

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

JOSE MARTINEZ-JIMENEZ,

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Petitioner,

v.

TODD BLANCHE,
Attorney General of the United States.

MARKWAYNE MULLIN, SECRETARY,
U.S. Department of Homeland Security (DHS),

TODD M. LYONS,
Acting Director, U.S. Immigration and Customs Enforcement (ICE),

KRISTEN SULLIVAN,
Field Office Director for ICE Enforcement and Removal Operations (ERO),
Atlanta Field Office.

WARDEN/FACILITY ADMINISTRATOR,
IRWIN COUNTY DETENTION
132 COTTON DRIVE
OCILLA, GA 31774

AND ALL OTHER PERSONS HAVING CUSTODY OF PETITIONER,

Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS
UNDER TITLE 28 U.S.C. § 2241**

PETITIONER, JOSE MARTINEZ-JIMENEZ, appearing, respectfully petitions this

Honorable Court for a Writ of Habeas Corpus pursuant to Title 28 U.S.C. § 2241, challenging the
legality and constitutionality of his civil immigration detention by the United States Department

of Homeland Security (DHS) and U.S. Immigration and Customs Enforcement (ICE), and in support thereof Petitioner proffers the following facts and evidence:

I. INFORMATION ABOUT PETITIONER

1. Petitioner's name is: JOSU MARTINEZ-JIMENEZ.
2. Petitioner's Alien Registration Number is: A# [REDACTED]
3. Petitioner is a native, citizen and national of Mexico. Petitioner was born on [REDACTED] [REDACTED] in Mexico.
4. Petitioner is detained at: IRWIN COUNTY DETENTION, 132 COTTON DRIVE OCILLA, GA 31774
5. Petitioner was taken into ICE custody on or about: April 2026.
6. Petitioner has continuously resided in the United States.
7. Petitioner is seeking Asylum, Cancellation of Removal, Withholding Removal. Petitioner also has a potential I-130/I-601A/42b from his Legal Permanent Resident Fiance.
8. Petitioner has no criminal convictions that would disqualify HIM from being released on bond.
9. Petitioner has strong family and community ties in the United States, including close relatives and long-term friendships.
10. The Petitioner came into the United States without inspection on or about in the year of 1998.
11. He is currently in removal proceedings.
12. The Petitioner is not an alien arriving.

II. JURISDICTION AND VENUE

13. This Court has subject-matter jurisdiction over this Petition pursuant to 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States and challenges the

legality of his civil immigration detention as contrary to the Constitution and laws of the United States.

14 Venue is proper in this Court because Petitioner is detained at IRWIN COUNTY DETENTION, 132 COTTON DRIVE OCILLA, GA 31774.

15. Petitioner challenges the lawfulness of his present detention and the lack of adequate procedural safeguards required by due process.

III. PARTIES

16. Petitioner is detained at IRWIN COUNTY DETENTION, 132 COTTON DRIVE OCILLA, GA 31774.

17. Respondent Todd Blanche is the Attorney General of the United States and was responsible for the general enforcement of federal immigration laws.

18. Respondent Markwayne Mullin is the Secretary of DHS, responsible for administering and enforcing immigration laws and policies.

19. Respondent Todd M. Lyons is the Acting Director of ICE, the DHS component responsible for Petitioner's detention.

20. Respondent KRISTEN SULLIVAN is the Field Office Director for ICE Enforcement and Removal Operations (ERO), Atlanta Field Office, responsible for ERO operations in Georgia, including detention decisions affecting Petitioner.

21. The Warden/Facility Administrator of IRWIN COUNTY DETENTION, 132 COTTON DRIVE OCILLA, GA 31774, was Petitioner's immediate custodian and had day-to-day control over Petitioner's confinement at the time this Petition was filed.

22. All other persons having custody of Petitioner are proper Respondents to the instant habeas Petition.

IV. FACTUAL BACKGROUND

23. Petitioner has a steady work history, demonstrating his stability and reliability.
24. Petitioner has no criminal convictions that would disqualify him from a bond and does not present a danger to the community.
25. Petitioner remains detained by ICE without a meaningful opportunity for an individualized release (or custody) determination on a record that accounts for his strong equities, strong and lengthy ties to the community, and lack of dangerousness.
26. The Petitioner is not currently being afforded an opportunity to present a case for bond because the Board of Immigration Appeals has stated that people in the Petitioner's situation do not have a right to ask the Immigration Court for a bond.
27. Petitioner is not a flight risk. He has substantial ties to the United States, including family and employment. He is willing to comply with any and all necessary conditions of release, including but not limited to electronic monitoring, house arrest, and any other alternatives to detention that the Court deems meet, just and necessary to assure his presence in Court.

V. LEGAL FRAMEWORK

28. The Fifth Amendment to the United States Constitution guarantees that no person shall be deprived of liberty without due process of law.
 29. Federal courts have authority under 28 U.S.C. § 2241 to review the legality of immigration detention and to order appropriate relief, including an individualized bond/custody hearing or release under conditions.
 30. Section 1225 governs the inspection, detention, and removal of applicants for admission. See 8 U.S.C. § 1225 et seq. Applicants for admission are defined as noncitizens "present in the United States who ha[ve] not been admitted" or those "arriv[ing] in the United States." *Id.*
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31. All applicants for admission “must be inspected by immigration officers to ensure that they may be admitted into the country consistent with U.S. immigration law.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).
 32. To that end, “U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2).” *Id.* at 289 (emphasis added).
 33. “Section 1225(b)(1) applies to aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation.” *Id.* Such noncitizens are generally subject to expedited removal “without further hearing or review.” 8 U.S.C. § 1225(b)(1).
 34. However, if the noncitizen expresses “an intention to apply for asylum” or a fear of persecution,” the statute requires referral to an interview with an immigration officer. *Id.* § 1225(b)(1)(A)(ii). If the immigration officer finds a “credible fear,” the noncitizen “shall be detained for further consideration of the application for asylum.” *Id.*
 35. On the other hand, “Section 1225(b)(2) is broader” and “serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1).” *Jennings*, 583 U.S. at 287. Noncitizens covered under § 1225(b)(2) are detained for removal proceedings “if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted” into the country. 8 U.S.C. § 1225(b)(2)(A).
 36. Importantly, detention under § 1225(b)(2) is mandatory. See *Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025).
 37. Federal immigration law “also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings.” *Jennings*, 583 U.S. at 289 (emphasis added). Section 1226(a) provides that when a noncitizen has been “arrested and detained pending a decision on whether the alien is to be removed from the United States,” the
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Attorney General may either continue to detain the individual or release them on bond or conditional release. See 8 U.S.C. § 1226(a).

38. The statute thus “establishes a discretionary detention framework.” *Gomes*, 2025 WL 1869299, at *2. Importantly for purposes of the instant action, “[f]ederal regulations provide that aliens detained under [section] 1226(a) receive bond hearings at the outset of detention.” *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.1(d)(1), 13 1236.1(d)(1)); see also *Lopez Benitez v Francis*, No. 25-Civ-5937, 2025 WL 2371588, at *13 (S.D.N.Y. Aug. 13, 2025) (“To be sure, a noncitizen detained under [section] 1226(a) is undoubtedly entitled to a bond hearing before an immigration judge.”).

39. The question of whether section 1225(b)(2) or section 1226(a) governs Petitioner’s detention is a question of statutory interpretation squarely within the Court’s jurisdiction. *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *3 (E.D. Mich. Sep. 9, 2025) (noting that the interplay of these two sections is a matter “of statutory interpretation belong[ing] historically within the province of the courts.”) (citing *Loper Bright Enter. v. Raimondo*, 603 U.S. 369, 386 (2024)); *Barrios v. Shepley*, No. 25-cv-00406, 2025 WL 2772579, at *5 (D. Me. Sept. 25, 2025) (district court had jurisdiction to review petitioner’s challenge to the “statutory framework” regarding his detention); see *Gomes*, 2025 WL 1869299, at *8 n.9 (“Courts must exercise independent judgment in determining the meaning of statutory provisions”); *Mosqueda*, 2025 WL 2591530, at *7 (district court had jurisdiction to decide whether § 1225 or § 1226 applied as “[t]hese are purely legal questions of statutory interpretation.”).

40. The NTA should reflect that DHS proceeds under section 1226 when it encountered Petitioner. Specifically, the NTA should not classify Petitioner as an “arriving alien.” Instead, the NTA should charged him as “present in the United States without admission or parole.” *Id.* This

classification places him squarely within section 1226. See e.g., *Pizarro Reyes*, 2025 WL 2609425, at *8 (emphasizing ICE’s selection of “present” rather than “arriving” on the NTA as evidence that § 1226 applied); see also *Hyppolite v. Noem*, No. 25-4304, 2025 WL 2829511, *8 (E.D.N.Y. Oct. 6, 2025) (respondent’s initial classification of petitioner “certainly is relevant to the Court’s assessment of the credibility and good faith of ‘Respondents’ new position as to the basis for [Hyppolite’s] detention, which was adopted post hoc and raised for the first time in this litigation.’”) (citation omitted); *Perez v. Berg*, No. 25-cv-494, 2025 WL 2531566, at *2 (D. Neb. July 24, 2025) (“The Court notes that the government itself charged Petitioner as an alien present in the United States who has not been admitted or paroled rather than an arriving alien.”) (quotations omitted).

41. In addition, “[w]hereas [section] 1225 governs removal proceedings for ‘arriving aliens,’ [section] 1226(a) serves as a catchall.” *Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025).
42. As the Supreme Court stated in *Jennings*, section 1226 “creates a default rule” that “applies to aliens already present in the United States.” *Jennings*, 583 U.S. at 303. The inclusion of a “catchall” provision in section 1226, particularly following the more specific provision in section 1225, is “likely no coincidence, but rather a way for Congress to capture noncitizens who fall outside of the specified categories.” *Pizarro Reyes*, 2025 WL 2609425, at *5; see also *Barrera*, 2025 WL 2690565, at *4 (citation omitted).
43. The circumstances surrounding Petitioner’s detention align with section 1226(a), not section 1225(b)(2). Indeed, other Courts in this Circuit and District have uniformly rejected Respondents’ expansive interpretation of section 1225. See, e.g., *Gil-Paulino v. Sec’y of the U.S. Dep’t of Homeland Sec.*, 25-cv-24292, ECF No. [41], (S.D. Fla. Oct. 10, 2025)

(respondent's interpretation of the INA "directly contravenes the statute" and "disregards decades of settled precedent"); see also *Pizarro Reyes*, 2025 WL 2609425, at *7 ("Finally, the BIA's decision to pivot from three decades of consistent statutory interpretation and call for Pizarro Reyes' detention under § 1225(b)(2)(A) is at odds with every District Court that has been confronted with the same question of statutory interpretation."), *Puga*, No. 25-24535, 2025 WL 2938369, at *3–6; *Merino v Ripa*, No. 25-23845, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025), *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025); *Alvarez v. Morris*, 25-cv-24806, ECF No. [6], (S.D. Fla. Oct. 27, 2024) (collecting cases). Petitioner's detention is governed by section 1226(a) and, therefore, he is entitled to an individualized bond hearing before an IJ.

VI. CLAIMS FOR RELIEF

COUNT ONE – VIOLATION OF DUE PROCESS: UNLAWFUL/ARBITRARY DETENTION WHERE RELEASE ON CONDITIONS IS REQUIRED TO BE CONSIDERED

44. Petitioner re-alleges and incorporates by reference 1-43 paragraphs as though fully set forth herein.
 45. Petitioner is held in civil immigration detention without a meaningful, individualized custody determination that accounts for his strong ties, lack of criminal convictions, and the availability of conditions of release.
 46. Continued detention under these circumstances is excessive, arbitrary, and not narrowly tailored to any legitimate governmental interest, in violation of the Due Process Clause of the Fifth Amendment.
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**COUNT TWO – VIOLATION OF THE INA: FAILURE TO CONSIDER LESS
RESTRICTIVE ALTERNATIVES TO DETENTION**

47. Petitioner re-alleges and incorporates by reference 1-43 paragraphs as though fully set forth herein.
48. Petitioner is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).
49. The Respondents violated the INA in applying the mandatory detention statute at § 1225(b)(2) to Petitioner.
50. By denying Petitioner a bond hearing under § 1226(a) and asserting that Petitioner is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's rights under the INA.
51. Even if the government asserts concerns about appearance or supervision, less restrictive alternatives to detention (including reporting requirements, electronic monitoring, or other conditions) are available and adequate in light of Petitioner's circumstances.

VII. REQUEST FOR RELIEF

WHEREFORE, JOSE MARTINEZ-JIMENEZ, respectfully requests that this Honorable Court:

- A. Assume jurisdiction over this matter.
- B. Declare that Petitioner's continued immigration detention without a meaningful individualized custody determination violates the Due Process Clause of the Fifth Amendment and the INA.
- ~~C. Order Respondents to release Petitioner from custody forthwith under reasonable~~
conditions of supervision or on a reasonable bond set by this Court (or, in the alternative,

order a prompt individualized custody/bond hearing before a neutral decision-maker if the Court concludes such a hearing is the minimum necessary remedy).

- D. In the alternative, order any other relief necessary to secure Petitioner's prompt release, including a prompt individualized custody/bond hearing if required by law.
- E. Grant such other and further relief as the Court deems just and proper.

Respectfully Submitted,

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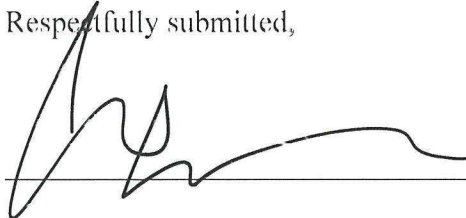
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VIII. VERIFICATION

I, JOSE MARTINEZ-JIMENEZ, with alien number A#  declare under penalty of perjury under the laws of the United States of America that the foregoing facts are true and correct to the best of my knowledge, information, and belief.

Respectfully submitted,



JOSE MARTINEZ-JIMENEZ

A#



Date: 4/29/2026