut generalized assertions of flight risk or dangerousness.

73. Requiring Petitioner to pursue further bond proceedings or to exhaust an appeal to the BIA before seeking habeas relief would inflict precisely the sort of irreparable harm that prudential exhaustion is designed to avoid. Each additional day of detention constitutes an ongoing deprivation of liberty; and as in *Nolasco Rodriguez*, the BIA’s settled legal position on the relevant bond-hearing standards means that the outcome of any appeal is foreordained.

74. For all of these reasons, Petitioner respectfully submits that he is not required to exhaust further bond-hearing remedies before seeking habeas relief in this Court. In the alternative, to the extent any exhaustion requirement applies, this Court should excuse exhaustion on the grounds of futility, inadequacy of the bond-hearing process, and the ongoing irreparable harm caused by Petitioner’s continued detention.

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 Petitioner's detention is unlawful;
- d. Order that, upon release, Respondents shall not impose any electronic monitoring, location-tracking device, GPS ankle bracelet, or any other form of surveillance-based conditions on Petitioner;
- 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: January 12, 2026

LAW OFFICE OF NG & WASSERMAN PLLC

/s/ Richard C. Jones

By: Richard Jones
LAW OFFICE OF NG&WASSERMAN PLLC
27 East Broadway, 2nd Floor
New York, NY 10002
Telephone: (212) 925-5616
richard.jones@ngwasserman.com

EXHIBIT A

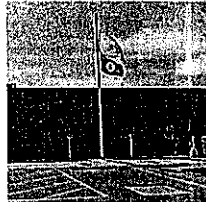


[← BACK TO RESULTS](#)

Facility Page

Detention Information For:

QINGLANG REN
Country of Birth: China, Peoples Republic of
A-Number: 



Current Detention Facility:

OTERO COUNTY PROCESSING CENTER
26 MCGREGOR RANGE ROAD
CHAPARRAL, NM 88001
Visitor Information: (575) 824-0440

[MORE INFORMATION >](#)

ERO Office Information

Family members and legal representatives may be able to obtain additional information about this individual's case by contacting this ERO office:

ERO - Otero County Processing Center
Phone Number: (575) 824-0440

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Helpful Info

[Status of a Case](#)
[About the Detainee Locator](#)
[Brochure](#)
[ICE ERO Field Offices](#)
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[Bureau of Prisons Inmate Locator](#)

EXHIBIT B

U.S. Department of Homeland Security

Notice to Appear

In removal proceedings under section 240 of the Immigration and Nationality Act:

File No:

In the Matter of:

Respondent: CHUANPING SUN currently residing at:
[REDACTED], ORLANDO, FL [REDACTED]
 (Number, street, city and ZIP code) (Area code and phone number)

- ☐ 1. You are an arriving alien.
☒ 2. You are an alien present in the United States who has not been admitted or paroled.
☐ 3. You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that:

1. You are not a citizen or national of the United States.
2. You are a native of "China, Peoples Republic Of" and a citizen of "China, Peoples Republic Of" .
3. You entered the United States at or near an Unknown POE on or about an Unknown DOE.
4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an Immigration judge of the United States Department of Justice at:

3535 LAWTON ROAD, SUITE 200 ORLANDO, FL 32803

(Complete Address of Immigration Court, including Room Number, if any)

on 08-01-2019 at 08:30 AM to show why you should not be removed from the United States based on the
 (Date) (Time)

change(s) set forth above.



(Signature and Title of Issuing Officer)

Date: 5/7/19

Miami FL

(City and State)

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are under removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents, which you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing.

At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear and that you are inadmissible or removable on the charges contained in the Notice to Appear. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the Immigration Judge.

You will be advised by the Immigration Judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of departure voluntarily. You will be given a reasonable opportunity to make any such application to the Immigration Judge.

Failure to appear: You are required to provide the DHS, in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the Department of Homeland Security immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the Immigration Judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act (the Act).

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise DHS by calling the ICE Law Enforcement Support Center toll free at (855)448-6903.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office of Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an Immigration Judge and request my hearing be scheduled.

Before:

(Signature of Respondent)

Date:

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on 05-09-2019, in the following manner and in compliance with section 239(a)(1) of the Act.

☐ in person ☐ by certified mail, returned receipt # _____ requested ☒ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

(Signature and Title of Officer)

EXHIBIT C

1/8/26, 11:16 AM

Automated Case Information

An official website of the United States government [Here's how you know](#) ✓



EOIR | Automated Case Information

Court Closures Today: January 8, 2026

Please check <https://www.justice.gov/eoir-operational-status> for up to date closures.[Home](#) > SUN, CHUANPING

Automated Case Information

Name: SUN, CHUANPING | A-Number:

Next Hearing Information

Your upcoming MASTER hearing is on March 13, 2026 at 8:30 AM.

JUDGE

Luryo, Maria

COURT ADDRESS26 FEDERAL PLZ, 12TH FL RM1237
NEW YORK, NY 10278

Court Decision and Motion Information

This case is pending.

BIA Case Information

No appeal was received for this case.

Court Contact Information

If you require further information regarding your case, or wish to file additional documents, please contact the immigration court.

COURT ADDRESS26 FEDERAL PLZ 12TH FL RM 1237
NEW YORK, NY 10278**PHONE NUMBER**

(212) 602-6500

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5107 Leesburg Pike, Suite 2600, Falls Church, VA 22041

EOIR | Automated Case Information

EXHIBIT



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
MIAMI KROME IMMIGRATION COURT**

Respondent Name:

CHUANPING, SUN

To:

Braithwaite, John Andrew
5060 W. Colonial Dr
Ste 101A
Orlando, FL 32808

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

11/19/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☒ Denied, because

No jurisdiction - Matter of YAJURE HURTADO, 29 I&N Dec. 216 (BIA 2025)

☐ Granted. It is ordered that Respondent be:

☐ released from custody on his own recognizance.

☐ released from custody under bond of \$

☐ other:

☐ Other:



Immigration Judge: LERNER, ROMY 11/19/2025

Appeal: Department of Homeland Security: ☒ waived ☐ reserved
Respondent: ☐ waived ☒ reserved

Appeal Due: 12/19/2025

Certificate of Service

This document was served:

Via: [M] Mail | [P] Personal Service | [E] Electronic Service | [U] Address Unavailable

To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : CHUANPING, SUN | A-Number : 

Riders:

Date: 11/19/2025 By: Murgado, Letty, Court Staff



**UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
EL PASO SPC IMMIGRATION COURT**

Respondent Name:

CHUANPING, SUN

To:

Braithwaite, John Andrew
5060 W. Colonial Dr
Ste 101A
Orlando, FL 32808

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

12/10/2025

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

☒ Denied, because

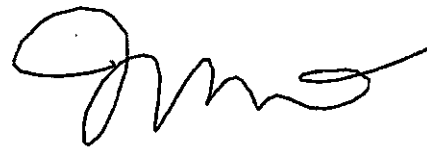
The respondent was previously denied bond based on Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). The respondent is charged inadmissible under INA 212(a) (6)(A)(i). The respondent does not dispute his entry without inspection or admission. The respondent has not demonstrated a material change in circumstances that would allow for a second custody determination. To the extent that the respondent believes that the ongoing litigation in Central District of California in Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr. et. al., 5:cv-01873 presents a material change, the Court finds it does not.

It is clear from the terms of the class certification in Central District of California in Lazaro Maldonado Bautista et al v. Ernesto Santacruz Jr. et. al., 5:cv-01873 that the partial order for summary judgment applies to all class members, which includes the respondent. See Order Certifying Class, 14. However, where the order is not a final judgment, the order does not yet have binding effect and may be revisited or revised by the Court at any time. Fed. R. Civ. Pro. R. 54(b). Given the order entered by the Central District of California is an order for partial summary judgment, it is not a final judgment and therefore not binding on the parties until a final judgment is entered. E.g. FDIC v. Massingill, 24 F.3d 768 (5th Cir. 1994); see Fed. R. Civ. Pro. R. 54(a) (defining a judgment as "an order from which an appeal lies"). An order for partial summary judgment is not a final judgment because it is interlocutory in nature and has no res judicata effect. Id.; Fed. R. Civ. Pro. Rule 54(b); see also Calpetco 1981 v. Marshall Expl., Inc., 989 F.2d 1408, 1414 (5th Cir. 1993) ("Because a partial summary judgment is interlocutory in nature, the district court retains the discretion to revise it; and we review only for abuse of that discretion.")

Accordingly, the Court finds that Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), remains in effect and this Court does not have jurisdiction over these bond proceedings.

- ☐ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
 - ☐ released from custody under bond of \$
 - ☐ other:

☐ Other:



Immigration Judge: MILES, JESSICA 12/10/2025

Appeal: Department of Homeland Security: ☐ waived ☒ reserved
Respondent: ☐ waived ☒ reserved
Appeal Due: 01/09/2026

Certificate of Service

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To: [] Alien | [] Alien c/o custodial officer | [E] Alien atty/rep. | [E] DHS

Respondent Name : CHUANPING, SUN | A-Number : 

Riders:

Date: 12/10/2025 By: BARRAGAN, JUAN, Court Staff