

**UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION**

JUAN NAVARRO-LARA

Petitioner

-against-

KRISTI NOEM, IN HER OFFICIAL
CAPACITY, SECRETARY, U.S.
DEPARTMENT OF HOMELAND
SECURITY

PAMELA BONDI, IN HER OFFICIAL
CAPACITY,
U.S. ATTORNEY GENERAL

TODD LYONS, IN HIS OFFICIAL
CAPACITY, ACTING DIRECTOR,
IMMIGRATION AND CUSTOMS
ENFORCEMENT

CHARLOTTE COLLINS, WARDEN IN
HER OFFICIAL CAPACITY, DON T.
HUTTO DETENTION CENTER

SYLVESTER ORTEGA, IN HIS
OFFICIAL CAPACITY ICE FIELD
OFFICE DIRECTOR DETENTION
AND REMOVAL

Respondents.

**PETITION FOR
WRIT OF HABEAS CORPUS**

Case No: 1:26-cv-218

PETITIONER'S RESPONSE TO RESPONDENTS' ANSWER

Introduction

Petitioner submits this response to the Government's Answer and renews his request for habeas relief. The Government's position rests on the erroneous premise that Petitioner's detention is governed by 8 U.S.C. § 1225(b)(2) and that the immigration court lacks jurisdiction to conduct a custody redetermination, thereby foreclosing any bond hearing. As set forth in the Petition, Petitioner was apprehended in the interior, is in § 1229a proceedings, and—consistent with longstanding practice and governing regulations—his custody falls under § 1226(a), which provides for release on bond or recognizance and confers jurisdiction for bond redeterminations. No further analysis of danger to the community or flight risk is appropriate unless and until jurisdiction is recognized and a bond hearing is available; the threshold jurisdictional question is dispositive here.

Procedural Posture and Core Dispute

Petitioner was stopped in Texas on November 25, 2025; DHS initiated § 1229a proceedings the next day. On January 6, 2026, the IJ denied a bond redetermination for lack of jurisdiction under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) with an alternative finding on flight risk. Petitioner's Master Calendar is set for February 3, 2026. He remains detained at the Don T. Hutto facility. The Government's Answer defends the no-jurisdiction position by invoking the July 8, 2025 DHS policy that categorizes all "applicants for admission" as subject to § 1225(b) and ineligible for bond.

Argument

I. Petitioner's detention is governed by § 1226(a), not § 1225(b)(2)

For decades following IIRIRA, EOIR and INS made clear that noncitizens present without admission who are apprehended in the interior and placed in § 1229a proceedings are detained under § 1226(a) and eligible for bond and bond redeterminations. That interpretation was codified and consistently applied prior to the July 8, 2025 policy shift. Petitioner falls squarely within § 1226(a). The Government's reliance on the July 8, 2025 memo cannot override the statutory scheme and longstanding regulations.

2. Immigration Judge jurisdiction to redetermine custody exists under § 1226(a) and 8

C.F.R. § 236.1

Under § 236.1, ICE makes the initial custody determination, and an IJ is authorized to redetermine custody status, including release and bond amount, for detainees under § 1226(a). The IJ's dismissal for lack of jurisdiction contradicts these regulations as applied to interior arrests in § 1229a proceedings. The cited limitation in 8 C.F.R. § 1003.19(h) is inappropriate because Petitioner is not in expedited removal and is not subject to § 1226(c) mandatory detention. Further, the agencies' 1997 interim rule preserved eligibility for bond redetermination for those present without admission and detained under § 1226(a). The Government's Answer does not reconcile its position with this regulatory history.

3. The July 8, 2025 DHS policy cannot convert § 1226(a) custody into § 1225(b)(2) mandatory detention for all interior arrests

The memo asserts that all "applicants for admission" are detainable only under § 235(b) and ineligible for bond, and directs cancellation of prior I-286 custody determinations. Applying the memo to Petitioner unlawfully mandates continued detention and violates the INA and implementing regulations.

4. The Court has habeas jurisdiction to correct the erroneous application of detention authority and restore access to a bond redetermination forum

The Petition invokes 28 U.S.C. § 2241 and the Suspension Clause; habeas lies to remedy custody that violates the Constitution or laws of the United States, including erroneous application or interpretation of relevant law. Here, the relief sought is to place Petitioner under § 1226(a) and to recognize the availability of a custody redetermination consistent with the regulations.

5. No further danger or flight-risk analysis is proper until jurisdiction is recognized

Because the Government's position is that no bond jurisdiction exists, the antecedent question for this Court is which detention authority applies and whether the IJ has jurisdiction. Only upon recognition of § 1226(a) custody and IJ jurisdiction do danger and flight risk become relevant in a bond proceeding. The IJ's alternative finding on flight risk was ultra vires if jurisdiction was lacking, and in any event, this Court should not reach any discretionary bond factors while resolving the purely legal question of detention authority and jurisdiction.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

1. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
2. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.

3. In the alternative, order Respondents to conduct a Constitutional hearing before an independent examiner where the Government bears the burden of proof to demonstrate by clear and convincing evidence why Petitioner should not be released and whether Petitioner presents a flight risk or a danger to the community.
4. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
5. Grant any further relief this Court deems just and proper.

Dated: February 6th, 2026

Respectfully Submitted,

/s/ DAVID H. SQUARE

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CERTIFICATE OF SERVICE

I hereby certify that on February 6, 2026, I caused the foregoing document to be electronically filed with the Clerk of the Court for the United States District Court for the Western District of Texas by using the CM/ECF system.

/s/ David H. Square

David H. Square