FILED
U.S. District Court
District of Kansas
04/01/2026
Clerk, U.S. District Court
By: JAL Deputy Clerk

UNITED STATES DISTRICT COURT
DISTRICT OF KANSAS

ISAAC COYOTE SERVIN,

Petitioner,

v.

Samuel OLSON, Field Office Director, Chicago Field Office, U.S. Immigration and Customs Enforcement; Markwayne MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Pamela BONDI, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Warden, Leavenworth Midwest Regional Reception Center, Kansas.

Respondents.

Case No. 26-3078-JWL

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Isaac Coyote Servin is in the physical custody of Respondents at the Midwest Regional Reception Center in Leavenworth, Kansas. He now faces unlawful detention because the Department of Homeland Security ("DHS") continues to detain him.

2. This is an action for habeas corpus relief under 28 U.S.C. § 2241 challenging Petitioner's unlawful detention by DHS and U.S. Immigration and Customs Enforcement ("ICE").

3. Petitioner has lived in the United States for approximately twenty (20) years since his entry in or about 2006 and has strong family and community ties in the United States.

4. Petitioner is the father of one United States citizen child, who depends on him for emotional and financial support. Petitioner has built his life in the United States over two decades and has been a consistent presence in his family's life.

5. Petitioner was taken into custody by ICE in or about March 2026 and has remained detained since that time.

6. Despite the non-final status of his immigration proceedings, Respondents have detained Petitioner without providing a bond hearing or individualized custody determination.

7. Petitioner has lived in the United States for decades and was apprehended within the interior of the country—not at the border.

8. Therefore, the governing detention statute is 8 U.S.C. § 1226(a). Section 1226(a) expressly provides for discretionary detention and the availability of bond hearings.

9. Respondents' refusal to provide Petitioner with a bond hearing violates the Immigration and Nationality Act ("INA") and the Due Process Clause of the Fifth Amendment.

10. Petitioner therefore seeks a writ of habeas corpus ordering his release from custody or, at minimum, an individualized bond hearing.

11. Petitioner's continued detention serves no legitimate governmental purpose and is inconsistent with the statutory framework governing immigration detention.

12. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within fourteen (14) days.

JURISDICTION

13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Midwest Regional Reception Center.

14. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

15. 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.

16. Petitioner challenges the legality of his detention, not the validity of any removal order.

VENUE

17. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the District of Kansas, the judicial district in which Petitioner currently is detained.

18. 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 occurred in the District of Kansas.

REQUIREMENTS OF 28 U.S.C. § 2243

19. The Court must grant the petition for 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.*

20. 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

21. Petitioner Isaac Coyote Servin is a citizen of Mexico who has been in immigration detention since approximately March 2026. He has resided in the United States since approximately 2006. He is currently detained at the Midwest Regional Reception Center, Leavenworth, Kansas.

22. Respondent Samuel Olson is the Field Office Director for ICE Enforcement and Removal Operations in the Chicago Field Office. As such, Samuel Olson is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

23. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

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

25. 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 is a component agency. She is sued in her official capacity.

26. 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.

27. Respondent is the Warden of the Midwest Regional Reception Center in Leavenworth, Kansas, the facility where Petitioner is currently detained. Respondent has immediate physical custody of Petitioner and is sued in his official capacity.

LEGAL FRAMEWORK

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

29. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally 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).

30. 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).

31. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

32. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

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

34. Following the enactment of the 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). *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).

35. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, 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)).

36. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

37. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225, and therefore are subject to mandatory detention provision 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, years, and even decades.

38. ICE and EOIR have adopted this position even though federal courts have rejected this exact conclusion. For example, after IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States.

39. DHS's and DOJ's interpretation defy the INA. As the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

40. 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]."

[1] *Available at* https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission.

41. 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 Vazquez*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

42. 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.

43. 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). Indeed, the Supreme Court has explained 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." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

44. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

FACTS

45. Petitioner has resided in the United States since approximately 2006 and has established significant family and community ties.

46. Petitioner is the father of one United States citizen child, who rely on him for emotional and financial support.

47. Petitioner has demonstrated good moral character and strong equities in the United States.

48. These findings reflect that Petitioner is not a danger to the community and is deserving of relief under U.S. immigration laws.

49. Petitioner's prolonged detention has disrupted his child's education, stability, and development.

50. Petitioner is a primary financial provider for his household. His detention has already resulted in loss of income and financial instability for his child and wife.

51. Petitioner's case is currently pending, and no final order of removal exists.

52. ICE has continued Petitioner's detention without providing a bond hearing or meaningful custody determination.

53. Petitioner is neither a flight risk nor a danger to the community.

54. Petitioner's continued detention has caused significant hardship to his family, including his U.S. citizen child and wife.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

55. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

56. Petitioner has not sought further administrative review of his custody because such efforts would be futile. DHS and EOIR have adopted the position that individuals in Petitioner's circumstances are categorically subject to mandatory detention and ineligible for bond hearings.

Under these circumstances, exhaustion of administrative remedies is not required for habeas review.

57. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

58. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II

Violation of Due Process

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

60. 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, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

61. Petitioner has a fundamental interest in liberty and being free from official restraint.

62. The government's continued detention of Petitioner violates his 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 or provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within 14 days;

c. Award Petitioner attorney's 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

d. Grant any other and further relief that this Court deems just and proper.

DATED this 1st of April, 2026.

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