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5
6 IN THE UNITED STATES DISTRICT COURT
7
8 FOR THE DISTRICT OF ARIZONA
9

Edgar Yoeni RUBI-MARTINEZ,

Petitioner,

File No.-26-CV-.....

11 v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

12 John CANTU, Field Office Director of
Enforcement and Removal Operations,
13 Phoenix Field Office, Immigration and
Customs Enforcement;
14 Markwayne MULLIN, Secretary, U.S.
Department of Homeland Security;
15 U.S. DEPARTMENT OF HOMELAND
SECURITY;
16 Todd BLANCHE, Acting U.S. Attorney
General;
17 EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW;
18 Eric ROKOSKY, Warden of Eloy
Detention Center

19 Respondents.
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INTRODUCTION

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2 1. Petitioner, Edgar Yoeni RUBI-MARTINEZ is in the physical custody of
3 Respondents at the Eloy Detention Center. He now faces unlawful detention because the
4 Department of Homeland Security (DHS) and the Executive Office of Immigration
5 Review (EOIR) have concluded Petitioner is subject to mandatory detention.

6 2. Petitioner is charged with, inter alia, having entered the United States without
7 admission or inspection. See 8 U.S.C. § 1182(a)(6)(A)(i).

8 3. Based on this allegation in Petitioner's removal proceedings, DHS denied
9 Petitioner release from immigration custody, consistent with a new DHS policy issued on
10 July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to
11 consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the
12 United States without admission or inspection—to be subject to detention under 8 U.S.C.
13 § 1225(b)(2)(A) and therefore ineligible to be released on bond.

14 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
15 Board) issued a precedent decision, binding on all immigration judges, holding that an
16 immigration judge has no authority to consider bond requests for any person who entered
17 the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
18 (BIA 2025). The Board determined that such individuals are subject to detention under 8
19 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

20 5. Petitioner's detention on this basis violates the plain language of the Immigration
21 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner
22 who previously entered and are now residing in the United States. Instead, such

1 individuals are subject to a different statute, § 1226(a), that allows for release on
2 conditional parole or bond. That statute expressly applies to people who, like Petitioner,
3 are charged as inadmissible for having entered the United States without inspection.

4 6. Respondents' new legal interpretation is plainly contrary to the statutory
5 framework and contrary to decades of agency practice applying § 1226(a) to people like
6 Petitioner.

7 7. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released,
8 or, in the alternative, that Respondents provide a bond hearing under § 1226(a) within
9 seven days.

10 JURISDICTION

11 8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
12 Eloy Detention Center in Eloy, Arizona.

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

16 10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
17 Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.

18 VENUE

19 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-
20 500 (1973), venue lies in the United States District Court for the District of Arizona, the
21 judicial district in which Petitioner currently is detained.

1 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because
2 Respondents are employees, officers, and agencies of the United States, and because a
3 substantial part of the events or omissions giving rise to the claims occurred in the
4 District of Arizona.

5 REQUIREMENTS OF 28 U.S.C. § 2243

6 13. The Court must grant the petition for writ of habeas corpus or order Respondents
7 to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.
8 If an order to show cause is issued, Respondents must file a return “within three days
9 unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

10 14. Habeas corpus is “perhaps the most important writ known to the constitutional law
11 . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
12 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application
13 for the writ usurps the attention and displaces the calendar of the judge or justice who
14 entertains it and receives prompt action from him within the four corners of the
15 application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

16 PARTIES

17 15. Petitioner Edgar Yoeni RUBI-MARTINEZ is a citizen of Honduras who has been
18 in immigration detention since January 14, 2026. After arresting Petitioner in Phoenix,
19 Arizona, ICE did not set bond and Petitioner is unable to obtain review of his custody by
20 an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216
21 (BIA 2025).

1 16. Respondent John CANTU is the Director of the Phoenix Field Office of ICE's
2 Enforcement and Removal Operations division. As such, John CANTU is Petitioner's
3 immediate custodian and is responsible for Petitioner's detention and removal. He is
4 named in his official capacity.

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

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

13 19. Respondent Todd BLANCHE is the Acting Attorney General of the United States.
14 As Acting Attorney General, he is responsible for the Department of Justice, of which the
15 Executive Office for Immigration Review and the immigration court system it operates is
16 a component agency. He is sued in his official capacity.

17 20. Respondent Executive Office for Immigration Review (EOIR) is the federal
18 agency responsible for implementing and enforcing the INA in removal proceedings,
19 including for custody redeterminations in bond hearings.

20 21. Respondent Eric ROKOSKY is employed by CoreCivic, Inc. as Warden of the
21 Eloy Detention Center, where Petitioner is detained. He has immediate physical custody
22 of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

22. The Fifth Amendment to the United States Constitution provides that no person shall be deprived of liberty without due process of law. U.S. Const. amend. V. Noncitizens physically present within the United States are “persons” within the meaning of the Fifth Amendment and are therefore entitled to its protections. *Wong Wing v. United States*, 163 U.S. 228 (1896). Immigration detention, although civil in nature, constitutes a significant deprivation of physical liberty and must comply with both the statutory framework established by Congress and the constitutional requirements of due process. The Supreme Court has repeatedly recognized that civil detention imposed by the government implicates fundamental liberty interests. Freedom from physical restraint lies at the core of the liberty protected by the Due Process Clause, and even in the immigration context, the government must ensure that detention remains reasonably related to its lawful purpose and is not arbitrary or excessive. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Addington v. Texas*, 441 U.S. 418, 425 (1979).

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

24. 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).

25. 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).

26. 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).

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

28. 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 in 2025 by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

29. 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).

30. 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 pursuant to 8 U.S.C. § 1226(c). 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

1 officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229
2 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found
3 at § 1252(a)).

4 31. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
5 rejected well-established understanding of the statutory framework and reversed decades
6 of practice. The new policy, entitled “Interim Guidance Regarding Detention Authority
7 for Applicants for Admission,” claims that all persons who entered the United States
8 without inspection shall now be subject to mandatory detention provision under §
9 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects
10 those who have resided in the United States for months, years, and even decades.

11 32. On September 5, 2025, the BIA adopted this same position in a published
12 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who
13 entered the United States without admission or parole are subject to detention under §
14 1225(b)(2)(A) and are ineligible for IJ bond hearings.

15 33. Since Respondents adopted their new policies, dozens of federal courts have
16 rejected their new interpretation of the INA’s detention authorities. Courts have likewise
17 rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

18 34. Even before ICE or the BIA introduced these nationwide policies, IJs in the
19 Tacoma, Washington, immigration court stopped providing bond hearings for persons
20 who entered the United States without inspection and who have since resided here. There,
21 the U.S. District Court in the Western District of Washington found that such a reading of
22 the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who

1 are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779
2 F. Supp. 3d 1239 (W.D. Wash. 2025).

3 35. In addition, numerous federal courts have rejected ICE and EOIR's interpretation
4 of the INA's detention provisions. These courts found that § 1226(a), rather than §
5 1225(b)(2), governs the detention authority in cases involving noncitizens who entered
6 without inspection. Courts that have come to this conclusion include but are not limited
7 to: Massachusetts, Arizona, New York, Minnesota, California, and Nebraska. See: *Gomes*
8 *v. Hyde*, No. 1:25-CV-11571-JEK (D. Mass. July 7, 2025); *Rosado v. Figueroa*, No. CV
9 25-02157 PHX DLR (CDB) (D. Ariz. Aug. 11, 2025); *Lopez Benitez v. Francis*, No. 25
10 CIV. 5937 (DEH) (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-
11 SRN-SGE (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM (D. Mass.
12 Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF (N.D. Cal. Aug. 21,
13 2025); *Palma Perez v. Berg*, No. 8:25CV494 (D. Neb. Sept. 3, 2025).

14 36. Furthermore, the Central District of California vacated *Matter of Yajure Hurtado*
15 on February 18, 2026. *Lazaro Maldonado Bautista et al. v. Ernesto Sanchez Jr et al.*, No.
16 25-CV-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026). This vacatur was stayed by the Ninth
17 Circuit pending appeal on March 6, 2026. *Lazaro Maldonado Bautista et al v. U.S.*
18 *Department of Homeland Security et al.*, No. 26-1044 (9th Cir., March 6, 2026). While IJs
19 and the BIA may continue to argue that this vacatur does not apply outside of the Central
20 District of California, this decision, combined with the above-mentioned District Court
21 decisions, support the position that the government's reliance on § 1225(b)(2) is
22

1 erroneous in cases involving those whose immigration status lawfully falls under §
2 1226(a).

3 37. Courts have uniformly rejected DHS's and EOIR's new interpretation because it
4 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text
5 of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people
6 like Petitioner.

7 38. Section 1226(a) applies by default to all persons "pending a decision on whether
8 the [noncitizen] is to be removed from the United States." These removal hearings are
9 held under § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

10 39. The text of § 1226 also explicitly applies to people charged as being inadmissible,
11 including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E).

12 Subparagraph (E)'s reference to such people makes clear that, by default, such people are
13 afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained,
14 "[w]hen Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that
15 absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp.
16 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S.
17 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

18 40. Section 1226 therefore leaves no doubt that it applies to people who face charges
19 of being inadmissible to the United States, including those who are present without
20 admission or parole.

21 41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
22 recently entered the United States. The statute's entire framework is premised on

1 inspections at the border of people who are “seeking admission” to the United States. 8
2 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory
3 detention scheme applies “at the Nation’s borders and ports of entry, where the
4 Government must determine whether a[] [noncitizen] seeking to enter the country is
5 admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

6 42. Moreover, the Laken Riley Act amended 8 U.S.C. § 1225 to apply mandatory
7 detention to certain noncitizens who entered the United States without inspection. Laken
8 Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025). This amendment further demonstrates
9 that Section 1225(b) was never intended to apply to noncitizens in the interior of the
10 United States who are not seeking admission.

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

14 FACTS

15 44. Petitioner has resided in the United States since approximately July 19, 2023 and
16 lives in Youngtown, Arizona.

17 45. Petitioner entered the United States as an unaccompanied juvenile on July 19,
18 2023. At his entry, he encountered immigration officers and was placed into removal
19 proceedings. Those proceedings were dismissed in 2024. On January 12, 2026, Petitioner
20 was arrested by ICE ERO officials after he was transferred from the Maricopa County
21 Sheriff’s Office, where he was charged with driving on a suspended license. Petitioner is
22 now detained at the Eloy Detention Center.

1 46. DHS placed Petitioner into new removal proceedings before the Eloy
2 Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, inter
3 alia, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the
4 United States without inspection.

5 47. Petitioner is married to a United States citizen. Notably, he has also been granted
6 an I-360 Petition for Special Immigrant Juvenile Status. His petition has a priority date of
7 December 22, 2023 and was approved on March 13, 2024. Once his priority date
8 becomes current, he will be eligible to submit an I-485 Application to Adjust Status to
9 Permanent Resident with USCIS. Per the Department of State's Visa Bulletin for April
10 2026, permanent resident cards are currently available for I-360s with a priority date prior
11 to July 15, 2022.

12 48. Following Petitioner's arrest and transfer to Eloy Detention Center, ICE issued a
13 custody determination to continue Petitioner's detention without an opportunity to post
14 bond or be released on other conditions. Petitioner subsequently requested a bond
15 redetermination hearing before an IJ.

16 49. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
17 Petitioner's bond request.

18 50. As a result, Petitioner remains in detention. Without relief from this court, he faces
19 the prospect of months, or even years, in immigration custody, separated from his family
20 and community.

21 **CLAIMS FOR RELIEF**

22 **COUNT I**

Violation of the INA

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

52. 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.

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

COUNT II

Violation of Due Process

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

55. 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).

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

1 57. The government's detention of Petitioner without a bond redetermination hearing
2 to determine whether he is a flight risk or danger to others violates his right to due
3 process.

4 PRAYER FOR RELIEF

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

6 a. Assume jurisdiction over this matter;

7 b. Order that Petitioner shall not be transferred outside the District of Arizona
8 while this habeas petition is pending;

9 c. Issue an Order to Show Cause ordering Respondents to show cause why this
10 Petition should not be granted within three days;

11 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or,
12 in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a)
13 within seven days;

14 e. Declare that Petitioner's detention is unlawful;

15 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
16 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

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

18 Dated this 2nd day of April, 2026

19 /s/ Lisa L. Elkin
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