UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

Ernesto Edilberto BACALLAO-QUINONES,

Petitioner,

v.

KEVIN RAYCRAFT, in his official capacity as Acting Field Office Director of Enforcement and Removal Operations, Detroit Field Office, Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; PAMELA BONDI, in her official capacity as U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; and ANGELA DUNBAR, Warden, North Lake Processing Center

Respondents.

Case No.

Hon.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. This petition arises from the U.S. government's new policy—which contradicts both the plain language of the Immigration and Nationality Act (INA) and decades of agency practice—of erroneously interpreting the INA to mandate detention without the possibility of bond for noncitizens who entered the United States without inspection, even if they have been residing here for years.

2. This policy has led to the unlawful detention of countless noncitizens nationwide. Dozens of habeas corpus petitions for their release have been filed in jurisdictions across the country (including many in the Eastern and Western Districts of Michigan). Virtually every merits decision in those cases has found for the petitioners, either granting them a bond hearing or ordering their immediate release.

3. Petitioner, Mr. Ernesto Edilberto BACALLO-QUINONES, has been unlawfully detained without the possibility of bond in furtherance of this policy. He came to the United States nearly three years ago and has lived here ever since.

4. Petitioner was taken into immigration custody after checking in to a routine ICE appointment and was detained during his visit. Respondents placed him in civil immigration removal proceedings, alleging that he had entered the United States without inspection. 8 U.S.C. § 1182(a)(6)(A)(i).

5. Petitioner is currently in the physical custody of Respondents at North Lake Correctional Facility, which falls under the purview of the Detroit Field Office of Immigration and Customs Enforcement (ICE), which has responsibility for immigration

detention centers in Michigan and Ohio.

6. Under 8 U.S.C. § 1226(a), which allows for release on conditional parole or bond, Petitioner is entitled to a bond determination. That statute expressly applies to people who, like Petitioner, are residing in the United States but are charged as inadmissible for having initially entered the United States without inspection. In accordance with 8 U.S.C. § 1226(a), the Department of Homeland Security (DHS) and Executive Office of Immigration Review (EOIR) have for decades provided bond determinations and bond hearings to people like Petitioner who have been living in the United States but allegedly entered without inspection.

7. However, pursuant to a new governmental policy announced on July 8, 2025,[1] Petitioner is now being unlawfully detained without bond. The new policy instructs all ICE employees to no longer apply 8 U.S.C. § 1226(a) to people charged with being inadmissible under § 1182(a)(6)(A)(i) — i.e., those who initially entered the United States without inspection. Instead, under the new policy, ICE employees are to subject people like Petitioner to mandatory detention without bond under § 1225(b)(2)(A)—a provision that has historically been applied only to recent arrivals at the U.S. border—no matter how long they have resided in the United States.

8. Detaining Petitioner without bond is plainly contrary to the statutory framework of the INA and contrary to both agency regulations and decades of consistent agency practice

[1] ICE Memo: Interim Guidance Regarding Detention Authority for Applicants for Admission (Jul. 8, 2025), https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission [https://perma.cc/8SP7-TDDD].

applying § 1226(a) to people like Petitioner. It also violates his right to due process by depriving him of his liberty without any consideration of whether such a deprivation is warranted.

9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released from custody unless Petitioner is provided with a bond hearing under § 1226(a) that meets the constitutional and statutory requirements for due process within seven days.

10. Petitioner is not challenging any discretionary denial of bond; he is challenging the legal determination that he is not eligible for bond under § 1226(a) in the first place.

JURISDICTION

11. Petitioner Ernesto Edilberto BACALLO-QUINONES is in the physical custody of Respondents. Petitioner is detained at the North Lake Correctional Facility in Baldwin, Michigan.

12. This Court has jurisdiction under 28 U.S.C. § 2241(c) (habeas corpus); 28 U.S.C. § 1331 (federal question); and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

13. 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

14. Venue is proper in the Western District of Michigan under 28 U.S.C. § 2241 and 28 U.S.C. § 1391 because Petitioner is detained at the North Lake Correctional Facility in Baldwin, Michigan, which lies within this Court's district. Petitioner is detained in a

Michigan immigration detention facility at the direction of, and in the immediate custody of, Respondents, who can be reached by service of process in this District. *See Braden v. 30th Judicial Circuit Court of Ky.*, 410 U.S. 484, 493–94, 499–500 (1973).

15. 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 and relevant facts occurred in the Western District.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for a 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, the Respondents must file a return "within three days unless, for good cause, additional time, not exceeding twenty days, is allowed." *Id.*

17. 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

18. Petitioner Ernesto Edilberto BACALLO-QUINONES is a citizen of Cuba who has resided in the United States since July 2023. He has been in immigration detention

since February 4, 2026, and is currently detained at the Norht Lake Correctional Facility. After taking custody of Petitioner, ICE did not set bond, and immigration counsel advised him that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court are currently deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

19. Respondent Kevin RAYCRAFT is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division. As such, Acting Director Raycraft is the Petitioner's immediate custodian and is responsible for the Petitioner's detention and removal. He is named in his official capacity.

20. Respondent Angela DUNBAR is the warden of the North Lake Correctional facility, where the Petitioner is detained by ICE. The North Lake Correctional facility holds immigration detainees under contract with ICE.

21. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for implementing and enforcing the INA and oversees ICE, which is responsible for the Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

22. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

23. 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 are component agencies. She is sued in her official capacity.

24. 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.

FACTS

25. Petitioner Ernesto Edilberto BACALLO-QUINONES has resided in the United States since July 2023 and lives in Holland, Michigan. Petitioner is 24 years old and is employed as a delivery driver for Amazon, Uber Eats and DoorDash.

26. Petitioner shares financial obligations with his household and has a 1.5 year old U.S. citizen child. Petitioner is regarded by family, friends, and coworkers as an honest, responsible, and trustworthy individual. Petitioner continues to be productive member of society.

27. On February 4, 2026, Petitioner was detained by ICE officers in Grand Rapids during a routine ICE check-in. Petitioner has a pending asylum application with the immigration court and had a hearing set for January 2026 that was reset. Petitioner is now detained at North Lake Correctional Facility in Baldwin, Michigan.

28. DHS placed Petitioner in removal proceedings before the Detroit Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged him with inadmissibility under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

29. Following the initiation of removal proceedings, ICE did not conduct a custody determination and instead continued detention without providing an opportunity to post bond or be released under other conditions.

30. Petitioner did not seek a bond hearing. Immigration counsel advised him that seeking a bond hearing would be futile, as judges at the Detroit Immigration Court is currently

deeming individuals who allegedly entered without inspection subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

31. Petitioner is clearly neither a flight risk nor a danger to the community, as demonstrated by the fact that:

    - Petitioner has been regularly employed as a laborer and delivery driver. He has a positive employment record and has paid his taxes since his arrival to the United States.
    - Petitioner has significant ties to the community, including his U.S. citizen child and other family and friends.
    - Petitioner has no disqualifying criminal convictions that would bar him from eligibility for the relief sought.

32. Petitioner is actively working with his immigration attorney and has strong claims for immigration relief.

33. Without relief from this Court, he faces the prospect of months—or even years—in immigration custody, separated from his family and community.

LEGAL FRAMEWORK

34. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

35. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens who are in removal proceedings. *See* 8 U.S.C. § 1229a. *See also Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (explaining that § 1226(a) applies to those who are "already in the country" and are detained "pending the outcome of removal proceedings"). Under § 1226(a), individuals who are taken into immigration custody pending a decision on whether they

are to be removed can be detained but are generally entitled to seek release on bond.[2] The bond may be set by ICE itself as part of an initial custody determination, *see* 8 C.F.R. § 1236.1(c)(8), and/or the individual may seek a bond hearing in immigration court at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d). Section 1226(a) is the statute that, for decades, has been applied to people like Petitioner who has been living in the United States and is charged with inadmissibility under § 1182(a)(6)(A)(i).

36. Second, the INA provides for mandatory detention of certain recently arrived noncitizens, namely those subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals seeking admission under § 1225(b)(2). *See Jennings*, 583 U.S. at 287, 289 (explaining that § 1225(b)(2)'s mandatory detention scheme applies "at the Nation's borders and ports of entry" to noncitizens "seeking admission into the United States."). Section 1225(b)(2) is the statute that Respondents have suddenly decided is applicable to people like Petitioner.

37. Third, the INA also provides for detention of noncitizens who have already been ordered removed, *see* 8 U.S.C. § 1231. Section 1231 is not relevant here.

38. This case challenges the Respondents' erroneous decision that the Petitioner is subject to mandatory detention without bond under §1225(b)(2), rather than being bond-eligible under § 1226(a).

39. 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, 582–583, 585. Section 1226(a) was

[2] Section § 1226 contains an exception for noncitizens who have been arrested, charged with, or convicted of certain crimes, who are subject to mandatory detention without bond. 8 U.S.C. § 1226(c). That exception does not apply to Petitioner here.

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

40. Following the 1996 enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not 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. 10,312, 10,323 (Mar. 6, 1997) (explaining that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.").

41. Thus, in the three decades that followed, people who entered without inspection and were subsequently placed in removal proceedings received bond hearings if ICE chose to detain them, unless their criminal history rendered them ineligible. 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)).

42. However, on July 8, 2025, ICE, "in coordination with" the Department of Justice, suddenly announced a new governmental policy that rejected the well-established understanding of the statutory framework and reversed decades of agency practice.

43. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission," claims that all persons who entered the United States

without inspection are subject to mandatory detention without bond 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 or years.

44. In decision after decision, federal courts—both nationwide and here in Western Michigan— have rejected Respondents' sudden reinterpretation of the statutory scheme, and have instead held that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *See, e.g.*, *Demirel v. Fed. Det. Ctr. Phila.*, 25-cv-5488, 2025 WL 3218243, at *5-13 (E.D. Pa. Nov. 18, 2025) (cataloging ***288 cases*** granting habeas relief as of November 18, 2025); *Maldonado Bautista v. Santacruz*, No. 25-cv-01873, 2025 WL 3713987, at *32 (C.D. Cal. Dec. 18, 2025) (granting relief to a nationwide class that includes the Petitioner here).

45. This list is undoubtedly incomplete. As the media has reported, "[f]ederal judges are increasingly exasperated by the Trump administration's effort to lock up nearly everyone facing deportation proceedings . . .. The legal rejections are so frequent that one judge compared the Trump administration's effort to Sisyphus rolling a rock uphill." Kyle Cheney, *Hundreds of Judges Reject Trump's Mandatory Detention Policy, With No End in Sight*, Politico (Jan. 5, 2026, at 5:55 AM ET), https://www.politico.com/news/2026/01/05/trump-administration-immigrants-mandatory-detention-00709494 (noting that more than 300 judges across over 1,600 cases have granted habeas petitions).

46. On September 5, 2025, the BIA issued a precedential decision that rejected the overwhelming consensus of the federal courts. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision held that all noncitizens who entered the United

States without admission or parole are ineligible for bond hearings before an IJ.

47. The *Yajure Hurtado* decision—like the government policy it seeks to uphold—defies the INA. As Judge Robert White wrote—after noting that federal district courts are not bound by agency interpretations of statutes—the BIA's reasoning is unpersuasive and "at odds with every District Court that has been confronted with the same question of statutory interpretation." *Pizarro Reyes*, 2025 WL 2609425, at *7.

48. As court after court has explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

49. 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[e] the inadmissibility or deportability of a[] [noncitizen]." 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). As the *Rodriguez Vazquez* court explained, "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez*, 779 F. Supp. 3d at 1256-57 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

50. § 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.

51. 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). *See Jennings*, 583 U.S. at 287 (explaining that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.").

52. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people who have already entered and were long residing in the United States at the time they were apprehended by immigration authorities and detained. Because § 1226(a), not § 1225(b), is the applicable statute, Petitioner's detentions without eligibility for bond are unlawful.

53. Furthermore, Petitioner is part of a nationwide class of noncitizens that has obtained declaratory relief rejecting the government's reading of the INA and the BIA's reasoning in *Yajure Hurtado*. *See Maldonado Bautista v. Santacruz*, No. 25-cv-01873, 2025 WL 3713987, at *12 (C.D. Cal. Dec. 18, 2025). The court granted declaratory relief to "[a]ll noncitizens . . . 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." *Id.* at *32. The court also vacated the July 8 policy under the Administrative Procedure Act (APA). *Id.* at *22. Because the court in *Maldonado Bautista* entered final judgement as to these conclusions, *id.* at *32, Respondents are bound by them.

54. Petitioner seeks relief from this Court because any months-long appeal to the BIA of

an IJ's decision denying bond would be futile. A new request for a bond hearing is likewise futile. First, the agency's position is clear: both IJs and future panels of the BIA must follow the *Yajure Hurtado* decision. Further, the new governmental policy was issued "in coordination with DOJ," which oversees the immigration courts, including the BIA—up to and including the ability of the Attorney General to modify or overrule decisions of the BIA, *see* 8 C.F.R. § 1003.1(h). It is therefore unsurprising that the BIA has (erroneously) held that persons like Petitioner are subject to mandatory detention under § 1225(b)(2)(A), rather than being bond-eligible under § 1226(a). Moreover, in the numerous identical habeas corpus petitions that have been filed nationwide, EOIR and the Attorney General are often respondents and have consistently affirmed via briefing and oral argument that individuals like Petitioner are applicants for admission and subject to detention under § 1225(b)(2)(A).

55. Second, by the time the BIA could even issue an appeal—a process that typically takes at least six months, *Rodriguez*, 779 F. Supp. 3d at 1245, and in many cases, roughly a year, *id.* — the harm of Petitioner's unlawful detention will be impossible to remediate. Nor will the downstream effects of continued detention be remediable: Petitioner's family and community will be left without caretakers and contributors for months.

56. Third, neither IJs nor the BIA have the authority to decide constitutional claims; such claims are reserved for the federal courts. *See INS v. St. Cyr*, 533 U.S. 289, 300–01 (2001) (recognizing the historic role of habeas and Article III courts in adjudicating constitutional and legal challenges in immigration cases). Here, the Petitioner claims not only that Respondents are unlawfully detaining him without bond hearings under an inapplicable statute, but also that such detention violates Petitioner's constitutional

right to due process if the government seeks to deprive him of his liberty.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

58. Respondents are unlawfully detaining the Petitioner without bond pursuant to the mandatory detention provision at 8 U.S.C. § 1225(b)(2).

59. Section 1225(b)(2) does not apply to the Petitioner, who previously entered the country and have long been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents.

60. Instead, the Petitioner should be subject to the detention provisions of § 1226(a) and is therefore entitled to a custody determination by ICE, and if custody is continued, to a custody redetermination (i.e., a bond hearing) by an immigration judge.

61. Respondents' application of 8 U.S.C. § 1225(b)(2) to the Petitioner results in Petitioner's unlawful detention without the opportunity for a bond hearing and violates the INA.

COUNT II

Violation of Due Process

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

63. 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).

64. Regardless of whether the INA provides the Petitioner with a bond hearing, Petitioner has a fundamental interest in liberty and being free from official restraint.

65. The government's detention of the Petitioner without an opportunity for a custody determination or bond hearing to decide whether they are a flight risk or danger violates the Petitioner's right to due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus requiring that Respondents release Petitioner from custody unless, within 7 days, the Petitioner is provided with a bond hearing pursuant to 8 U.S.C. § 1226(a) that meets constitutional and statutory requirements for due process;

c. Enjoin Respondents from transferring the Petitioner from the jurisdiction of this District pending these proceedings;

d. Declare that 8 U.S.C. § 1226(a)—and not 8 U.S.C. § 1225(b)(2)(A) —is the appropriate statutory provision that governs the Petitioner's detention and eligibility for bond because Petitioner is not a recent arrival "seeking admission" to the United States, and instead was already residing in the United States when apprehended and charged as inadmissible for having allegedly entered the United States without inspection;

e. Award the Petitioner 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: March 3, 2026

Respectfully submitted,

_/s/ Marva De Armas

MARVA DE ARMAS
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on March 3 2026, *Petitioner's Petition for Writ of Habeas Corpus* was filed with the Court Clerk via ECF system e-filing system which will give notice of such filing to all parties of record.

/s/Marva De Armas
Marva De Armas