

Lucia Curiel, Esq.
The Law Office of Mark Kinzler, P.C.
PO Box 684309
Austin, TX 78768
(512) 402-7999
lucia@kinzlerimmigration.com
Attorney for Petitioner

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

OTONIEL CASAS-MONDRAGON,

Petitioner,

v.

CHARLOTTE COLLINS, Facility Warden of
T. Don Hutto Detention Center,

KRISTI NOEM, Secretary of the U.S.
Department of Homeland Security; and

PAMELA BONDI, Attorney General
of the United States, in their official capacities,

Respondents.

)
)
) Case No. 1:26-cv-00231
)
)
)

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Otoniel Casas-Mondragon, is in the physical custody of Respondents at the T. Don Hutto Detention Center in Taylor, Texas. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Federal district courts across the nation have reached a clear consensus: Section 1225(b) does not apply to Petitioner's circumstances, and Respondents' reliance on this inapplicable statute renders his detention unlawful. Because Petitioner cannot be detained under Section 1225(b), the only lawful basis for continued detention would be Section 1226—which provides for individualized bond determinations. However, Respondents do not assert they are detaining Petitioner under Section 1226. By detaining Petitioner under a statute that does not authorize his detention while simultaneously refusing to apply the statute that does, Respondents hold him in unlawful custody. Petitioner is therefore entitled to immediate release.
3. **Immediate release is the appropriate remedy because, as is detailed below, the systematic transformation of the immigration court from a neutral adjudicatory body into an instrument of the administration's enforcement agenda has rendered it structurally incapable of providing Petitioner with the impartial tribunal and individualized assessment that a custody redetermination under 1226(a) and due process requires.** The evidence of EOIR's institutional capture falls into five categories: (1) the ongoing mass-scale purge of immigration judges perceived as obstacles to DHS' enforcement agenda; (2) the parallel purge and reconstitution of the BIA, resulting in a 97% pro-government decision rate; (3) the recruitment and installation of explicitly enforcement-aligned "deportation judges" with dramatically reduced qualifications; (4) EOIR policy directives establishing expectations that adjudications favor the government over noncitizens; and (5) explicit instructions to defy district court rulings that impede DHS's enforcement goals. In this new compromised context, Immigration Judges are

systematically denying bond on pretextual grounds that bear no relationship to individualized risk assessments, rendering a bond hearing an illusory remedy.

4. In the alternative, the Court should conduct its own bail hearing. At a minimum, if the Court declines to order release or conduct its own hearing, it should order a bond hearing before an immigration judge with explicit procedural safeguards and retain jurisdiction to review the determination to ensure compliance with due process.

JURISDICTION

5. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
6. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
7. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
8. Here, Petitioner challenges the legality of his detention, asserting that he is held in violation of both the Constitution and federal immigration statutes. Such claims fall squarely within the habeas jurisdiction of federal district courts. None of the jurisdiction stripping provisions found at 8 U.S.C. § 1252(a)(2)(A), § 1252(g) and § 1252(b)(9) apply.
9. Federal district courts have consistently held that these jurisdictional bars do not preclude habeas review of the proper application of INA detention provisions. *See Vieira v. De Anda-Ybarra*, No. EP-25-CV-00432-DB, 2025 WL 2937880, at *2-4 (W.D. Tex. Oct. 16, 2025) (finding a case 'falls squarely outside' the jurisdictional bars where Petitioner was

only 'challenging whether certain INA provisions require him detention without a bond hearing'); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *4 (W.D. Tex. Sept. 22, 2025) (rejecting government's jurisdictional arguments); *Mo-Rales v. Thompson*, No. SA-25-CV-01391-JKP, 2025 WL 3470871, at *2-4 (W.D. Tex. Nov. 21, 2025) (same); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *4 (D. Mass. July 7, 2025) (same); *Castellanos v. Kaiser*, No. 25-CV-07962, 2025 WL 2689853, at *4 (N.D. Cal. Sept. 18, 2025) (same). As these courts have recognized, habeas jurisdiction exists to review whether the government is detaining a noncitizen under the correct statutory authority and with adequate procedural protections. That is precisely the question presented here.

VENUE

10. Venue is proper with this Court because Petitioner is detained at the T. Don Hutto Detention Center in Williamson County, which is within the jurisdiction of this District.

REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).
12. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

13. Petitioner, Otoniel Casas-Mondragon, is a citizen of Mexico who has resided in the United States for approximately ten years. He is currently detained at the T. Don Hutto Detention Center. He is in the custody, and under the direct control, of Respondents and their agents.
14. Respondent Charlotte Collins, Warden of the T. Don Hutto Detention Center, has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.
15. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention / custody. Respondent Noem is a legal custodian of Petitioner.
16. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

17. Petitioner is a citizen of Mexico who entered the U.S. without inspection. He has resided continuously in the United States for approximately ten years and has built a life and a home here. Prior to his detention, he lived with his U.S. citizen wife and their U.S. citizen child.
18. Petitioner is currently detained by DHS at the T. Don Hutto Detention Center. *See Exhibit A - ICE Detainee Locator Results.* Despite his long-term presence, DHS insists that it is detaining Petitioner under 8 U.S.C. § 1225(b) and he is therefore ineligible for release on bond. Petitioner, however, was not apprehended at the border and does not fit the statutory definition of an ‘applicant for admission’ covered by § 1225(b) because, among other things, he was not “seeking admission” at the time of his detention by DHS. This position has been validated by the Board of Immigration Appeals. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)
19. The government's radical reinterpretation of Petitioner's detention authority corresponds with an equally radical transformation of the immigration court system. In the last year, the Department of Justice (“DOJ”) and its sub-agencies, the Executive Office for Immigration Review (“EOIR”) and the Board of Immigration Appeals (“BIA”), in apparent coordination with the Department of Homeland Security (“DHS”) have systematically dismantled the integrity of the immigration court system to turn it into an extension of DHS’ deportation and detention operations.
20. In the words of former New York IJ, George Pappas: *“I can tell you that today, the immigration courts are substantively dead. They are completely absent of due process. Of fair hearings. They exist only for show, and in name only. Period. The courts are dead. If*

you're concerned about doing due process of fair hearings, they're gone. So we can start from that position.”¹

21. The evidence of EOIR's institutional capture falls into five categories, each independently sufficient to establish bias, but together demonstrating systematic destruction of judicial independence: (1) the ongoing mass-scale purge of immigration judges perceived as obstacles to DHS' enforcement agenda; (2) the parallel purge and reconstitution of the BIA, resulting in a 97% pro-government decision rate; (3) the recruitment and installation of explicitly enforcement-aligned "deportation judges" with dramatically reduced qualifications; (4) EOIR policy directives establishing expectations that adjudications favor the government over noncitizens; and (5) explicit instructions to defy district court rulings that impede DHS's enforcement goals.

The Ongoing, Mass-Scale Purge of Immigration Judges Perceived as Obstacles to Enforcement Agenda

22. As of September 26, 2025, the administration has terminated 128 immigration judges (“IJs”).² Former IJ David K.S. Kim explained the targeting criteria: “I do not know the exact reason for my termination, but most of those dismissed, including myself, were judges with high asylum approval rates.”³ This is not the complaint of disgruntled employees—these are career jurists with decades of combined experience who resigned or spoke out publicly rather than compromise judicial ethics.

23. The terminated and resigned judges report three consistent themes. **First, explicit pressure to serve as instruments of mass deportation rather than neutral**

¹ Radley Balko, “The courts are dead.” *An interview with a fired immigration judge*, The Watch (Jan. 8, 2026), <https://radleybalko.substack.com/p/the-courts-are-dead-an-interview>.

² *Trump Administration Continues Firing Immigration Judges* IFPTE responds, IFPTE (Sept. 26, 2025), <https://www.ifpte.org/news/trump-administration-continues-firing-immigration-judges-ifpte-responds#hsr>.

³ Woo-Sun Lim, *Former judge highlights legal failures in U.S. worker detentions*, The Dong-A Ilbo (Sept. 20, 2025), <https://www.donga.com/en/article/all/20250920/5859412/1>.

adjudicators. Former Baltimore IJ Emmett Soper stated: "I think the current administration of the immigration courts does not fundamentally see the immigration courts as neutral decision-makers. I think that they see the immigration courts as a tool for this administration to advance its policy objectives."⁴ Former IJ Jeremiah Johnson similarly understood "the hint that they should be hearing cases a certain way, deciding cases a certain way. Move faster. Less due process, essentially."⁵ Former San Francisco IJ George Pappas was even more direct: "We were told to facilitate deportation... Due process is dead in immigration courts."⁶

24. Second, a pervasive climate of fear designed to ensure compliance. Former Baltimore Immigration Judge David C. Koelsch described it as "an atmosphere of paranoia and fear, which is exactly what they want."⁷ Former Annandale Immigration Judge Anam Petit observed: "There's a climate of fear... Judges feel like, if they step a toe out of line right now... or they're one [asylum] grant away from being fired because of the arbitrary nature of the firings."⁸ Former New York Immigration Judge Carmen Maria Rey Caldas similarly described judges working "under 'constant threat' of getting fired if they don't follow certain rules from leadership."⁹

25. Third, the inevitable compromise of judicial independence when self-preservation requires favoring the government. Former San Francisco Immigration Judge Elizabeth

⁴ Geoff Bennett & Ali Schmitz, *Ousted Immigration Judge Describes Deepening Court Backlog*, PBS NewsHour (Nov. 12, 2025), <https://www.pbs.org/newshour/show/ousted-immigration-judge-describes-deepening-court-backlog>.

⁵ Gutierrez et al., *supra* note 6.

⁶ Marco Poggio, *Judges See an Immigration Court Guttled from Inside*, Law360 (Oct. 31, 2025), <https://www.law360.com/articles/238100/judges-see-an-immigration-court-guttled-from-inside>.

⁷ Poggio, *supra* note 4.

⁸ Eric Katz, *'Climate of Fear': Immigration Judges Say Functioning of Their Court System Is in Jeopardy Due to Trump's Firings*, Gov't Executive (Nov. 14, 2025), <https://www.govexec.com/management/2025/11/climate-fear-immigration-judges-say-functioning-their-court-system-jeopardy-due-trumps-firings/409544/>.

⁹ Isabela Dias, *"Fired for No Reason": Former Immigration Judges Speak Out Against Trump's Assault on the Courts*, Mother Jones (Oct. 9, 2025), <https://www.motherjones.com/politics/2025/10/immigration-court-judge-trump-assault-mugs-dis-acc/>.

Young explained: "I've talked to many of [the judges still serving], and they're like, 'When I go into court, I am concerned about applying the law, but I'm also concerned that I should deny more, because if I don't, then I'll get fired.'"¹⁰ Former Boston Immigration Judge Sarah Cade reached her breaking point: "I felt I might have to compromise my ethics and might be put in a place where I felt like I was going to be asked to violate due process. So I left and I went to private practice."¹¹

26. The message to remaining immigration judges is unmistakable: neutrality is a terminable offense. No adjudicator can remain impartial when faced with the choice between upholding due process and keeping their position.

The BIA Purge and Resulting Statistical Evidence of Bias

27. A parallel purge occurred at the BIA which was reduced from 28 members to 15 members. All Biden appointees on the BIA were fired.¹² The statistical impact is stark. In the twelve months following the administration's inauguration (January 20, 2025 through January 22, 2026), the reconstituted BIA issued 71 published decisions.¹³ Of those:

- 69 decisions (97%) favored the administration
- 1 decision was neutral (involving attorney sanctions)
- 1 decision disfavored the administration (1.4%)

28. By contrast, during the entire four-year span of the prior administration, the BIA issued 76 published decisions.¹⁴ Of those:

¹⁰ Poggio, *supra* note 4.

¹¹ Poggio, *supra* note 4.

¹² Am. Imm. Council, *BIA Decision Strips Immigration Judges of Bond Authority, All but Guaranteeing Mandatory Detention for Undocumented Immigrants* (Sept. 12, 2025), <https://www.americanimmigrationcouncil.org/bia/bia-ruling-immigration-judges-bond-mandatory-detention-undocumented-immigrants/>.

¹³ Exec. Off. for Immigr. Rev., *Volume 29*, U.S. Dep't of Just. (Jan. 21, 2025), <https://www.justice.gov/eoir/volume-29>.

¹⁴ Exec. Off. for Immigr. Rev., *Volume 28*, U.S. Dep't of Just. (June 13, 2025), <https://www.justice.gov/eoir/volume-28>. (First decision, *Matter of DIKITYAR*, 28 I&N Dec. 214 (BIA 2021), issued 01/22/2021)

- 46 decisions (60%) favored the administration
- 27 decisions (35%) disfavored the administration
- 1 decision was neutral (attorney sanctions)
- 2 decisions were mixed

29. The transformation from 60% to 97% pro-government outcomes—achieved through wholesale termination of one administration's appointees and their replacement by the next—speaks for itself.¹⁵

The Installation and Recruitment of Judges Aligned with Enforcement Agenda

30. To replace purged judges, the DOJ launched recruitment for what it explicitly marketed as "deportation judges."¹⁶ DHS—a party in immigration proceedings before EOIR—promoted these openings on social media with enforcement-focused language: "Bring the hammer down on criminal illegal aliens" and "Defend your communities, your culture, your very way of life."¹⁷

31. In addition, the DOJ has authorized up to 600 military lawyers to serve as temporary immigration judges for a renewable term not to exceed six months, while simultaneously eliminating requirements to serve as a temporary immigration judge.¹⁸ Previously, temporary judge candidates were required to have served as a former immigration judge, appellate immigration judge, or administrative judge within another agency, or to have at least 10 years of immigration law experience. The administration removed those requirements entirely, allowing "any attorney" to be selected as a temporary immigration judge and reduced training to approximately two weeks—far less than the standard training for permanent immigration judges, which includes six weeks of initial training, one year of mentorship by an experienced judge, and two years of quarterly reviews.¹⁹

¹⁵ The BIA's shift from 35% rulings against the government to 1.4% against the government represents a 96% reduction in adverse outcomes for DHS.

¹⁶ Murphy Marcos *supra* note 2.

¹⁷ dhs.gov. Instagram (Nov. 21, 2025), <https://www.instagram.com/p/DRVTF8DmfCOE/D?hl=en>.

¹⁸ Designation of Temporary Immigration Judges, 90 Fed. Reg. 41,883 (Aug. 28, 2025).

¹⁹ Margo O'Herron, *Using Military Lawyers as Immigration Judges is Ill-Advised and Potentially Illegal*, Brennan Ctr. for Just. (Sept. 29, 2025).

Corey Lewandowski, an adviser to DHS Secretary Noem, responded to the announcement by posting: "I see more deportations of illegal immigrants in the near future"²⁰—an explicit acknowledgment of the mass deportation policy objective underlying these appointments and the erosion of institutional boundaries between DOJ and DHS. In December, one of the appointed temporary judges was fired just a month into his six month term. "That judge, Christopher Day, had granted asylum claims in just over half the cases he heard."²¹

A Barrage Of EOIR Policy Memoranda Establishing Expectations That Adjudications Favor The Government Over Noncitizens

32. Beyond personnel changes, EOIR's new acting director, Sirce E. Owen, quickly issued "a string of sharply worded policy memos" that immediately "[set] the tone for her leadership."²² "Sources familiar with Owen described her as a "restrictionist loyalist" with a reputation for denying cases."²³ The Catholic Legal Immigration Network (CLINIC) observed that "these memos also seem intended to reshape EOIR, which is meant to be a neutral arbiter, into a politically driven tool advancing the Trump administration's clearly anti-immigrant views."²⁴ The policy directives include: a memorandum dated June 27, 2025 warning judges not to demonstrate "bias directed against DHS" or to be "adjudicatory outliers," at risk of "close examination and potential

<https://www.bianniancecenter.org/our-work/analysis-opinion/using-military-lawyers-immigration-judges-all-advised-and-potentially>.

²⁰ Corey R. Lewandowski (@CLewandowski), X (Sept. 2, 2025, 1:47 PM), <https://x.com/clewandowski/status/1962950546652670769>.

²¹ Balko, *supra* note 1.

²² *US army lawyer fired as immigration judge after defying Trump deportation agenda*, The Guardian (Dec. 19, 2025), <https://www.theguardian.com/us-news/2025/dec/19/army-lawyer-fired-immigration-trump-deportation>.

²³ Dias, *supra* note 8.

²⁴ Cath. Legal Immigr. Network, Inc., *Navigating EOIR Directives Under Trump 2.0: Practical Guidance for Advocates and Programs* (Apr. 22, 2025), <https://www.cliniclegal.org/files-download/download/public/77642>.

action”;²⁵ a memorandum encouraging judges to deny asylum applications without full evidentiary hearings, styled as efficiency guidance but functioning as a directive to reduce due process protections;²⁶ and memorandums restricting immigration judges’ ability to grant continuances²⁷ and administrative closure.²⁸

EOIR Has Issued Explicit Directives To Ignore District Court Rulings That Impede DHS's Policy Objectives

33. The clearest evidence that EOIR has abandoned its role as a neutral tribunal comes from its response to federal court orders protecting bond hearing rights. In *Maldonado Bautista v. Santacruz*, the Central District of California issued both declaratory and injunctive relief holding that noncitizens who entered without inspection but were not apprehended at the border are detained under § 1226(a), not § 1225(b)(2), and are therefore entitled to bond hearings. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Judge Sunshine Sykes certified a nationwide class and entered final judgment. *Id.* Rather than comply with the order, EOIR leadership directed all immigration judges to ignore the order. On January 13, 2026, Chief Immigration Judge Teresa L. Riley sent an email to all immigration judges instructing:

"Please provide the following guidance to all immigration judges forthwith: *Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay, or enjoin *Yajure Hurtado*. Therefore *Yajure Hurtado* remains binding precedent on agency adjudications. For clarification, declaratory judgments differ from

²⁵ Exec. Off. for Immigr. Rev., Policy Memorandum 25-33, Neutrality and Impartiality in Immigration Court Proceedings (June 27, 2025),

https://img-prod-prod.s3.amazonaws.com/media/documents/2025.06.27_EOIR_-_PM_25-33.pdf.

²⁶ Exec. Off. for Immigr. Rev., Policy Memorandum 25-28, Preemption of Legally Insufficient Application for Asylum (Apr. 11, 2025), <https://www.justice.gov/eoir/media/1396411/dl?inline>.

²⁷ Exec. Off. for Immigr. Rev., Policy Memorandum 25-27, Cancellation of Director's Memorandum 23-01 and Reinstatement of Policy Memorandum 19-13 (Mar. 21, 2025), <https://www.justice.gov/eoir/media/1394086/dl>.

²⁸ Exec. Off. for Immigr. Rev., Policy Memorandum 25-29, Cancellation of Director's Memorandum 22-03 (Apr. 18, 2025), <https://www.justice.gov/eoir/media/1397161/dl?inline>.

injunctions in that the former clarifies parties' legal rights and relationships without ordering specific action, while the latter is a court order compelling a party to do or stop doing a specific act. A declaratory judgment is not an equitable remedy and does not, by itself, have the effect of compelling specific action by a party. Thank you for your attention to this matter."²⁹

34. The effect was immediate: ACLU lawyers reported that immigration judges who had begun granting bond hearings in compliance with Judge Sykes' ruling reversed course after receiving Chief Judge Riley's directive.³⁰ Immigration judges were placed in an impossible position—comply with a federal district court order and risk termination, or defy the federal court and retain their positions.

35. On January 16, 2026, Judge Sykes issued a scathing order directly addressing the government's systematic defiance:

"This matter is yet another in a slew of habeas petitions following the Court's ruling in *Bautista v. Santacruz* that has unfortunately become routine in this Court. ... But individuals filing these habeas petitions are not to blame; rather, the current volume of habeas petitions and temporary restraining orders being filed can be attributed to *Respondents' deliberate choice to continue defying the final judgment entered in Bautista*. ...

Despite the clarity of the Court's previous orders and legal doctrines that preclude Respondents from relitigating issues at the heart of these requests, Respondents continue to manufacture arguments for sake of opposition. At this point in time, *the Court can no longer confer Respondents with the benefit of the doubt as to the intent of their filings*.

Despite the final judgment in *Bautista*, it appears that immigration judges continue to rely on legal interpretations that were expressly found unlawful. ... Respondents are collaterally estopped from relitigating the issue as to whether Bond Eligible Class members are entitled to the exact relief as provided in the *Bautista* final judgment. Accordingly, Respondents are collaterally estopped from relitigating this issue against all members of the Bond Eligible Class."

Palomera Baltazar v. Janecka, No. 5:26-cv-00019-SSS-BFM at *2-3 (C.D. Cal. Jan. 16, 2026). (emphasis added)

²⁹ Am. Immigr. Laws. Ass'n, Practice Alert: EOIR Issues Nationwide Guidance on *Maldonado Bautista*, AILA Doc. No. 26011404 (Jan. 16, 2026).

<https://www.aila.org/library/practice-alert-eoir-issues-nationwide-guidance-on-maldonado-bautista>.

³⁰ *Immigration judges told to ignore rulings on bond hearings, documents show*, Massachusetts Lawyer Weekly (Jan. 20, 2026), <https://masslawyersweekly.com/2026/01/20/immigration-judges-ignore-bond-hearing-rulings/>

36. This is not a case of good-faith disagreement over statutory interpretation. It is systematic institutional defiance of federal court orders, orchestrated by EOIR leadership and enforced through the threat of termination.
37. The compromised nature of adjudications before EOIR is not theoretical. Practicing attorneys report a dramatic shift in bond hearing outcomes, with near-universal bond denials based on pretextual grounds that bear no relationship to individualized risk assessments. *See Exhibit B, Attorney Declarations.*
38. As a result, Petitioner now faces unlawful, indefinite detention with no avenue for release within a compromised immigration court system that has proven itself incapable of providing the impartial adjudication the Constitution requires.

LEGAL FRAMEWORK - 8 USC 1226 and 8 USC 1225

39. The Immigration and Nationality Act (INA) lays out three basic forms of detention for noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge (IJ). *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are 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). 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). Last, the Act also provides for detention of noncitizens who have been previously ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

40. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2). 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 amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025), which added section 1226(c)(1)(A) to the prior statutory framework. Following the enactment of 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).³¹ Thus, in the decades that followed, most people who entered the U.S. without inspection—unless they were subject to some other detention authority—received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed to be “arriving” were entitled to a custody hearing before an IJ or other hearing officer.³²
41. In July of 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who entered the United States without inspection or admission. Subsequently, on September 5, 2025 the Board of Immigration Appeals issued its precedent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), in which the Board held that all non-citizens who have not been inspected and admitted are “applicant(s) for admission” and are thus subject to the mandatory detention provision

³¹ 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).

³² 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)).

found in 8 U.S.C. § 1225(b)(1). In the decision, the Board applies highly questionable legal analysis and reasoning to arrive at its holding.

42. This interpretation defies the INA and Petitioner's right to Due Process pursuant to the Fifth Amendment of the U.S. Constitution. Respondents' new policy of summarily detaining all noncitizens who entered the U.S. at any time without being admitted or paroled turns well-established legal understanding and procedure on its head and violates the statutory scheme of the Immigration and Nationality Act. This unfounded legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings has already been rejected by "[m]ore than 300 federal judges" in "more than 1,600 cases"³³ who have rejected the application of § 1225(b)(2) to such cases.
43. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." 8 USC § 1226(a). These removal hearings are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]." 8 USC § 1229a(a)(1). 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). 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.
44. By contrast, § 1225(b) provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking

³³ *Hundreds of judges reject Trump's mandatory detention policy, with no end in sight*, POLITICO (Jan. 5, 2026), <https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494>

admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). “Thus, for § 1225(b)(2)(A) to apply, several conditions must be met—in particular, an “examining immigration officer” must determine that the individual is: (1) an “applicant for admission”; (2) “seeking admission”; and (3) “not clearly and beyond a doubt entitled to be admitted.”³⁴ In other words, this requires (a) having a particular status, namely that of being an “applicant for admission”; (b) an affirmative, present tense act, namely that of “seeking admission”; and (c) a contemporaneous determination in response to said act by an examining immigration official, namely a determination that one is not “entitled to be admitted.”

45. The provision’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 implementing regulations at 8 C.F.R. § 1.2 address noncitizens who are presently “coming or attempting to come into the United States.” The statutory and regulatory text’s use of the present and present progressive tenses excludes noncitizens apprehended in the interior, because they are no longer in the process of arriving in or seeking admission to the United States.³⁵ Although the BIA’s reasoning in *Yajure-Hurtado* draws from the Supreme Court’s decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018) the Supreme Court in *Jennings* recognized the above distinction, stating that § 1225 “applies primarily to aliens seeking entry into the United States.” *Jennings*, at 297. The Supreme Court then notes that § 1226 “applies to aliens already present in the United States.” *Id.* at 303.

³⁴ See *Martinez v. Hyde*, 2025 WL 2084238, at *6 (D. Mass. July 24, 2025).

³⁵ See, e.g., *Martinez*, 2025 WL 2084238 at *6 (citing the use of present and present progressive tense to support the conclusion that § 1225(b)(2) does not apply to individuals apprehended in the interior).

46. Traditional canons of statutory construction defy Respondents' position. Under "one of the most *basic* interpretive canons ... [a] statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant[.]" *Corley v. United States*, 556 U.S. 303, 314 (2009) (emphasis added). "This principle ... applies to interpreting any two provisions in the U.S. Code, even when Congress enacted the provisions at different times." *Bilski v. Kappos*, 561 U.S. 593, 607–08 (2010). Here, if the Respondents' position were correct, and § 1225's mandatory detention provisions apply to *all* inadmissible non-citizens then it would render superfluous provisions of 1226 that apply to certain categories of inadmissible noncitizens. See § 1226(c)(1)(A), (D), (E).³⁶

47. The recent Laken Riley Act amendments further undermines Respondents' position. "When Congress acts to amend a statute, we presume it intends its amendment to have real and substantial effect." *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995). In January 2025, Congress passed the Laken Riley Act, Pub. L. 119-1, 139 Stat. 3 (2025), which carved out an *additional* category of noncitizens from 1226(a)'s discretionary detention scheme. This category includes those noncitizens who are deemed inadmissible, including for being "present in the United States without being admitted or paroled," and who have been arrested, charged with, or convicted of certain crimes. § 1226(c)(1)(E). If § 1226(a) did not apply to noncitizens who are inadmissible for entering without having been admitted, then the added language applying § 1226(c)(1)(E) to those particular

³⁶ See also *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *18 (W.D. Wash. Sept. 30, 2025) ("Put another way, section 1226(c)(1)(E)'s mandated detention for inadmissible noncitizens who are implicated in an enumerated crime, including those "present in the United States without being admitted or paroled," would be meaningless since "all noncitizens who have not been admitted" would already be governed by 1225's mandatory detention authority.") (emphasis added). See also *Corley v. United States*, 556 U.S. 303, 314, n.5 (explaining that seemingly conflicting statutes read in isolation can be reconciled if read in their broader context, which includes observing the anti-superfluities canon).

inadmissible noncitizens would render Congress' most recent amendments to the INA as surplusage. "These 'specific exceptions' for inadmissible noncitizens who are arrested, charged with, or convicted of the enumerated crimes logically leaves those inadmissible noncitizens not criminally implicated under Section 1226(a)'s default rule for discretionary detention." *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *19 (W.D. Wash. Sept. 30, 2025). Reading § 1225(b) to cover everyone present without admission would nullify the newly added § 1226(c)(1)(E) and the long-standing authority of § 1226(a). Congress's decision to target only certain inadmissible non-citizens with specific criminal conduct for mandatory detention under § 1226(c)(1)(E) proves that the general rule under § 1226(a) applies to other inadmissible non-citizens. In sum, the statute can only be interpreted one way: 1225(b)(2)(A) applies to apprehensions at the border, while 1226(a) applies to apprehensions in the interior.

48. Respondents' position is also in conflict with the legislative history of Section 1226(a). Upon passing IIRIRA, Congress declared that the new § 1226(a) "restates the current provisions in [the predecessor statute] regarding the authority of the Attorney General to arrest, detain, and release on bond a[] [noncitizen] who is not lawfully in the United States." *See* H.R. Rep. No. 104-469, pt. 1, at 229; *see also* H.R. Rep. No. 104-828, at 210 (same). Similarly, in a 1997 interim rule issued "to implement the provisions of [IIRIRA]," the underlying EOIR federal register notice explains that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled... will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). "Because noncitizens arrested while unlawfully residing in the United States were entitled to discretionary detention under section 1226(a)'s predecessor

statute, and Congress declared its scope unchanged by IIRIRA, this background supports the position” that Petitioner “is subject to discretionary detention.” *Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *23 (W.D. Wash. Sept. 30, 2025).

49. Overwhelmingly, “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.” *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025) (citing *Pizarro Reyes*, 2025 WL 2609425, at *4).³⁷

DUE PROCESS

50. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003). The Supreme Court has explained that “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Due process requires that immigration detention “‘bear[] a reasonable relation to the purpose for which the individual was committed.’” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (quoting *Zadvydas*, 533 U.S. at 690). Specifically, immigration detention must be reasonably related to the government’s goals of preventing flight and protecting the community from harm, and be accompanied by adequate procedural protections to ensure that those goals are being served. See *Zadvydas*, 533 U.S. at 690-91. Chief among these procedural protections is “the

³⁷ See also *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *8 (W.D. Tex. Sept. 22, 2025) (“In recent weeks, courts across the country have held that this new, expansive interpretation of mandatory detention under the INA is either incorrect or likely incorrect.”); *Rodriguez v. Bostock*, No. 3:25-cv-5240, 2025 WL 2782499, at *1 & n.3 (W.D. Wash. Sep. 30, 2025) (collecting cases and noting that “[e]very district court to address” the statutory question “has concluded that the government’s position belies the statutory text of the INA, canons of statutory interpretation, legislative history, and longstanding agency practice”); *Belsai D.S. v. Bondi*, No. 25-cv-3682, 2025 WL 2802947, at *6 (D. Minn. Oct. 1, 2025) (joining the “chorus” of courts concluding that § 1226 applies).

guarantee of an impartial and disinterested tribunal," which the Due Process Clause requires "in both civil and criminal cases." *Marshall v. Jerrico, Inc.*, 446 U.S. 238, 242 (1980).

51. Throughout the Court's civil detention jurisprudence, it has always required the government to bear the burden of proof. *Addington v. Texas*, 441 U.S. 418 (1979). Thus, the Court has required that civil detention be the "exception", not the norm. *See United States v. Salerno*, 481 U.S. 739, 755 (1987) (allowing for pretrial detention in "carefully limited" circumstances).
52. In *Addington v. Texas*, 441 U.S. 418 (1979), the Court held that in civil commitment proceedings, the government's burden of proof must be "equal to or greater than the 'clear and convincing' standard" to meet due process guarantees. *Addington v. Texas*, 441 U.S. at 433. The appellant in *Addington*, a mental patient who had been committed indefinitely to a state mental hospital, sought review of the decision from the Texas Supreme Court which held that a preponderance of the evidence standard satisfied the due process requirement. *Addington v. Texas*, 441 U.S. at 421-22.
53. "To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976)." *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025). Those factors are: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative

burdens that the additional or substitute procedural requirement would entail.” *Mathews*, 424 U.S. at 335, 96 S.Ct. 893.

54. As to the first element, “[t]he interest in being free from physical detention” is “the most elemental of liberty interests.” *Martinez v. Noem*, 2025 WL 2598379, at *2 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 124 S.Ct. 2633, 159 L.Ed.2d 578 (2004)). Petitioner possesses a cognizable interest in his freedom from detention because he spent ten years at liberty in the United States. See *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *11 (W.D. Tex. Sept. 22, 2025) (“Because he spent nearly three years at liberty in the United States, Lopez-Arevelo possesses a cognizable interest in his freedom from detention.”)

55. Under the second *Mathews* factor, the Court considers “whether the challenged procedure creates a risk of erroneous deprivation of individuals’ private rights and the degree to which alternative procedures could ameliorate these risks.” *Martinez v. Noem*, 2025 WL 2598379, at *3 (quoting *Gunaydin v. Trump*, 784 F.Supp.3d 1175, 1187 (D. Minn. 2025)).

56. Here, the risk of “erroneous deprivation” of Petitioner’s liberty under the current procedures—a bond hearing—is extraordinarily high. Despite being a class member covered by the by declaratory relief issued in *Maldonado Bautista*,³⁸ EOIR leadership has directed all immigration judges to ignore the order.³⁹ This directive is just one aspect of the broader effort to systematically dismantle the integrity of the immigration court system to turn it into an extension of DHS’ deportation and detention operations, such as through a massive purge of IJs perceived as obstacles to DHS’ enforcement agenda, the

³⁸ See *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at 9 (C.D. Cal. Nov. 25, 2025) (defining the Bond Eligible Class as “All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.”)

³⁹ Am. Immigr. Laws. Ass’n *supra* note 28.

parallel purge and reconstitution of the BIA, resulting in a 97% pro-government decision rate, the recruitment and installation of explicitly enforcement-aligned "deportation judges" with dramatically reduced qualifications, and EOIR policy directives establishing expectations that adjudications favor the government.

57. Such systematic practices indicate that immigration judges lack the independence and neutrality necessary to conduct a bond hearing that comports with due process. Unsurprisingly, in this context, practicing attorneys report a dramatic shift in bond hearing outcomes, with near-universal denials replacing individualized assessments regardless of case-specific circumstances. **See Exhibit B, Attorney Declarations.**

58. As a result, a bond hearing is not an adequate remedy. Petitioner's due process rights cannot be vindicated in an immigration court system that is so profoundly compromised.

59. On the final factor, Respondents cannot identify any meaningful countervailing interest, other than perhaps their generalized interest in enforcing the INA as they interpret it. Overwhelmingly, federal courts have sided with immigrant detainees challenging their detention on similar grounds, on statutory and constitutional grounds, including courts in this district.⁴⁰

60. Because ordering a 1226(a) bond hearing before EOIR—a clearly compromised adjudicatory body—would not properly redress the statutory and constitutional violations present in this matter, Petitioner urges the court to provide an alternative corrective measure.

⁴⁰ See e.g., *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *PUERTO-HERNANDEZ, Petitioner, v. LYNCH et al.*, No. 1:25-CV-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025); *Castellanos v. Kaiser*, No. 25-CV-07962, 2025 WL 2689853, at *3 (N.D. Cal. Sept. 18, 2025); *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at *21 (D. Ariz. Oct. 7, 2025); *J.U. v. Maldonado*, No. 25-CV-04836 (OEM), 2025 WL 2772765 (E.D.N.Y. Sept. 29, 2025); *PÉREZ PINA, v. STAMPER*, No. 2:25-CV-00509-SDN, 2025 WL 2939298 (D. Me. Oct. 16, 2025); *Ochoa Ochoa v. Noem*, No. 25 CV 10865, 2025 WL 2938779, at *5 (N.D. Ill. Oct. 16, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530 (D. Me. Aug. 29, 2025).

61. First, Petitioner submits that immediate release is the most appropriate remedy.

Petitioner's strong family ties to the United States, long duration of residency, and lack of any criminal convictions all support his immediate release. "In recent months, courts across the country have ordered the release of detainees in similar situations." *Moctezuma v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government's repeated use of unlawful detention policies across the country, causing petitioners to "sit in jail waiting for a judicial decision," the court would order immediate release instead of causing additional delay through a bond hearing). (citing *Lepe v. Andrews*, 801 F. Supp. 3d 1104 (E.D. Cal. 2025); *J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Rosado v. Figueroa*, No. 25-cv-2157, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *Pinchi v. Noem*, No. 25-cv-05632, 2025 WL 1853763, at *4 (N.D. Cal. July 4, 2025). *Santiago v. Noem*, No. EP-25-CV-361, 2025 WL 2792588, at *13-14 (W.D. Tex. Oct. 2, 2025)("Without a legitimate interest in her detention, immediate release appropriately remedies Respondents' violation of [Petitioner's] due process rights through her continued detention.")

62. "The appropriate relief for an immigration detainee held in violation of their right to due process is their immediate release from custody, and to be provided with relief returning them to *status quo ante*, i.e., the last uncontested status which preceded the pending controversy." *Cardin Alvarez v. Rivas*, No. CV 25-02943 PHX GMS (CDB), 2025 WL 2898389, at *21 (D. Ariz. Oct. 7, 2025). "With regard to the specifics of the relief that might be ordered, in recent weeks many federal district courts" – including the Western

District of Texas – “have ordered the immediate release of immigration habeas petitioners held in custody in violation of their due process rights.” *Id.* ⁴¹

63. **In the alternative, Petitioner requests a custody hearing before this Court.** The habeas court can hold its own custody hearing and determine whether the government can prove by clear and convincing evidence that Petitioner must remain in custody, or whether he may be released on recognizance. The “equitable and flexible nature of habeas relief” affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); *see also Schlup v. Delo*, 513 U.S. 298, 319 (1995) (“[H]abeas corpus is, at its core, an equitable remedy”).⁴²

64. **At a minimum, the court should order that Petitioner be provided a 1226(a) bond hearing, but with additional safeguards.** Specifically, the Court should order:

- a. A bond hearing where the government shall bear the burden of establishing by clear and convincing evidence that Petitioner poses a danger or flight risk to “[reflect] the concern that “[b]ecause the alien’s potential loss of liberty is so

⁴¹ *See e.g. Alvarado-Luna v. Warden*, No. EP-25-CV-00565-DCCG, (W.D. Tex. Dec. 29, 2025); *Luna-Arriaga v. Thompson*, No. 5:25-CV-1783-JKP, (W.D. Tex. Dec. 22, 2025); *Santiago v. Noem*, No. 25-cv-361, 2025 WL 2792588, at *13 (W.D. Tex. Oct. 1, 2025); *See also J.U. v. Maldonado*, No. 25-cv-4836, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *11 (D.N.J. Sept. 26, 2025); *Sampiao v. Hyde*, No. 25-cv-11981, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025); *Rosado v. Figueroa*, 2025 WL 2337099, at *19 (D. Ariz. Aug. 11, 2025); *M.S.L. v. Bostock*, 2025 WL 2430267, at *1 (D. Or. Aug. 21, 2025); *Bermeo Sicha v. Bernal*, No. 1:25-CV-00418-SDN, 2025 WL 2494530, at *7 (D. Me. Aug. 29, 2025).

⁴² *See e.g. L.G.M. v. LaRocco*, 788 F.Supp.3d 401, 405-07 (E.D.N.Y. 2025) (ordering a bond hearing held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F.Supp.2d 474-78 (D. Mass 2010) (granting petition and discussing at length habeas court’s equitable power, which includes power to hold its own bail hearing); *see also Santos v. Lowe*, No. 1:18-CV-1553, 2020 WL 4530728, at *4 (M.D. Pa. Aug. 6, 2020) (finding that habeas court-ordered bond hearing was not individualized and did not comport with due process, and granting motion to enforce to hold the court’s own bond determination); *Ramirez v. Watkins*, No. 10-cv-126, 2010 WL 6269226, at *19-20 (S.D. Tex. Nov. 3, 2010), *rep. and rec not reached*, (S.D. Tex. Dec. 8, 2010) (dismissing case as moot) (recommending the habeas court conduct its own bail inquiry, as it would be more efficient, ensure supervision over any compliance issues, and avoid further proceedings).

severe ... he should not have to share the risk of error equally.” See *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025).⁴³

- b. Provide that the habeas court shall retain jurisdiction to review the immigration judge bond decision to ensure compliance with the court’s order and due process.
- c. Prohibit ICE from invoking the automatic stay provisions under 8 C.F.R. § 1003.19(i)(2) because Courts have repeatedly ruled that their application violates the procedural due process rights of noncitizens granted bond. See *Martinez v. Sec’y of Noem*, No. 5:25-CV-01007-JKP, 2025 WL 2598379, at *4 n.1 (W.D. Tex. Sept. 8, 2025) (collecting cases).

CAUSES OF ACTION

COUNT ONE

Violation of the Immigration and Nationality Act *Unlawful Denial of Bond Hearing*

- 65. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.
- 66. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

⁴³ See also *Lopez-Arevelo v. Ripa*, 801 F. Supp. 3d 668, 688 (W.D. Tex. 2025) (noting that “as of 2020, the ‘vast majority’—an ‘overwhelming consensus’—of courts granting immigration detainees’ habeas petitions have placed the burden on the Government to prove by clear and convincing evidence that the detainee poses a danger or flight risk. Velasco Lopez, 978 F.3d at 855 n.14 (citations omitted))

67. The application of § 1225(b)(2) to Petitioner to unlawfully mandate his continued detention violates the INA.

COUNT TWO
Violation of Fifth Amendment Right to Due Process

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

69. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. amend. V. Due process protects "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

70. The government's detention of Petitioner without a bond redetermination before an impartial tribunal in which it is the government's burden to prove by clear and convincing evidence he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter and maintain jurisdiction to the extent necessary to ensure Respondents' compliance with any order this Court may issue;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (3) Declare that the detention of Petitioner under 8 U.S.C. § 1225(b)(2) violates the INA and the Due Process clause of the Fifth Amendment;

- (4) Issue a Writ of Habeas Corpus requiring that Respondents immediately release the Petitioner, in the alternative, provide a custody redetermination hearing before this District Court in which the government bears the burden of showing that Petitioner is a flight risk or a danger to the community;
- (5) In the further alternative, order a bond hearing before the immigration court where the government bears the burden of establishing by clear and convincing evidence that Petitioner poses a danger or flight risk and where this District Court retains jurisdiction to ensure compliance with due process requirements and where the government is prohibited from invoking the automatic stay provisions under 8 C.F.R. § 1003.19(i)(2);
- (6) Order further relief as this Court deems just and appropriate.

Respectfully submitted,

/s/ Lucia Curiel
Lucia Curiel, Esq.
The Law Office of Mark Kinzler, P.C.
PO Box 684309
Austin, TX 78768
(512) 402-7999
lucia@kinzlerimmigration.com
Attorney for Petitioner

Dated: January 30, 2026

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Otoniel Casas-Mondragon, and 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.

Dated this 30th day of January, 2026

/s/ Lucia Curiel
Lucia Curiel, Esq.
Attorney for Petitioner

CERTIFICATE OF SERVICE

Casas-Mondragon v. Collins et al

Case No. 1:26-cv-00231

I hereby certify that on January 27, 2026, I mailed by United States Postal Service the Verified Petition for Writ of Habeas Corpus by certified mail to the following:

Stephanie Rico
Civil Process Clerk Office of the United States Attorney for the Western District
of Texas
601 N.W. Loop 410, Suite 600
San Antonio, Texas 78216-5597

Charlotte Collins, Warden
T. Don Hutto Detention Center
1001 Welch St,
Taylor, TX 76574

Secretary of Homeland Security Kristi Noem
2707 Martin Luther King Jr. Ave., SE
Washington, DC 20528-0485

U.S. Attorney General Pamela Bondi
950 Pennsylvania Ave NW
Washington, DC 20530

The above respondents were also named in the CM/ECF habeas corpus filing with the Western District of Texas Court.

/s/ Lucia Curiel