

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

RIGOBERTO FORTUNA GUZMAN

Petitioner-Plaintiff,

v.

PAM BONDI,
United States Attorney General;

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

TODD M. LYONS,
Director of United States
Immigration and Customs Enforcement;

SYLVESTER ORTEGA
Field Office Director
for Detention and Removal, U.S.
Immigration and Customs Enforcement,

Warden of the T. Don Hutto Detention
Center
Daren K. Margolin, Director of the
Executive Office for Immigration Review
Respondents-Defendants.

Civ. No. 1:26-cv-00239

DHS File Number: 

**AMENDED
COMPLAINT FOR DECLARATORY
AND INJUNCTIVE RELIEF; PETITION
FOR HABEAS CORPUS**

**AMENDED COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND
PETITION FOR WRIT OF HABEAS CORPUS
(28 U.S.C. §§ 1331, 2201, 2241, 2243; U.S. Const. amend. V)**

Petitioner **Rigoberto Fortuna Guzman**, by and through undersigned counsel, files this Complaint for Declaratory and Injunctive Relief and Petition for Writ of Habeas Corpus to remedy his unlawful civil immigration detention and respectfully states as follows:

I. INTRODUCTION

1. Petitioner is a long-term interior resident of the United States with no criminal history, who is being detained without bond based on an erroneous no-bond detention theory that misclassifies him as subject to mandatory detention under Immigration and Nationality Act (“INA”) § 235, 8 U.S.C. § 1225, despite his arrest in the interior of the United States and his placement in full removal proceedings under INA § 240, 8 U.S.C. § 1229a. Federal courts have repeatedly rejected this misclassification. See *Velasquez Salazar v. Dedos* (D.N.M. 2025) (p. 8); *Duarte Escobar v. Perry* (E.D. Va. Oct. 27, 2025) (p. 22); *Singh v. Bowen* (C.D. Cal. Nov. 21, 2025) (p. 10); *Duran Serrato v. Anderson* (D. Idaho Nov. 19, 2025) (p. 10).
2. The Supreme Court has made clear that civil immigration detention is constitutionally permissible, if at all, only as a narrow exception to liberty. “Freedom 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).
3. Petitioner is a native and citizen of Mexico, born on [REDACTED]. He has lived in the United States for approximately nineteen years. He entered the United States in 2006 with a work permit and overstayed; before that, he had earlier lawful entries with temporary work authorization and timely departures.
4. Petitioner has five United States citizen children, all of whom reside in the United States and depend on him as the family’s primary breadwinner. His sister, Elvia Fortuna, is a lawful permanent resident and serves as his primary point of contact.
5. Petitioner has no criminal history whatsoever. He has never been arrested, charged, or convicted of any crime in the United States or abroad.

6. On January 12, 2026, Petitioner was stopped in Pflugerville, Texas, allegedly for “following too close.” Following that traffic stop, local law enforcement contacted U.S. Immigration and Customs Enforcement (“ICE”), and Petitioner was taken into immigration custody. He was not arrested at the border, near the border, or during any attempt to enter the United States.
7. Petitioner is now detained without bond and without any individualized custody determination, under a categorical no-bond theory that the Western District of Texas and other courts have repeatedly rejected when applied to long-term interior residents like Petitioner. See *Velasco Hurtado v. Bondi* (D. Minn. Jan. 24, 2026) (p. 5); *Lopez Benitez v. Francis* (S.D.N.Y. Aug. 13, 2025) (p. 6).
8. The INA draws a fundamental distinction between noncitizens seeking admission at or near the border and those, like Petitioner, who are already present in the United States. The Supreme Court has explained that 8 U.S.C. §§ 1225(b)(1) and (b)(2) govern detention of certain applicants for admission “seeking admission into the country,” while 8 U.S.C. § 1226 governs detention “pending a decision on whether the alien is to be removed from the United States.” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).
9. Petitioner was arrested in the interior nearly two decades after his entry, and DHS has placed him in full removal proceedings under INA § 240. He is therefore properly detained, if at all, under INA § 236(a), 8 U.S.C. § 1226(a), which authorizes detention of noncitizens “already present in the country pending the outcome of removal proceedings,” and which provides for individualized bond determinations. See *Lopez Sarmiento et al. v. Noem et al.* (E.D. Va. Nov. 5, 2025) (p. 7).

10. Nevertheless, DHS is detaining Petitioner as if he were subject to mandatory, no-bond detention under 8 U.S.C. § 1225, denying him any bond eligibility and any individualized custody hearing before a neutral decision-maker. That statutory misclassification violates the INA and the Due Process Clause of the Fifth Amendment. See *Guaman Naula v. Noem* (D.N.J. Nov. 12, 2025) (p. 6); *Alaya Amaya v. Bondi* (D.N.J. Oct. 30, 2025) (p. 7); *Chang Barrios v. Shepley* (D. Me. Sept. 29, 2025) (p. 26).
11. Petitioner intends to pursue relief in removal proceedings, including non-LPR cancellation of removal. Detaining him throughout those proceedings, without bond eligibility, is not a permissible form of civil detention and unlawfully converts a finite civil process into prolonged and potentially indefinite incarceration. See *Maldonado Bautista v. Santacruz* (C.D. Cal. Sept. 19, 2025) (p. 6); *Sixtos Chavez v. Noem* (S.D. Cal. Sept. 24, 2025) (p. 6).
12. Petitioner therefore seeks immediate release under reasonable conditions of supervision, or, in the alternative, an order requiring Respondents to treat him as detained under 8 U.S.C. § 1226(a) and provide a prompt, meaningful custody determination before an immigration judge with authority to order his release, with appropriate due-process protections.
13. If Petitioner is not immediately released and receives an adverse decision on his cancellation of removal application, he retains the statutory right to appeal to the Board of Immigration Appeals (“BIA”). BIA appeals currently take approximately 8 to 15 months—and frequently longer—thereby converting this case into one of prolonged and potentially indefinite civil detention. See *Tiburcio Garcia v. Bondi* (D. Minn. 2025) (p. 7); *Rueda Torres v. Francis* (S.D.N.Y. Nov. 13, 2025) (p. 8).

II. JURISDICTION AND VENUE

14. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody in violation of the Constitution and laws of the United States.
15. This Court has jurisdiction under 28 U.S.C. § 1331 because this action arises under the Constitution and laws of the United States, including the INA and the Fifth Amendment.
16. This Court may grant declaratory relief under 28 U.S.C. § 2201 and injunctive relief under 28 U.S.C. § 2202 and its inherent equitable powers, as well as under the All Writs Act, 28 U.S.C. § 1651.
17. Jurisdiction is not barred by 8 U.S.C. §§ 1252(b)(9), 1252(f), or 1226(e). Petitioner does not seek review of any final order of removal or discretionary custody determination; he challenges the statutory and constitutional authority to classify him as subject to mandatory, no-bond detention under § 1225 and to deny him any individualized custody hearing at all.
18. Section 1252(b)(9) does not apply because Petitioner's claims are independent of and collateral to any final order of removal. He challenges only the legality of his present detention and the statutory basis for that detention.
19. Section 1226(e) does not bar review because Petitioner is not asking this Court to set aside any discretionary judgment or to review the detention or release decision itself; he challenges the government's legal misclassification of his detention under the wrong statute and its refusal to afford the process that § 1226(a) and the Constitution require.
20. Venue is proper in this District under 28 U.S.C. §§ 1391(e) and 2241 because Petitioner is detained within the Western District of Texas and his immediate custodian is located here.

III. PARTIES

21. Petitioner **Rigoberto Fortuna Guzman** () is a native and citizen of Mexico. He is currently detained by ICE at T. DON HUTTO DETENTION CENTER, 1001 WELCH STREET, TAYLOR, TX 76574, following his January 12, 2026 traffic stop and subsequent transfer to immigration custody.
22. Respondent **Pamela J. Bondi** is the Attorney General of the United States and is responsible for the administration and enforcement of the immigration laws through the Executive Office for Immigration Review ("EOIR"). She is sued in her official capacity. Similar habeas petitions routinely name the Attorney General as a respondent in challenges to immigration-related detention. See *Patel v. Almodovar* (D.N.J. Oct. 28, 2025) (Page 4).
23. Respondent **Kristi Noem** is the Secretary of the Department of Homeland Security ("DHS") and is responsible for the administration and enforcement of the immigration laws, including detention and removal of noncitizens. She is sued in her official capacity. *Torres Maldonado v. Crowley* (N.D. Ill. Oct. 24, 2025) (Page 2); *Flores Pineda v. Simon* (E.D. Va. Oct. 21, 2025) (Page 4).
24. Respondent **Todd M. Lyons** is the Director of U.S. Immigration and Customs Enforcement ("ICE"), a component agency of DHS responsible for civil immigration enforcement, detention, and removal. He is sued in his official capacity. *Torres Maldonado*.
25. Respondent **Sylvester Ortega** is the Field Office Director for ICE's San Antonio Field Office, which has responsibility for immigration enforcement and detention operations in the region that includes the T. Don Hutto Detention Center. He exercises authority over Petitioner's detention and is sued in his official capacity. *Granados Cabarico v. Noem* (W.D. Tex. Dec. 22, 2025) (Page 3).
26. The **Warden of the T. Don Hutto Detention Center** is Petitioner's immediate custodian and has day-to-day control over his physical confinement. Their name is not publicly

displayed. The Warden is sued in his official capacity as the proper respondent for a § 2241 petition challenging current physical custody. See *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004) (immediate custodian rule).

27. Respondent **Daren K. Margolin** is the Director of the Executive Office for Immigration Review (“EOIR”), the agency that oversees Immigration Courts and the Board of Immigration Appeals. He is sued in his official capacity because the immigration judge’s exercise (or lack) of custody jurisdiction over Petitioner is governed by EOIR, including in light of *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which purports to divest immigration judges of bond jurisdiction over certain § 1225 detainees.

IV. FACTUAL BACKGROUND

28. Petitioner entered the United States in or around 2006 with work authorization. He has remained continuously in the United States since that time.
29. Petitioner has lived in the United States for approximately nineteen years. He has deep family and community ties and has built his entire life in this country.
30. Petitioner is the father of five United States citizen children. He is the family’s sole or primary financial provider, and his detention has caused immediate and severe hardship to his children.
31. Petitioner has no criminal history. He has never been arrested, charged, or convicted of any offense in the United States or abroad.
32. On January 12, 2026, Petitioner was stopped by local police in Pflugerville, Texas, allegedly for following too closely. After the stop, local authorities contacted ICE, and Petitioner was taken into immigration custody.

33. Petitioner was not apprehended at or near a port of entry, at the border, or shortly after entry. His apprehension occurred deep in the interior, nearly two decades after his initial entry.
34. DHS issued a Notice to Appear charging Petitioner as removable and placed him in full removal proceedings under INA § 240, 8 U.S.C. § 1229a.
35. Despite placing Petitioner in § 240 proceedings as a noncitizen “present in” the United States, DHS is detaining him under a mandatory no-bond theory derived from INA § 235, 8 U.S.C. § 1225, which Congress designed primarily for applicants for admission and recent entrants.
36. Petitioner has never been treated as an “arriving alien,” has not been charged as an applicant for admission, and was not processed as a recent entrant. He is a long-term resident placed in § 240 proceedings, fitting squarely within the statutory scheme of § 1226(a), not § 1225.
37. Under 8 U.S.C. § 1226(a), DHS may, in its discretion, arrest and detain a noncitizen pending a decision on whether the noncitizen is to be removed. Section 1226(a) authorizes release on bond or conditional parole after an individualized custody determination
38. For many years, DHS and immigration courts consistently treated long-term interior residents arrested away from the border as detained, if at all, under § 1226(a) and eligible for bond consideration by an immigration judge.
39. In Petitioner’s case, however, DHS has adopted a categorical position that he is subject to mandatory, no-bond detention under § 1225, solely because he is deemed inadmissible, even though he has lived here since 2006, was arrested in the interior, and is in § 240 proceedings.

40. As a result, Petitioner has been denied any meaningful opportunity to seek release on bond before a neutral decision-maker. ICE has refused to consider his lack of criminal history, his deep family ties, his longstanding residence, and his intention to pursue lawful relief.
41. Petitioner intends to apply for non-LPR cancellation of removal, which requires extensive documentation of continuous physical presence, good moral character, and exceptional and extremely unusual hardship to his U.S. citizen children.
42. Detention severely impairs Petitioner's ability to gather evidence, communicate with witnesses, assist counsel, and meaningfully present his defense in removal proceedings.
43. Removal proceedings and any appeal to the BIA are likely to take many months; BIA appeals often take a year or more. Detaining Petitioner throughout that process, without any bond eligibility, results in prolonged and unjustified civil incarceration.

V. LEGAL FRAMEWORK

44. Civil immigration detention is permissible only to prevent flight or danger to the community and must bear a reasonable relation to those purposes. *Zadvydas*, 533 U.S. at 690–92.
45. The INA provides distinct detention frameworks depending on the noncitizen's posture. Section 1225(b) governs detention of certain applicants for admission and recent entrants; § 1226(a) governs detention of noncitizens already present in the United States who are placed in removal proceedings under § 240.
46. The Supreme Court in *Jennings* underscored this distinction, explaining that 8 U.S.C. §§ 1225(b)(1) and (b)(2) govern detention of aliens who are seeking admission into the country, while § 1226 generally governs detention of aliens already in the country pending removal proceedings. *Jennings*, 583 U.S. at 289.

47. Federal courts across the country, including in this District, have rejected DHS's attempt to stretch 8 U.S.C. § 1225(b)(2) to cover long-term interior residents in § 240 proceedings, holding that such individuals are properly detained, if at all, under § 1226(a) and entitled to individualized bond hearings.
48. Once § 1226(a) is recognized as the governing statute for such individuals, denial of any bond hearing at all violates both the statute and the Fifth Amendment's Due Process Clause.

VI. CLAIMS FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act

49. Petitioner incorporates the preceding paragraphs.
50. DHS lacks statutory authority to detain Petitioner under 8 U.S.C. § 1225 because he was arrested in the interior long after entry, is in full removal proceedings under INA § 240, and is not an arriving alien or recent border crosser.
51. Under the statutory framework recognized by *Jennings*, Petitioner—an individual already in the country pending removal proceedings—is governed by § 1226(a), which authorizes discretionary detention subject to individualized bond consideration, not mandatory no-bond detention under § 1225.
52. By detaining Petitioner under § 1225's mandatory detention theory and denying him any opportunity to seek bond, Respondents are acting in excess of their statutory authority and in violation of the INA.
53. Petitioner's detention is therefore unlawful, and he is entitled to relief under 28 U.S.C. § 2241 and the Court's equitable powers.

COUNT TWO

Substantive Due Process – Fifth Amendment

54. Petitioner incorporates the preceding paragraphs.
55. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of liberty except in narrowly circumscribed circumstances and in a manner that is not arbitrary or excessive in relation to legitimate governmental purposes.
56. Petitioner is a non-dangerous, long-term resident with deep family ties and no criminal history. Civil immigration detention is justified, if at all, only to ensure his appearance at proceedings and to protect public safety. Those purposes can be met through individualized custody determinations and less restrictive alternatives to detention.
57. By categorically detaining Petitioner without any bond eligibility, based on a misapplication of § 1225 rather than § 1226(a), Respondents have imposed a regime of mandatory detention that is not reasonably related to permissible civil objectives and is grossly excessive given his background and circumstances.
58. Petitioner's detention therefore violates substantive due process, and he is entitled to relief.

COUNT THREE
Procedural Due Process – Fifth Amendment

59. Petitioner incorporates the preceding paragraphs.
60. Petitioner has a constitutionally protected liberty interest in freedom from physical restraint. Procedural due process requires that before depriving him of that liberty, the government must provide notice of the basis for his detention and a meaningful opportunity to contest the necessity and lawfulness of continued detention before a neutral decision-maker.
61. By misclassifying Petitioner as subject to mandatory detention under § 1225 and denying him a bond hearing under § 1226(a), ICE and EOIR have deprived Petitioner of any opportunity to seek release on bond or present evidence regarding his danger or flight risk.

62. Petitioner has never received an individualized custody determination by an immigration judge with authority to order release. He has never been afforded a hearing at which the government bears the burden to justify continued detention based on clear and convincing evidence of danger or flight risk, nor has any adjudicator considered less restrictive alternatives to detention.

63. This denial of process violates the Fifth Amendment's procedural due process guarantee.

Petitioner is therefore entitled to a writ of habeas corpus directing his release or, at minimum, requiring a prompt bond hearing with adequate procedural protections.

VII. PRAYER FOR RELIEF

64. Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this action;

B. Issue a writ of habeas corpus ordering Petitioner's immediate release under reasonable conditions of supervision, without the imposition of any additional or more restrictive conditions;¹

C. Declare that Petitioner's continued detention under § 1225 is unlawful and violates the INA and the Fifth Amendment;

D. In the alternative, issue an order to show cause within three days as to why this detention is lawful;

E. In the alternative, order Respondents to provide a prompt, meaningful custody determination within a specified period before a neutral adjudicator;

F. Enjoin Respondents from transferring Petitioner out of this District or to any other facility without prior notice to Petitioner's counsel and this Court while this action is pending; and

G. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted on February 9, 2026.

/s/ Georgia Santos Laurent
Georgia Santos Laurent

¹ NOTE: If Petitioner is not immediately released and receives an adverse decision on his cancellation of removal application, he retains the statutory right to appeal to the Board of Immigration Appeals ("BIA"). BIA appeals currently take approximately 8 to 15 months—and frequently longer—thereby converting this case into one of prolonged and potentially indefinite civil detention.

Counsel for Petitioner
SanLaurent Law Group
1001 Cypress Creek Rd, Suite 302
Cedar Park, TX 78613
FL Bar No. 0289377
TX Bar No. 24151446
Admitted and Qualified to Practice as an Attorney in the Western District of Texas
georgia@sanlaurentlaw.com/512-693-9343

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

I represent the Petitioner 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 9th day of February, 2026.

/s/ Georgia Santos Laurent
Georgia Santos Laurent

CERTIFICATE OF SERVICE

I certify, in accordance with the rules of this Court, I filed the foregoing via the Court's CM/ECF system, which will send notice to all registered counsel of record.

February 9th, 2026.



Georgia Santos Laurent
Attorney for Petitioner
SanLaurent Law Group
1001 Cypress Creek Rd, Suite 302
Cedar Park, TX 78613
FL Bar No. 0289377
TX Bar No. 24151446
Admitted and Qualified to Practice as an Attorney in the Western District of Texas
georgia@sanlaurentlaw.com
512-693-9343