UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

MOHAMED BANEMOU, A# [redacted]

Petitioner,

v.

WARDEN, NORTH LAKE CORRECTIONAL FACILITY;

KEVIN RAYCRAFT,
in his official capacity as Detroit Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement;

Kristi Noem,
in her official capacity as Secretary, U.S. Department of Homeland Security;

Todd M. Lyons,
in his official capacity as Acting Director of Immigration & Customs Enforcement; and

Pamela Bondi,
in her official capacity as Attorney General, U.S. Department of Justice,

Respondents.

CIVIL DOCKET NO.
VERIFIED PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241 AND BRIEF IN SUPPORT

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Petitioner Mohamed Banemou respectfully petitions for a writ of habeas corpus under 28 U.S.C. § 2241. He challenges only the legality of his present immigration detention. He does not ask this

Court to review the merits of any asylum claim or removal order. The current detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)(A), and recent Western District of Michigan decisions repeatedly grant relief on materially similar facts. DHS itself initially released Petitioner on Form I-220A, Order of Release on Recognizance, on August 3, 2023, which further confirms that his custody is not categorically mandatory.

Jurisdiction and Venue

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody and alleges that his present detention violates the Constitution and laws of the United States.

2. District-court habeas jurisdiction remains available where a detainee challenges the statutory framework authorizing present detention or the constitutionality of detention procedures. See 28 U.S.C. § 2241; Zadvydas v. Davis, 533 U.S. 678, 687 (2001); Demore v. Kim, 538 U.S. 510, 517 (2003); Jennings v. Rodriguez, 583 U.S. 281, 296 (2018); Soto-Medina v. Lynch, No. 1:25-cv-1704, 2026 WL 161002, at *2 (W.D. Mich. Jan. 21, 2026).

3. Venue is proper in this District because ICE is detaining Petitioner at North Lake Correctional Facility, 1805 W. 32nd Street, Baldwin, Michigan 49304, in Lake County, Michigan. Lake County lies in the Southern Division at Grand Rapids.

4. This petition concerns detention only. It does not seek review of the merits of Petitioner's asylum claim or any removal order. On the materials presently available to counsel, no administratively final order of removal has been supplied.

Parties

5. Petitioner Mohamed Banemou is a native and citizen of Mauritania. He is presently detained by ICE at North Lake Correctional Facility in Baldwin, Michigan.

6. Respondent Warden, North Lake Correctional Facility, is a proper respondent because the warden is Petitioner's immediate physical custodian. See Roman v. Ashcroft, 340 F.3d 314, 322 (6th Cir. 2003); Delgado Vilchez v. Warden, North Lake Corr. Facility, No. 1:26-cv-216, 2026 WL 570449, at *8 (W.D. Mich. Mar. 2, 2026).

7. Respondent Kevin Raycraft, in his official capacity as Detroit Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, is also a proper respondent because the Sixth Circuit generally treats the local immigration district director as a proper habeas respondent in immigration detention cases, and recent Western District of Michigan cases retain the Detroit ICE Field Office Director to ensure effective relief.

8. Respondent Todd M. Lyons, in his official capacity as Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement, is properly named to ensure that any order requiring a hearing or release remains effective if Petitioner is transferred during the pendency of this action.

9. Respondent Kristi Noem, in her official capacity as Secretary of Homeland Security, is also properly named for the same reason. Recent Western District of Michigan cases have retained the Field Office Director, the acting ICE Director or equivalent ICE head, and the Secretary of Homeland Security as respondents to ensure that a hearing-or-release order binds at least one official with authority to act after a transfer. See Perez Fuentes v. Raycraft, No. 1:26-cv-598, slip op. at 5-6 (W.D. Mich. Mar. 6, 2026); Soto-Medina, 2026 WL 161002.

Factual Background

10. On August 2, 2023, DHS issued Petitioner a Notice to Appear charging him as removable under INA § 212(a)(6)(A)(i). The Notice to Appear checked the box alleging that he was an alien present in the United States who had not been admitted or paroled, alleged arrival near Lukeville,

Arizona, on or about August 1, 2023, and ordered him to appear in Immigration Court in New York.

11. On August 3, 2023, the Department of Homeland Security released Petitioner on Form I-220A, Order of Release on Recognizance, under section 236, subject to standard conditions including appearing for hearings, surrendering if ordered removed, reporting as directed, not changing residence without permission, not violating the law, and assisting the government in obtaining travel documents.

12. Thereafter, Petitioner remained at liberty in the United States while his section 240 proceedings continued. On January 11, 2024, while expressly marked NON-DETAINED, he filed a Form I-589 application for asylum and withholding of removal in New York Immigration Court through counsel.

13. Petitioner's January 2024 asylum filing listed a Brooklyn, New York residence from August 2023 forward. The materials presently before counsel also reflect no United States arrests or convictions, and nothing in the supplied record indicates any charge that would place Petitioner in mandatory criminal detention under 8 U.S.C. § 1226(c).

14. Petitioner has worked as a delivery driver for DoorDash, Instacart, and Walmart Spark.

15. Petitioner states that, at the time of his arrest, he was making a Walmart Spark delivery to a customer when immigration agents stopped him before he reached the delivery location. He states that several vehicles carrying approximately ten agents stopped him without explanation, that the agents did not answer when he asked why he was being stopped and arrested, and that the agents then took him into immigration custody.

16. Petitioner further states that he is engaged to a United States citizen and that the couple planned to marry the following day. He states that agents left his vehicle on the side of the road,

that its current location remains unknown to him, and that his personal property, including the engagement ring intended for his U.S. citizen fiancee, has not been recovered with the vehicle.

17. By February 18, 2026, and again on February 20, 2026, ICE filed Form I-830 notices with the Detroit Immigration Court stating that Petitioner was detained by ICE at North Lake Correctional Facility in Baldwin, Michigan.

18. Thus, by the time of the detention challenged here, Petitioner had already been inside the United States for an extended period, had already been placed into section 240 proceedings, had already been released on recognizance under section 236, and had already been living in the community while pursuing asylum as a non-detained respondent.

19. On the materials presently available to counsel, no post-detention custody redetermination order, no denial of bond on the merits, and no administratively final order of removal has been supplied. If Respondents contend that any such order exists, they should produce it in response to this petition.

Exhaustion Is Not Required and, in Any Event, Is Excused

20. No statute requires Petitioner to exhaust administrative remedies before filing this habeas action. Whether to require exhaustion is therefore a matter of prudential discretion. See Shearson v. Holder, 725 F.3d 588, 593-94 (6th Cir. 2013); Island Creek Coal Co. v. Bryan, 937 F.3d 738, 746 (6th Cir. 2019).

21. The central question here is a legal one: whether Petitioner's present detention is governed by 8 U.S.C. § 1226(a) or instead by 8 U.S.C. § 1225(b)(2)(A). Penagos Robles held that prudential exhaustion should not be required in materially similar circumstances because that issue is principally a legal question of statutory interpretation. See Penagos Robles v. U.S. Dep't of Homeland Sec., No. 1:25-cv-1578, 2025 WL 3558128, at *3-5 (W.D. Mich. Dec. 12, 2025).

22. To the extent Petitioner also raises a constitutional due process challenge, that claim likewise need not be exhausted. The Sixth Circuit has recognized that due process challenges generally do not require exhaustion because the Board of Immigration Appeals cannot review constitutional claims, although correctable procedural errors must first be presented to the agency. See Sterkaj v. Gonzales, 439 F.3d 273, 279 (6th Cir. 2006). Soto-Medina applies the same principle in the immigration-detention context. See Soto-Medina, 2026 WL 161002.

23. Alternatively, exhaustion should be excused as futile and because delay causes immediate hardship. Penagos held that, in light of the Government's position and Matter of Yajure Hurtado, requiring further administrative pursuit of bond would likely be futile. See Penagos Robles, 2025 WL 3558128, at *4-5. Soto-Medina likewise declined to enforce prudential exhaustion and explained that delay while awaiting BIA review prolongs the very detention the petitioner seeks to challenge. See Soto-Medina, 2026 WL 161002.

Grounds for Relief

I. Petitioner's Present Detention Is Governed by 8 U.S.C. § 1226(a), Not 8 U.S.C. § 1225(b)(2)(A)

24. Section 1225 generally governs inspection and detention decisions arising at the border and while an individual is seeking admission. Section 1226 generally governs the arrest and detention of noncitizens pending a decision on whether they are to be removed after they have already entered and are within the United States.

25. Petitioner's present detention fits section 1226(a). He was placed into section 240 proceedings in 2023, was released on Form I-220A under section 236 on August 3, 2023, later filed a non-detained asylum application in New York Immigration Court, and was only later arrested by ICE in Michigan while already living and working inside the United States.

26. Penagos Robles squarely holds that section 1226(a), not section 1225(b)(2)(A), governs noncitizens who have resided in the United States and were already within the United States when apprehended and arrested. 2025 WL 3558128, at *8. The same conclusion has been repeated in a line of recent Western District of Michigan cases. See Acuna Sanchez v. Noem, No. 1:25-cv-1442, 2025 WL 3562577, at *4-9 (W.D. Mich. Dec. 12, 2025); Candela Bastidas v. Noem, No. 1:25-cv-1528, 2025 WL 3562638, at *4-8 (W.D. Mich. Dec. 12, 2025); Antele Cobix v. Raycraft, No. 1:25-cv-1669, 2025 WL 3562651, at *3-8 (W.D. Mich. Dec. 12, 2025); Perez Fuentes, No. 1:26-cv-598, slip op. at 3-6.

27. That reasoning applies with even greater force here because DHS itself exercised discretionary release authority in Petitioner's case at the outset by issuing Form I-220A and releasing him on his own recognizance under section 236. The Government cannot release a respondent on section 236 recognizance, allow him to live in the United States while proceedings continue, and then later claim that he is perpetually subject to no-bond mandatory detention under section 1225.

28. Petitioner's current record also contains no charge or conviction that would trigger mandatory detention under 8 U.S.C. § 1226(c). On this record, the governing detention statute is section 1226(a), which authorizes detention, bond, or conditional parole.

29. Because section 1226(a) governs, Petitioner is eligible for an individualized custody determination before an immigration judge.

II. Matter of M-S- and Matter of Yajure Hurtado Do Not Bar Relief

30. Respondents are likely to argue that Petitioner is not bond-eligible under Matter of M-S-, 27 I. & N. Dec. 509 (A.G. 2019), Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), or

similar agency guidance characterizing certain applicants for admission as subject to mandatory detention.

31. Those administrative decisions do not control this Court's independent interpretation of the immigration statutes or the Due Process Clause. The question presented here is whether the detention challenged in this habeas action is authorized by section 1225(b)(2)(A) or section 1226(a). That is a judicial question.

32. In any event, those decisions do not fit Petitioner's circumstances. Petitioner was released from initial DHS custody on Form I-220A under section 236, remained in pending section 240 proceedings, lived in the United States while non-detained, and was only later arrested in Michigan. Recent Western District of Michigan cases have repeatedly rejected the Government's attempt to use Matter of Yajure Hurtado or similar reasoning to transform later interior detention into perpetual mandatory detention.

33. Penagos Robles considered the Government's post-Yajure position and still held that section 1226(a) governs. 2025 WL 3558128, at *3-10. More recently, Perez Fuentes acknowledged Buenrostro-Mendez v. Bondi, 166 F.4th 494 (5th Cir. 2026), but expressly held that the Fifth Circuit's nonbinding decision did not change the Western District of Michigan's analysis. Perez Fuentes, No. 1:26-cv-598, slip op. at 5.

34. Accordingly, Matter of M-S-, Matter of Yajure Hurtado, and Buenrostro-Mendez do not bar this Court from declaring that section 1226(a) governs Petitioner's present detention and ordering the bond-hearing relief that this District has repeatedly granted.

III. Continued Detention Without a Bond Hearing Under the Correct Statutory Framework Violates the Fifth Amendment

35. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause. See Zadvydas, 533 U.S. at 690. The process due in an immigration-detention case is evaluated under Mathews v. Eldridge, 424 U.S. 319 (1976).

36. When section 1226(a) governs, the statutory framework is discretionary. It allows continued detention, release on bond, or conditional parole. Recent Western District of Michigan cases have recognized that this discretionary framework requires an individualized bond hearing. See Penagos Robles, 2025 WL 3558128, at *8; Perez Fuentes, No. 1:26-cv-598, slip op. at 4-6.

37. The risk of erroneous deprivation here is substantial. ICE has detained Petitioner under a mandatory no-bond theory even though he was previously released on recognizance, later pursued asylum as a non-detained respondent, and was then arrested years later while already residing in the United States. Without a prompt individualized hearing before an immigration judge, no neutral decisionmaker has assessed whether he is actually a flight risk or danger to the community.

38. Petitioner's circumstances underscore why individualized process matters. He was living in the community, working, pursuing his immigration case, engaged to a U.S. citizen, and preparing to marry the next day when agents stopped and arrested him. The current record supplied to counsel reflects no criminal history that would support mandatory detention. The hardship of continued detention is compounded by the loss of access to his vehicle and personal property, including the engagement ring intended for his fiancee.

39. On materially similar facts, the Western District of Michigan has repeatedly held that detention under the mandatory section 1225 framework, when section 1226(a) actually governs,

violates due process and must be remedied by a prompt section 1226(a) bond hearing or release. See Penagos Robles, 2025 WL 3558128, at *8-10; Acuna Sanchez, 2025 WL 3562577, at *7-10; Candela Bastidas, 2025 WL 3562638, at *7-9; Antele Cobix, 2025 WL 3562651, at *6-9; Perez Fuentes, No. 1:26-cv-598, slip op. at 4-6.

IV. If the Court Orders a Section 1226(a) Hearing, the Government Should Bear the Burden by Clear and Convincing Evidence

40. If this Court orders a section 1226(a) bond hearing, the Court should also specify the correct burden of proof. In Soto-Medina, the Western District of Michigan held that due process requires the Government to bear the burden of proving, by clear and convincing evidence, that the detainee is a flight risk or danger to the community. Soto-Medina, 2026 WL 161002, at *11.

41. That rule follows from Mathews, Addington v. Texas, 441 U.S. 418, 427 (1979), and United States v. Salerno, 481 U.S. 739, 750-51 (1987). It is especially appropriate here because the Government previously released Petitioner on recognizance and the current record before counsel reflects no criminal history that would justify treating him as presumptively ineligible for release.

42. This Court should therefore order that any section 1226(a) hearing be conducted before an immigration judge and that, to deny bond, the Government must prove by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk.

V. Proper Respondents and Effective Relief

43. Naming the Warden is proper because the warden is Petitioner's immediate custodian. Roman, 340 F.3d at 322; Delgado Vilchez, 2026 WL 570449, at *8.

44. Naming the Detroit Field Office Director, the senior official performing the duties of ICE Director, and the Secretary of Homeland Security is also proper because recent Western District

of Michigan cases retain higher-level officials to ensure that any hearing-or-release order binds an official with authority to act if ICE transfers the detainee during the case. See Soto-Medina, 2026 WL 161002; Perez Fuentes, No. 1:26-cv-598, slip op. at 5-6.

Prayer for Relief

A. Assume jurisdiction under 28 U.S.C. § 2241 and issue the writ;

B. Declare that Petitioner's present detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)(A);

C. Order Respondents to provide Petitioner with an individualized bond hearing before an immigration judge within five business days of the Court's order, with notice to the parties as soon as practicable and no later than 24 hours before the hearing;

D. Order that, at any such hearing, the Government bears the burden to prove by clear and convincing evidence that Petitioner is a flight risk or danger to the community;

E. Order Respondents to release Petitioner immediately if they do not provide the required hearing within the time set by the Court;

F. Retain jurisdiction notwithstanding any transfer of Petitioner during the pendency of this action and direct Respondents not to transfer Petitioner in a manner that would defeat or delay the relief ordered by the Court;

G. Require Respondents to file a status report within six business days certifying compliance and stating whether a hearing occurred, whether bond was granted or denied, and, if denied, the reasons for the denial; and

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

Verification

I, Mohamed Banemou, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing petition and that the facts stated in it are true and correct to the best of my knowledge, information, and belief.

Dated: March 17, 2026
Respectfully submitted,



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