IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION

IMER JOSUE ULLOA GUZMAN Petitioner, v. Miguel Vergara Field Office Director for the San Antonio Field Office of U.S. Immigration and Customs Enforcement; Immigration and Customs Enforcement and Removal Operations (ICE/) ERO); MARKWANYE MULLIN, Secretary of the Department of Homeland Security; U.S. Department of Homeland Security (DHS); TODD BLANCHE, Attorney General of the United States, and TODD LYONS, Director, Immigration and Customs Enforcement, Warden of the Karnes County Immigration Processing Center Respondents	Civil Action No. 5:26-cv-4194

PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. Petitioner, IMER JOSUE ULLOA GUZMAN, a native and citizen of HONDURAS, is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at Karnes County Immigration Processing Center, located within this Court's jurisdiction.
2. He seeks a writ of habeas corpus pursuant to 28 U.S.C. §2241, challenging his ongoing detention as unconstitutional and unlawful.

3. This Court has jurisdiction under 28 U.S.C. §2241(c)(3) to review the legality of Petitioner's custody.
4. Venue lies in this district under 28 U.S.C. §1391(e) and §2241(d) because Petitioner is detained within the Western District of Texas.
5. Petitioner entered the United States seeking protection from persecution in HONDURAS.
6. On or about December 12, 2003, Petitioner entered the United States near Laredo, Texas, without being then admitted or paroled.
7. Petitioner was detained after being a passenger during a routine traffic stop and was subsequently transferred to Immigrations and Customs Enforcement and Removal Operations on May 8, 2026.
8. The NTA was issued on January 12, 2024, and the Petition was scheduled to appear in Court on June 24, 2025 at 9:00 AM before the San Antonio Annex Immigration Court. (Exhibit A).
9. DHS has taken the position that, based on Matter of Yajure Hurtado and subsequent agency guidance, Petitioner is categorically ineligible for any custody redetermination before an immigration judge and may be detained for the duration of his removal proceedings absent discretionary parole.
10. As a result of this categorical denial of custody review, Petitioner now faces prolonged and potentially indefinite civil detention without any meaningful opportunity for an individualized determination of whether his continued confinement is necessary or lawful.
11. DHS has not conducted any neutral, individualized assessment of Petitioner's danger to the community, risk of flight, or suitability for less restrictive alternatives to detention.

12. Petitioner has no criminal convictions, no history of violence, no pending criminal charges, and has consistently complied with all immigration requirements. His continued detention is not based on any individualized finding that confinement is necessary to serve a legitimate governmental purpose. Petitioner has been detained for more than four months.

II. JURISDICTION

13. Petitioner is in the physical custody of Respondents and Immigration and Customs Enforcement ("ICE"), an agency within the Department of Homeland Security ("DHS").
14. Petitioner is detained at Karnes County Immigration Processing Center in Karnes City, Texas, and is under the direct control of Respondents and their agents.
15. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
16. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, clause 2 of the United States Constitution (the Suspension Clause).
17. 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 Writes Act, 28 U.S.C. § 1651.
18. Nothing in the INA deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), (f)(1), or 1226(e). Congress has preserved judicial review of challenges to prolonged immigration detention. See Jennings v Rodriguez, 138 S. Ct. 830, 839-41 (2018) (holding that 8 U.S.C. §§ 1252(b)(9) and 1226(e) do not bar review of challenges to prolonged immigration detention).

III. VENUE

19. Venue is proper in this District under 28 U.S.C. § 1391(e) and § 2241(d) because Petitioner is currently detained at Karnes County Immigration Processing Center, located within the jurisdiction of this District.

20. All relevant events and actions giving rise to this petition occurred within this District.

IV. IDENTIFICATION OF THE PARTIES

21. Petitioner, IMER JOSUE ULLOA GUZMAN, a native and citizen of HONDURAS, is currently detained by U.S. Immigration and Customs Enforcement ("ICE") at Karnes County Immigration Processing Center, located within this Court's jurisdiction.

22. Respondent, Todd Blanche, is the Acting Attorney General of the United States and is responsible for the overall administration of the Immigration and Nationality Act. He is sued in her official capacity.

23. Respondent, Todd Lyons, is the acting director of U.S. Immigration and Customs Enforcement, and He has authority over the actions of respondent Selvin Alain Dager-Jimenez and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

24. Respondent, Markwayne Mullin, is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Mullin is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

25. Respondent, Miguel Vergara, Field Office Director for the San Antonio Field Office of U.S. Immigration and Customs Enforcement. He oversees the detention and removal operations for noncitizens detained within this jurisdiction and is a proper respondent under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004).
26. Respondent, Warden of Karnes County Immigration Processing Center in Karnes City, Texas. They oversee the detention for noncitizens detained within this jurisdiction is a proper respondent.
27. Respondent, Department of Homeland Security (DHS), is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.
28. Respondent, U.S. Immigration Customs Enforcement (ICE), is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

V. FACTUAL ALLEGATIONS

29. Petitioner is a native and citizen of HONDURAS, born on [redacted]. He has resided in the United States for over 3 years, during which time he has built deep and longstanding ties to his family and community.
30. Petitioner was detained after a traffic violation and was subsequently transferred to Immigrations and Customs Enforcement and Removal Operations on May 8, 2026.
31. Following his arrest, Petitioner was transferred to Karnes County Immigration Processing Center in Karnes County, Texas where he currently remains in ICE custody. (Exhibit B).
32. The family resided at [redacted], where Petitioner has long maintained a stable household and provided for his family.
33. Importantly, Petitioner has no criminal history.

34. Petitioner's detention arose solely from his immigration status, and there are no allegations of conduct that would suggest he poses a threat to public safety.

VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES

35. Petitioner has exhausted all available administrative remedies, and no further administrative relief is available or required.

36. Petitioner did not seek an individual custody redetermination hearing before the Immigration Court because doing so would have been futile.

37. Under the Fifth Circuit's recent decision in *Buenrostro-Mendez v. Bondi*, Nos. 25-20496 & 25-40701, 2026 WL 323330 (5th Cir. Feb. 6, 2026), individuals such as Petitioner—who entered without inspection and are treated as applicants for admission under 8 U.S.C. § 1225(b)(2)(A)—are not eligible for bond hearings under 8 U.S.C. § 1226(a), and immigration judges lack jurisdiction to conduct such hearings.

38. Considering that binding authority, any request for a custody redetermination would have been denied on jurisdictional grounds, not on the basis of any individualized assessment of danger or flight risk.

39. Because the governing law in this Circuit forecloses the very relief Petitioner would have sought from the agency, requiring Petitioner to pursue that administrative process would amount to a futile and purely formal exercise.

40. Under these circumstances, exhaustion should be excused because no meaningful administrative remedy was available.

41. The Board of Immigration Appeals likewise lacks jurisdiction to review custody determinations where no bond hearing may be held.

42. Based on this position, and based on nationwide guidance of Chief Immigration Judge Teresa L. Riley on or about January 13, 2026, Judge Riley issued nationwide guidance instructing all Immigration Judges that: "Maldonado Bautista is not a nationwide injunction and does not purport to vacate, stay or enjoin Yajure Hurtado."
43. Immigration judges are instructed to treat the BIA's decision in Matter of Yajure Hurtado as binding precedent.
44. EOIR guidance further states that a "declaratory judgment" is not binding and lacks authority to compel specific action.
45. Under these circumstances, no administrative body within EOIR has authority to provide the relief sought.
46. DHS's discretionary parole authority does not constitute an available or adequate administrative remedy that must be exhausted prior to habeas review.
47. Parole decisions are committed to agency discretion, are not subject to neutral adjudication, and provide no mechanism for Petitioner to challenge the legality of his detention.
48. Courts have consistently held that discretionary parole is not an exhaustion prerequisite to habeas corpus relief.
49. Therefore, Petitioner has been categorically denied access to any administrative custody review, and no adequate alternative remedy exists; exhaustion is either satisfied or excused as futile.
50. A writ of habeas corpus is the sole avenue to vindicate Petitioner's constitutional, statutory, and regulatory rights and to restore his liberty.

VII. LEGAL STANDARD

51. A federal district court may grant habeas relief where an individual is held "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. §2241(c)(3). Immigration detention under 8 U.S.C. §1226(a) must comply with due process and cannot be prolonged arbitrarily or without individualized justification. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Demore v. Kim*, 538 U.S. 510 (2003).

A. The Fifth Circuit's February 6, 2026 decision in Buenrostro Mendez v. Bondi forecloses petitioner's purely statutory claim to a bond hearing under 8 U.S.C. § 1226(a) but does not preclude habeas relief on constitutional and other grounds.

52. Buenrostro-Mendez forecloses Petitioner's purely statutory entitlement theory under § 1226(a), but it does not deprive this Court of habeas jurisdiction or resolve Petitioner's independent constitutional and other claims.

B. Habeas jurisdiction remains available to test the legality of detention and the constitutionality of detention procedures; § 1226(e) does not bar review of legal and constitutional claims.

53. Nothing in Buenrostro-Mendez strips this Court of jurisdiction under 28 U.S.C. § 2241 to adjudicate constitutional challenges to immigration detention or to review whether the Executive's custody scheme violates governing law.

C. The Government Must Bear the Burden of Proof by Clear and Convincing Evidence

54. Courts require the government to justify detention under §1226(a) by clear and convincing evidence. See *Singh v. Holder*, 638 F.3d 1196; *Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203 (3d Cir. 2020).

D. Prolonged Detention Pending BIA Appeal Is Unreasonable and Unconstitutional

55. Under *Zadvydas*, detention must be reasonably related to its purpose. Prolonged detention without progress violates due process. See *Diop v. ICE/Homeland Security*, 656 F.3d 221 (3d Cir. 2011).

E. Violation of the Administrative Procedure Act Unlawful Denial of Bond

56. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection.

F. The Maldonado Bautista Litigation Confirms That EWI Noncitizens Are Detained Under §1226(a), Not §1225(b), and Are Entitled to Bond Hearings

57. Under the District Court's initial declaratory Judgment, Petitioner may not be subjected to mandatory detention and must be considered under §1226(a), including eligibility for release on bond.

G. Matter of Yajure-Hurtado Conflicts with Maldonado Bautista and Cannot Be Applied to Deny Bond Jurisdiction

58. To the extent the IJ denied Petitioner's bond based on Yajure-Hurtado, such action conflicts with a binding declaratory judgment.

H. Even If Respondent Were Not a Class Member, Maldonado Bautista Confirms the Proper Statutory Interpretation: EWIs Are Detained Under §1226(a)

59. Detention must be evaluated under §1226(a) and requires an individualized bond determination.

V. ARGUMENT

60. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

61. Even accepting the Fifth Circuit's interpretation that §1225(b)(2)(A) mandates detention and provides no statutory bond hearing, Petitioner's ongoing and potentially indefinite detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment as applied to him.

62. The Due Process Clause of the Fifth Amendment prohibits the government from depriving any person of liberty without due process of law. Immigration detention under both 8 U.S.C. §1226 (pre-removal detention) and §1225 (arriving aliens) is subject to constitutional limits. Congress did not authorize indefinite or arbitrary detention, and the Supreme Court has held that detention must remain reasonably related to its purpose and accompanied by adequate procedural safeguards. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

63. Numerous district courts, including within the Fifth Circuit, have held post-Jennings that due process requires an individualized bond hearing, with the government bearing the burden of proof by clear and convincing evidence, when mandatory detention under §§ 1225(b) or 1226(c) becomes prolonged.

64. While the Fifth Circuit has not adopted a brightline rule, district courts in this Circuit and others commonly find six months presumptively unreasonable absent individualized justification.

65. Section 1226(a) governs the detention of individuals pending a decision on whether they are to be removed. It explicitly provides for discretionary release on bond or conditional parole.

66. By contrast, §1225(b) applies primarily to individuals who are seeking admission at the border, requiring detention until a determination of admissibility or removal. However, even under §1225(b), the Supreme Court has recognized that detention cannot be prolonged indefinitely without violating the Due Process Clause. *See Clark v. Martinez*, 543 U.S. 371 (2005).

67. Therefore, he was entitled to a bond hearing where the government bears the burden of demonstrating by clear and convincing evidence that detention is necessary.

68. Even assuming arguendo that the government sought to reclassify Petitioner's detention under §1225(b), such action would not cure the constitutional defect.

69. Courts have held that detention under §1225(b) also triggers due process protections when it becomes prolonged or arbitrary. *See Rodriguez v. Robbins*, 804 F.3d 1060 (9th Cir. 2015), rev'd in part, *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

70. Under the framework articulated in *Demore v. Kim*, 538 U.S. 510 (2003), brief periods of detention during removal proceedings may be permissible, but extended confinement without an individualized hearing violates due process.

71. Petitioner's case exemplifies such a violation. Under the current BIA precedent (Matter of Yajure Hurtado), and the Fifth Circuit's interpretation under Buenrostro, the Petitioner has no right to an individualized redetermination of custody status hearing.

A. The Fifth Circuit's February 6, 2026 decision in Buenrostro Mendez v. Bondi forecloses petitioner's purely statutory claim to a bond hearing under 8 U.S.C. § 1226(a) but does not preclude habeas relief on constitutional and other grounds.

72. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

73. Buenrostro-Mendez forecloses Petitioner's purely statutory entitlement theory under § 1226(a), but it does not deprive this Court of habeas jurisdiction or resolve Petitioner's independent constitutional and other claims.

74. On February 6, 2026, a panel of the United States Court of Appeals for the Fifth Circuit issued its published opinion in Buenrostro-Mendez v. Bondi, Nos. 25-20496 & 25-40701 (5th Cir. Feb. 6, 2026).

75. The panel held that noncitizens who are present in the United States without having been admitted or paroled—including those apprehended years after entry—are "applicants for admission" under 8 U.S.C. § 1225(a)(1) and are subject to mandatory detention under § 1225(b)(2)(A) pending removal proceedings under § 1229a.

76. The panel further held that such individuals are not eligible for discretionary release on bond under § 1226(a) and that immigration judges lack jurisdiction to conduct bond hearings in their cases.

77. The panel endorsed the Board of Immigration Appeals' precedential decision in Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), and reversed two district court orders that had granted habeas relief on statutory grounds.

78. This Court is bound by the Fifth Circuit's holding on the purely statutory question of whether § 1225(b)(2)(A) or § 1226(a) governs Petitioner's detention and whether he has a statutory entitlement to a bond hearing before an immigration judge.

79. Petitioner respectfully acknowledges that, under Buenrostro-Mendez, Petitioner has no statutory right to such a hearing.

80. However, the Fifth Circuit's decision does not resolve—and expressly did not reach—the independent constitutional and other claims raised in this Petition.

81. The panel in Buenrostro- Mendez addressed only the statutory interpretation dispute and reversed the district courts solely because they had granted bond hearings as a matter of statutory entitlement under § 1226(a).

82. The panel had no occasion to consider due process challenges to prolonged or indefinite mandatory detention without any individualized hearing, nor did it address claims under the Administrative Procedure Act, the equal protection component of the Fifth Amendment, the Suspension Clause, or the Accardi doctrine.

83. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), similarly held that there is no statutory right to periodic bond hearings under §§ 1225(b), 1226(a), or 1226(c), but it explicitly remanded for the lower courts to consider constitutional arguments in the first instance. Id. at 302–03.

84. The Fifth Circuit's statutory holding in Buenrostro-Mendez leaves those constitutional questions open, just as Jennings did.

B. Habeas jurisdiction remains available to test the legality of detention and the constitutionality of detention procedures; § 1226(e) does not bar review of legal and constitutional claims.

85. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

86. Nothing in Buenrostro-Mendez strips this Court of jurisdiction under 28 U.S.C. § 2241 to adjudicate constitutional challenges to immigration detention or to review whether the Executive's custody scheme violates governing law.

87. Jennings itself distinguishes unreviewable discretionary custody judgments from reviewable questions of law and constitutional claims.

88. Likewise, *Zadvydas v. Davis*, 533 U.S. 678 (2001), and *Demore v. Kim*, 538 U.S. 510 (2003), both proceeded through § 2241 habeas and underscore that civil immigration detention must remain tethered to lawful purposes and must satisfy due process.

89. Petitioner does not ask this Court to second-guess a discretionary bond determination. He challenges DHS's asserted authority to hold him in prolonged civil detention without any meaningful individualized custody determination by a neutral decisionmaker empowered to order release, and he challenges the lawfulness of the government's detention process as applied to him.

C. Petitioner's Detention Falls Under 8 U.S.C. §1226(a), Not §1226(c) or §1225(b)

90. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

91. Petitioner is a non-arriving alien who entered the United States without inspection and was later apprehended inside the country.

92. Detention authority over such individuals arises from 8 U.S.C. §1226(a), which expressly provides that the Attorney General may continue to detain or may release the alien on bond or conditional parole pending a decision on removal.

93. By contrast, §1226(c) and §1225(b) govern mandatory detention for narrow categories of individuals—§1226(c) applies to admitted noncitizens with certain criminal convictions, while §1225(b) applies to arriving aliens at ports of entry whose admissibility has not been determined.

94. Because Petitioner entered without inspection and is not a criminal or arriving alien, He falls squarely within §1226(a).

95. Courts have consistently held that §1226(a) governs detention of noncitizens arrested after entering without inspection. *See Demore v. Kim*, 538 U.S. 510 (2003); *Rodriguez v.*

Robbins, 804 F.3d 1060 (9th Cir. 2015), rev'd in part, *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

D. Matter of Yajure-Hurtado Does Not Authorize Mandatory Detention and Was Misapplied

96. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

97. The BIA's decision in *Matter of Yajure-Hurtado* addressed jurisdiction between DHS and EOIR over initial custody determinations. It did not alter the statutory limits of §1226(a) or authorize mandatory detention.

98. Current Fifth Circuit precendent and BIA Precedent under Matter of Yajure Hurtado, constrain Petitioner's bond request based solely on Yajure-Hurtado extending the decision far beyond its holding and transforms discretionary custody into mandatory detention without statutory basis.

99. Such interpretation contradicts the text of §1226(a) and violates constitutional due process as clarified in Jennings v. Rodriguez, 583 U.S. 281 (2018), which held that immigration statutes authorizing detention do not permit indefinite or automatic custody without individualized hearings.

E. Mandatory Detention Under §1225(b) Applies Only to "Arriving Aliens," Not EWIs

100. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

101. Section 1225(b) mandates detention only for individuals seeking admission—arriving aliens at ports of entry. The Supreme Court in *Jennings v. Rodriguez*, 583 U.S. 281, 296–97 (2018), explained that §1225(b)(1) and (b)(2) apply to aliens in the process of being admitted.

102. Individuals like Petitioner, who entered without inspection and were later apprehended inside the country, are not applicants for admission under §1225(b). Their detention is instead governed by §1226(a), which provides for discretionary release. Courts including *Brito v. Garland*, 22 F.4th 240 (1st Cir. 2021), and *Preap v. Johnson*, 831 F.3d 1193 (9th Cir. 2016), aff'd sub nom. *Nielsen v. Preap*, 586 U.S. ___ (2019), confirm that mandatory detention applies only to those categories enumerated in the statute. Thus, treating Petitioner as subject to §1225(b) is a misapplication of law and an ultra vires expansion of agency authority.

F. Due Process Under §1226 and §1225 Requires Individualized Determinations

103. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

104. Even when detention is authorized, the Fifth Amendment requires an individualized assessment of danger and flight risk. In *Singh v. Holder*, 638 F.3d 1196 (9th Cir. 2011), the court held that the government must prove by clear and convincing evidence that detention is necessary.

Prolonged and Indefinite Detention Violates the Statutes and the Fifth Amendment

105. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

106. The Supreme Court in *Zadvydas v. Davis*, 533 U.S. 678 (2001), held that immigration detention must remain reasonably related to its purpose and cannot be prolonged indefinitely.

107. Jennings reaffirmed that statutory silence does not authorize indefinite detention. In the immigration context, the Supreme Court has recognized only two valid purposes

for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted); *Demore v. Kim*, 538 U.S. 510, 522, 528 (2003).

108. Neither community protection nor flight risk applies to the Petitioner, and therefore, the detention no longer bears a reasonable relation to the purpose for which it was committed. See *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690.

G. Violation of the Administrative Procedure Act Unlawful Denial of Bond

109. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

110. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they originally entered the United States without inspection. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c) or § 1231.

H. The Maldonado Bautista Declaratory Judgment Confirms That EWI Noncitizens Are Detained Under §1226(a), Not §1225(b), and Are Entitled to Bond Hearings

111. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

112. In *Maldonado Bautista v. Santacruz*, Case No. 5:25-cv-01873-SSS-BFM, the U.S. District Court for the Central District of California issued a **national declaratory judgment** holding that individuals who entered without inspection and were not apprehended at the time of entry are detained under 8 U.S.C. §1226(a) and therefore

eligible for bond hearings. The Court expressly rejected the government's claim that all EWIs are "applicants for admission" subject to mandatory detention under §1225(b)(2)(A).

113. The Court found the government's 2025 "no-bond" policy unlawful and held that class members must be afforded the bond processes afforded by §1226(a). It further certified a nationwide class—the Bond Eligible Class—and extended declaratory relief to the entire class, stating:

> "The Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole."*Id.* Maldonado Bautista, 2025 WL 3288403, at *9.*

114. Petitioner falls squarely within this class because He: Entered without inspection; Was not apprehended upon arrival; and Is not subject to §§1226(c), 1225(b)(1), or 1231.

115. Under the declaratory judgment, Petitioner may not be subjected to mandatory detention and must be considered under §1226(a)—including eligibility for release on bond.

116. Although the 9th Circuit subsequently held that the District Court may have overreached in it's application as a nationwide class, the underlying argument behind Maldonado Bautista is incorporated as previously argued.

I. Matter of Yajure-Hurtado Conflicts with Maldonado Bautista and Cannot Be Applied to Deny Bond Jurisdiction

117. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

118. *Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025)*, created a nationwide barrier by declaring that immigration judges lack bond authority over all EWIs because they are supposedly subject to §1225(b)(2)(A) mandatory detention.

119. Although the 9th Circuit subsequently held that the District Court may have overreached in it's application as a nationwide class, the underlying argument behind Maldonado Bautista is incorporated as previously argued.

120. However, Maldonado Bautista squarely rejects the legal premise underlying Yajure-Hurtado, finding: EWIs who are not apprehended at the border are not applicants for admission; §1225(b) does not apply; §1226(a) governs detention and authorizes release on bond; and the DHS/EOIR no-bond policy is inconsistent with the plain language of the INA.

121. The Court held that the government's no-bond regime had no statutory foundation and could not strip IJs of bond jurisdiction.

122. Thus, to the extent the IJ denied Petitioner's bond based on Yajure-Hurtado, such action: Conflicts with a declaratory judgment; Violates statutory authority under §1226(a); and Constitutes arbitrary detention in violation of the Due Process Clause.

J. Even If Respondent Were Not a Class Member, Maldonado Bautista Confirms the Proper Statutory Interpretation: EWIs Are Detained Under §1226(a)

123. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

124. Habeas petitioners may still challenge their detention independent of class membership, because *Maldonado Bautista* resolves the underlying legal issue: EWIs are detained under §1226(a), not §1225(b)(2)(A).

125. Thus, even if DOJ contests class membership, federal courts may grant habeas relief because: The interpretation of the INA is a pure question of law; Multiple district courts nationwide have rejected mandatory detention for EWIs; The statutory framework does not support the government's expansive reading of §1225(b).

126. This reinforces Petitioner's argument that detention must be evaluated under §1226(a) and requires an individualized bond determination.

K. Ongoing Detention Violates Due Process

127. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

128. DHS and EOIR have **instructed IJs not to comply** with a federal declaratory judgment. This systemic refusal amounts to: Arbitrary detention; A violation of procedural due process; and An unlawful assertion of executive power contrary to the judiciary's construction of the INA.

129. Continued detention in defiance of binding declaratory relief is constitutionally intolerable.

L. Summary of Legal Grounds for Relief

130. Petitioner's detention is discretionary under §1226(a), not mandatory under §1226(c) or §1225(b);

131. Matter of Yajure-Hurtado does not create mandatory detention authority;

132. §1225(b) applies exclusively to arriving aliens, not those who entered without inspection;

133. Due process under §§1226 and 1225 requires individualized bond determinations;

134. Continued detention violates the INA and the Fifth Amendment's Due Process Clause.

135. Continued detention in defiance of binding declaratory relief is **constitutionally intolerable**—particularly where Petitioner already received a bond grant.

VI. REQUEST FOR RELIEF

136. Assume jurisdiction over this matter.

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

138. Grant the Writ of Habeas Corpus under 28 U.S.C. §2241;

139. Order Petitioner's immediate release under reasonable supervision;

140. Enjoin Respondents from re-detaining Petitioner absent lawful basis;

141. Grant any other relief this Court deems just and proper.

VII. EXHIBIT LIST

Exhibit	Description	Date/Source
A	Notice to Appear	Department of Homeland Security
B	I-830	Department of Homeland Security

Respectfully submitted,

/s/ Fernando D. Gireud
Fernando Gireud
Anderson Immigration Law Group
Texas Bar # 24074282
213 S. El Paso St.
El Paso, Texas 79901
Phone: (228) 831-0025
Fax: (877) 809-2390
fgireud@immigrationanderson.com

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, IMER JOSUE ULLOA GUZMAN, and submit this verification on Him behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this July 2, 2026

/s/ Fernando D. Gireud
Fernando D. Gireud

EXHIBIT A

Uploaded on: 01/12/2024 at 12:37:28 PM (Central Standard Time) Base City: SNA

Allegations: Admits All; | Charges: Concedes All;
Designated Country: HONDURAS |

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

DOB: [redacted]
Event No: [redacted]

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: [redacted] FINS: [redacted] File No: [redacted]

In the Matter of:

Respondent: IMER JOSUE ULLOA-GUZMAN currently residing at:

[redacted]

(Number, street, city, state and ZIP code) (Area code and phone number)

☐ You are an arriving alien.

☒ You are an alien present in the United States who has not been admitted or paroled.

☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;

2. You are a native of HONDURAS and a citizen of HONDURAS ;

3. You arrived in the United States at or near ROMA, TX on or about November 14, 2023;

4. You were not then admitted or paroled after inspection by an Immigration Officer.

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

212(a)(6)(A)(i) of the Immigration and Nationality Act, as amended, in that you are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.

☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.

☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

106 S ST MARYS ST STE 600 SAN ANTONIO TX 78205. SAN ANTONIO SATELLITE OFFICE
(Complete Address of Immigration Court, including Room Number, if any)

on June 24, 2025 *(Date)* at 9:00 AM *(Time)* to show why you should not be removed from the United States based on the charge(s) set forth above.

JAIME ALFARO - SDDO
(Signature and Title of Issuing Officer)

Date: January 12, 2024

San Antonio, Texas
(City and State)

This Notice to Appear Supersedes the Notice to Appear issued on November 14, 2023

EOIR - 1 of 3

Uploaded on: 01/12/2024 at 12:37:28 PM (Central Standard Time) Base City: SNA

Allegations: Admits All; | Charges: Concedes All;
Designated Country: HONDURAS |

Notice to Respondent

Warning: Any statement you make may be used against you in removal proceedings.

Alien Registration: This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.

Representation: If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.

Conduct of the hearing: At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.

One-Year Asylum Application Deadline: If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/I-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.

Failure to appear: You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.

Mandatory Duty to Surrender for Removal: If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at http://www.ice.gov/contact/ero, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.

U.S. Citizenship Claims: If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.

Sensitive locations: To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.

Request for Prompt Hearing

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before: _____

(Signature of Respondent)

Date: _____

_____

(Signature and Title of Immigration Officer)

Certificate of Service

This Notice To Appear was served on the respondent by me on January 12, 2024, in the following manner and in compliance with section 239(a)(1) of the Act.

☐ in person ☐ by certified mail, returned receipt # _____ requested ☒ by regular mail

☐ Attached is a credible fear worksheet.

☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the _____ language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

M 9777 JOHNSON - Deportation Officer

_____ _____

(Signature of Respondent if Personally Served) *(Signature and Title of officer)*

EOIR – 2 of 3

Uploaded on: 01/12/2024 at 12:37:28 PM (Central Standard Time) Base City: SNA

Allegations: Admits All; | Charges: Concedes All;
Designated Country: HONDURAS |

Privacy Act Statement

Authority:
The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:
You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:
For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at https://www.dhs.gov/system-records-notices-sorns. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at https://www.justice.gov/opcl/doj-systems-records. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:
Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

EOIR – 3 of 3

EXHIBIT B

Uploaded on: 05/11/2026 at 07:09:42 AM (Central Daylight Time) Base City: SNA

DEPARTMENT OF HOMELAND SECURITY
U.S. Immigration and Customs Enforcement

NOTICE TO EOIR: ALIEN ADDRESS

Date: 5/11/2026

To: Enter Name of BIA or Immigration Court I-830 San Antonio, TX

Enter BIA or Immigration Court Three Letter Code@usdoj.gov SNA

From: Enter Name of ICE Office Karnes County Immigration Processing Center

Enter Street Address of ICE Office 409 FM 1144

Enter City, State and Zip Code of ICE Office KARNES CITY, TX. 78118

Respondent: Enter Respondent's Name Ulloa-Guzman, Imer Josue

Alien File No: Enter Respondent's Alien Number [redacted]

This is to notify you that this respondent is:

☐ Currently incarcerated by federal, state or local authorities. A charging document has been served on the respondent and an Immigration Detainer-Notice of Action by the ICE (Form I-247) has been filed with the institution shown below. He/she is incarcerated at:

Enter Name of Institution where Respondent is being detained

Enter Street Address of Institution where Respondent is being detained

Enter City, State and Zip code of Institution where Respondent is being detained

Enter Respondent's Inmate Number

His/her anticipated release date is Enter Respondent's Anticipated Release Date.

☐ Detained by ICE on **Enter Date Respondent was Detained by ICE** at:

Enter Name of ICE Detention Facility where Respondent is being detained

Enter Street Address of ICE Detention Facility where Respondent is being detained

Enter City, State and Zip Code of ICE Detention Facility where Respondent is being detained

☒ Detained by ICE and transferred on **Enter Date Respondent was transferred** to: 05/08/2026

Enter Name of ICE Detention Facility where Respondent has been transferred KCIPC

Enter Street Address of ICE Detention Facility where Respondent has been transferred 409 FM 1144

Enter City, State and Zip Code of ICE Detention Facility where Respondent has been transferred Karnes City, TX 78118

☐ Released from ICE custody on the following condition(s):

- ☐ Order of Supervision or Own Recognizance (Form I-220A)
- ☐ Bond in the amount of Enter Dollar Amount of Respondent's Bond
- ☐ Removed, Deported, or Excluded
- ☐ Other

Upon release from ICE custody, the respondent reported his/her address and telephone number would be:

Enter Respondent's Street Address

Enter Respondent's City, State and Zip Code

Enter Respondent's Telephone Number (including area code)

☒ I hereby certify that the respondent was provided an EOIR-33 Form and notified that they must inform the Immigration Court of any further change of address.

ICE Official: Enter Your First, Last Name and Title DO. S, Trevino

EOIR – 1 of 1

CERTIFICATE OF SERVICE

I hereby certify that on this 2nd of July, 2026 I filed the foregoing **Petition for Writ of Habeas Corpus**, together with all exhibits and proposed orders, through the Court's **CM/ECF electronic filing system**. Filing through CM/ECF constitutes service on all counsel of record, including the **United States Attorney for the Western District of Texas**, pursuant to **Federal Rule of Civil Procedure 5(b)(2)(E)**.

Respondents and Officials Served

Miguel Vergara
Field Office Director
U.S. Immigration and Customs Enforcement
Enforcement and Removal Operations (ERO)
San Antonio Field Office
Address on file

Immigration and Customs Enforcement
Enforcement and Removal Operations (ERO)
U.S. Department of Homeland Security

Todd Lyons
Director
U.S. Immigration and Customs Enforcement
U.S. Department of Homeland Security
500 12th Street, SW
Washington, DC 20536

Markwayne Mullin
Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Ave., SE
Washington, DC 20528

Todd Blanche
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, NW
Washington, DC 20530

Warden / Director
Karnes County Immigration Processing Center
U.S. Immigration and Customs Enforcement
409 FM1144
Karnes City, TX 78118

DEPARTMENT OF HOMELAND SECURITY

Service was made pursuant to **Federal Rules of Civil Procedure 4(i) and 5**, and **Local Rule CV-5** of the Western District of Texas.

I declare under penalty of perjury that the foregoing is true and correct.

/s/ Fernando D. Gireud
Fernando Gireud
Anderson Immigration Law Group
Texas Bar # 24074282
213 S. El Paso St.
El Paso, Texas 79901
Phone: (228) 831-0025
Fax: (877) 809-2390
fgireud@immigrationanderson.com