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

JORGE JONATHAN PULIDO PEROZO,

Petitioner-Plaintiff,

v.

TODD BLANCHE,
Acting United States Attorney General;

MARKWAYNE MULLIN,
Secretary of the United States
Department of Homeland Security;

DAVID VENTURELLA,
Director of United States
Immigration and Customs Enforcement;

MIGUEL VERGARA,
Field Office Director
for Detention and Removal, U.S.
Immigration and Customs Enforcement,

BOBBY THOMPSON, Warden,
South Texas Detention Facility;

Respondents-Defendants.

Civ. No. 5:26-cv-4296

DHS File Number: [redacted]

PETITION FOR HABEAS CORPUS
UNDER 28 U.S.C.§ 2241

INTRODUCTION

Petitioner, Jorge Jonathan Pulido Perozo, is in the physical custody of Respondents at the South Texas ICE Processing Center in Pearsall, Texas. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

Petitioner is charged with, inter alia, being an immigrant who, at the time of application for admission, was not in possession of a valid entry document. See 8 U.S.C. § 1182(a)(7)(A)(i)(I). Based on this allegation, DHS has detained Petitioner and denied him any opportunity for release, consistent with a re-interpreted DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone without a valid visa or travel document under § 1182(a)(7)(A)(i)—i.e., those who entered the United States without the required documentation—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

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

Because of the BIA's decision, no Immigration Judge has jurisdiction to even consider a bond. Petitioner challenges his detention on the basis that it violates the plain language of the Immigration and Nationality Act (INA); § 1225(b)(2)(A) does not apply to individuals like

Petitioner who previously entered and are now residing in the United States. Petitioner's detention contravenes the fundamental Due Process protections of the U.S. Constitution. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for not having valid documentation. 8 U.S.C. § 1182(a)(7)(A)(i).

Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released.

CUSTODY

Petitioner is in the physical custody of Defendant-Respondent MIGUEL VERGARA, Field Office Director for Detention and Removal, U.S. Immigration and Customs Enforcement ("ICE"), San Antonio Field Office, DHS, and Respondent, BOBBY THOMPSON, Facility Administrator of the South Texas ICE Processing Center in Pearsall, Texas. At the time of the filing of this petition, Plaintiff-Petitioner is detained at the South Texas ICE Processing Center in Pearsall, Texas. The GEO Group contracts with DHS to detain noncitizens such as Plaintiff-Petitioner. Plaintiff-Petitioner is under the direct control of Defendants-Respondents and their agents.

JURISDICTION AND VENUE

This Court has subject-matter jurisdiction over this case under 28 U.S.C. § 1331 and 5 U.S.C. § 702 as Plaintiff-Petitioner suffered a legal wrong from agency action. The Court also has jurisdiction over this petition under 28 U.S.C. §§ 2241(c)(1) and (c)(3), Art. I, § 9, Cl. 2 of the United States Constitution ("Suspension Clause"). This Court has further remedial authority pursuant to the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq.

Venue properly lies within the Western District of Texas, San Antonio Division, because all of the events or omissions giving rise to this action occurred in the district, and because Petitioner is detained at the South Texas ICE Processing Center in Pearsall, Frio County, Texas, which is located within this District and Division. 28 U.S.C. § 1391(b).

No petition for habeas corpus has previously been filed in any court to review Plaintiff-Petitioner's case.

PARTIES

The Petitioner is a national and citizen of Venezuela. He is currently detained at the South Texas ICE Processing Center located in Pearsall, Texas.

Defendant-Respondent TODD BLANCHE is the acting Attorney General of the United States and the most senior official in the United States Department of Justice ("DOJ"). He has the authority to interpret immigration laws and adjudicate removal cases. 8 U.S.C. § 1103(g). The Attorney General delegates this responsibility to the Executive Office for Immigration Review ("EOIR"), which administrates the immigration courts and the Board of Immigration Appeals ("BIA" or "Board"). Defendant-Respondent is named in his official capacity. Respondent's address is 950 Pennsylvania Avenue, N.W., Washington, D.C. 20530.

Defendant-Respondent MARKWAYNE MULLIN is the Secretary of the U.S. Department of Homeland Security ("DHS"), an agency of the United States. Defendant-Respondent is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(a). The Secretary is a legal custodian of the Plaintiff-Petitioner. Defendant-Respondent is named in his official capacity. Her address is Department of Homeland Security, Washington, D.C. 20528.

Defendant-Respondent DAVID VENTURELLA is the Director of ICE within DHS. He is responsible for the administration and enforcement of immigration laws. He is named in his official capacity, and his address is 500 12th Street SW, Mail Stop 5900, Washington, D.C. 20536.

Defendant-Respondent MIGUEL VERGARA is the Field Office Director for Detention and Removal, ICE San Antonio Field Office, DHS. He is a custodial official acting within the

boundaries of the judicial district of the United States District Court for the Western District of Texas. Pursuant to Defendant-Respondent's orders, Plaintiff-Petitioner remains detained. Defendant-Respondent is sued in his official capacity. His address is 1777 NE Loop 410, Floor 15, San Antonio, Texas 78217.

Defendant-Respondent BOBBY THOMPSON is the Warden of the South Texas ICE Processing Center in Pearsall, Texas. He/She is Petitioner's immediate custodian and resides in the judicial district of the United States District Court for the Western District of Texas, San Antonio Division. Respondent is named in his/her official capacity. Respondent's address is 566 Veterans Drive, Pearsall, TX 78061.

FACTS

1. On or about May 10, 2024, Mr. Pulido Perozo, a citizen of Venezuela, arrived at the San Ysidro, California port of entry after being allowed to apply for admission. He was inspected and processed by U.S. Customs and Border Protection (CBP) and issued a Form I-94 Arrival/Departure Record (Admission Record No. [redacted]), authorizing him to remain in the United States until May 9, 2026. Exh. A.

2. Following his inspection, Mr. Pulido Perozo was released with a Notice to Appear (NTA) directing him to report to the local ICE office when he arrived at his destination in San Antonio, Texas. Exh. B.

3. The NTA placed Mr. Pulido Perozo in removal proceedings under section 240 of the Immigration and Nationality Act (INA), 8 U.S.C. § 1229a, and charged him as inadmissible under INA § 212(a)(7)(A)(i)(I), 8 U.S.C. § 1182(a)(7)(A)(i)(I), as an immigrant who, at the time of application for admission, was not in possession of a valid unexpired entry

document. Exh. B. Assigned Alien Registration Number [redacted], he settled at [redacted].

4. Following his release, Mr. Pulido Perozo was told to report to the ICE office and to comply with all check-in and reporting requirements. He did so, consistently complying with every requirement imposed on him by immigration authorities.

5. On or about April 15, 2025, Mr. Pulido Perozo filed an affirmative Form I-589, Application for Asylum and for Withholding of Removal, based on [redacted] Exh. C. His asylum application remains pending. His first hearing before the immigration court was not scheduled until 2028—meaning that, absent release, Petitioner faces two options; (1) he is forced to wait years of continued detention while his asylum claim remains undecided, or (2) he faces an accelerated immigration proceeding that will limit his time and access to prepare his case, as well as an immigration legal system that no longer complies with US law.

6. Mr. Pulido Perozo's period of admission under his Form I-94 expired on May 9, 2026. Notwithstanding the expiration of that period, he continued to comply with all reporting and check-in requirements and never absconded, committed any crime, or violated any condition of his release.

7. On June 4, 2026, Mr. Pulido Perozo was detained by police approximately 300 feet from his home. He was subsequently transferred to ICE custody. No reason was given for his sudden detention despite his consistent compliance with all immigration requirements over the preceding two years.

8. Mr. Pulido Perozo has no criminal history. He has never been ordered removed from the United States, has never been required to depart voluntarily, and has consistently complied with all immigration requirements. Again, he entered with permission from the same authorities who are now attempting to get rid of him.

9. Since his detention at the South Texas ICE Processing Center, Petitioner has had limited contact with family and has been pressured by ICE officers to accept deportation back to Venezuela.

10. Because Petitioner's asylum application remains pending and his initial hearing was not scheduled until 2028, his removal is not reasonably foreseeable. Since June 4, 2026, Petitioner has remained detained without any individualized determination that he poses a flight risk or a danger to the community.

LEGAL FRAMEWORK

Respondents' Interpretation of Sections 1225 and 1226 Flies in the Face of the Plain Meaning of the INA.

11. The long-standing agency interpretation of the INA was that section 1225 governed detention of noncitizens at or near the border, while section 1226 governs "detention of those who are already present in the United States." *Lopez Santos v. Noem*, No. 3:25-CV-01193, 2025 WL 2642278, at *4 (W.D. La. Sept. 11, 2025) (citing *Jennings*, 583 U.S. at 303). For decades, noncitizens apprehended while already present in the United States were generally entitled to a bond hearing, unless their criminal history rendered them ineligible under section 1226(c).

12. On July 8, 2025, ICE, "in coordination with" the DOJ, announced a new policy claiming that any noncitizen who ever entered without inspection is subject to mandatory detention under section 1225(b)(2)(A), regardless of when they entered, when they are apprehended, and how their ongoing detention may impact them and their families.

13. On September 5, 2025, the BIA parroted this novel interpretation in a published decision, *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). There, the BIA held that all noncitizens who are present in the United States without admission are subject to mandatory detention under section 1225(b)(2)(A) and are ineligible for bond hearings. *Yajure Hurtado*, 29 I&N at 216.

14. Hundreds of federal courts, including those in the Fifth Circuit, have rejected Respondents' interpretation of section 1225. *See*, e.g., *Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025).

15. District courts have uniformly rejected DHS and EOIR's new interpretation because it is contrary to the INA. As the *Lopez Santos* court and others have explained, the plain text of the two provisions demonstrates that section 1226(a), not section 1225(b)(2)(A), applies to people like Petitioner. *See* 2025 WL 2642278, at *4.

The Fifth Circuit's Decision in Buenrostro Is Incorrect.

16. On February 6, 2026, a panel of three judges on the Fifth Circuit went against the overwhelming majority of federal district judges that have taken up this issue and against the plain meaning of the statutes, finding that people like Petitioner are in fact detained under section 1225(b)(2)(A), rather than section 1226(a). *Buenrostro-Mendez v. Bondi*, 2026 WL 323330 (5th Cir. 2026).

17. For the reasons explained above, as well as in the number of federal district court cases to address erroneous interpretation of the statutes at hand. Section 1226(a), not section 1225(b)(2)(A), applies to people like Petitioner.

Buenrostro Does Not Foreclose Constitutional Claims.

18. The Fifth Circuit panel's decision in Buenrostro addressed only the statutory habeas claim. *See* 2026 WL 323330. Accordingly, other claims for habeas relief sounding in the U.S. Constitution, such as due process claims, are not foreclosed by *Buenrostro*.

19. In fact, a number of federal courts in the Fifth Circuit have previously granted habeas petitions on procedural due process grounds. See, e.g., *Hernandez-Fernandez v. Lyons*, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Santiago v. Noem*, 2025 WL 2792588 (W.D. Tex. Oct. 2, 2025); *Rojas v. Noem*, 2025 WL 3038262 (W.D. Tex. Oct. 30, 2025); *Cruz-Reyes v. Bondi*, 2026 WL 332315 (S.D. Tex. Feb. 3, 2026); *De Leon Hernandez v. Bondi*, 2025 WL 3217037 (W.D. La. Nov. 18, 2025); *Parada-Hernandez v. Johnson*, 2025 WL 3465958 (N.D. Tex. Oct. 29, 2025), report and recommendation adopted, 2025 WL 3463682 (N.D. Tex. Dec. 2, 2025).

20. Additionally, at least one district judge in the Fifth Circuit has already expressly found that Buenrostro did not change the outcome of a habeas grant on procedural due process grounds. *Hassen v. Noem*, 3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026).

Government Custody and Detention.

21. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

22. Arbitrary civil detention is categorically unconstitutional. The Due Process Clause requires that any deprivation of the Petitioner's liberty serve, at minimum, a legitimate purpose. See *Reno v. Flores*, 507 U.S. 292, 306 (1993); *see also id.* at 302 (explaining that infringements on fundamental liberty rights violate due process unless they are "narrowly tailored to serve a compelling state interest").

23. The recognized governmental interests justifying civil immigration detention are twofold: (1) "preventing flight"—for the purpose of ensuring a noncitizen is present for immigration proceedings and, where ordered, removal—and (2) "protecting the community." *Zadvydas*, 533 U.S. at 690. As applied to any individual in custody, when immigration detention does not serve one of these purposes, it is unconstitutionally arbitrary. Petitioner never demonstrated any propensity for criminal activity and followed all requirements proposed to him by ICE officials, such as filing an asylum application and following any conditions set by them. Unfortunately, these facts did not prevent Petitioner's unjustified detention.

24. Civil detention for the purpose of punishment also violates due process. *Wong Wing v. United States*, 163 U.S. 228, 237 (1896); *Magluta v. Samples*, 375 F.3d 1269, 1273 (11th Cir. 2004). When there has been no criminal conviction, "if a restriction or condition is not reasonably related to a legitimate goal—if it is arbitrary or purposeless—a court permissibly may infer that the purpose of the governmental action is punishment." *Magluta*, 375 F.3d at 1273 (quoting Bell v. Wolfish, 441 U.S. 520, 539 (1979)); *see J.G. v. Warden*, 501 F. Supp. 3d 1331, 1337 (M.D. Ga. 2020) ("[T]he Government has 'no . . . punitive interest' in civil confinement, and [a person in immigration detention] 'may not be punished.'" (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992))). An "intent to punish" is also separately "sufficient to show unconstitutional pretrial punishment."

Magluta, 375 F.3d at 1273. Any intent to punish, such as for the purpose of retribution or general deterrence, is impermissible without criminal process. *See Kansas v. Hendricks*, 521 U.S. 346, 361-62 (1997) (explaining "the two primary objectives of criminal punishment" are retribution and deterrence).

Prolonged Detention Untethered From Any Legitimate Regulatory Purpose Violates Due Process.

25. Immigration detention is civil in nature and may not become punitive. When civil detention becomes excessive, prolonged, or untethered from its legitimate regulatory purpose, it violates fundamental due process principles. In *Zadvydas* v. Davis, 533 U.S. 678 (2001), the Supreme Court held that immigration detention becomes unconstitutional when removal is not reasonably foreseeable, because continued confinement in such circumstances bears no reasonable relationship to its purported civil purpose. Detention may not be used as a means of punishment or indefinite confinement.

26. In *Demore v. Kim*, 538 U.S. 510 (2003), the Court upheld mandatory detention only for a narrow category of noncitizens with certain criminal convictions and only for brief and finite periods of time—conditions that are plainly not present in this case. Petitioner is not subject to mandatory criminal detention, has no criminal history, and faces detention that will become prolonged and indefinite: his individual hearing was not scheduled until 2028.

27. The Supreme Court further confirmed in *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018), that habeas corpus remains the appropriate procedural mechanism through which individuals may challenge unlawful and unconstitutional immigration detention. Consistent with these principles, the Fifth Circuit has recognized that prolonged civil immigration detention must remain reasonably related to its regulatory purpose and may not operate as punishment.

See Andrade v. Gonzales, 459 F.3d 538, 543 (5th Cir. 2006). And the Supreme Court has made clear that even civil detention must be narrowly tailored to serve a compelling governmental interest and may not function as punishment. *United States v. Salerno*, 481 U.S. 739, 747 (1987).

28. Applied here, these principles confirm that Petitioner's continued detention exceeds the bounds of lawful civil immigration detention. This case does not involve a criminal noncitizen, a flight risk, or a threat to public safety. At the time of his detention, Petitioner was residing in the United States with a properly filed affirmative asylum application pending. His history of compliance and lawful presence confirms that detention was unnecessary from its inception, and because his removal is not reasonably foreseeable, his continued confinement bears no reasonable relationship to any legitimate regulatory objective and has become punitive in effect.

CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

Violation of the Due Process Clause of the Fifth Amendment of the United States Constitution

29. Petitioner repeats and incorporates by reference all allegations above as though set forth fully herein.

30. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty.

31. Mr. Pulido Perozo's continued detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

32. The Due Process Clause of the Fifth Amendment to the U.S. Constitution provides that "[n]o person shall . . . be deprived of life, liberty, or property without due process of law." As a noncitizen who has been physically present in the United States for more than two years, Mr. Pulido Perozo is entitled to Due Process Clause protections against deprivation of liberty and property. *See Zadvydas*, 533 U.S. at 693 ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."). Any deprivation of this fundamental liberty interest must be accompanied not only by adequate procedural protections, but also by a "sufficiently strong special justification" to outweigh the significant deprivation of liberty. *Id.* at 690.

33. Respondents have deprived Mr. Pulido Perozo of his liberty interest protected by the Fifth Amendment by detaining him since June 2026, with no rhyme or reason for his detention, and by subjecting him to prolonged confinement while his asylum claim remains pending and his hearing is not scheduled until 2028.

34. While asylum is a discretionary benefit, the right to apply is not. 8 U.S.C. § 1158(a)(1). Any noncitizen who is "physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival . . .), irrespective of such [noncitizen's] status, may apply for asylum." *Id.*

35. Furthermore, applying for asylum in removal proceedings comes with a panoply of greater protection when compared with seeking asylum in expedited removal. *See Immigrant Defenders Law Center v. Mayorkas*, 2023 WL 3149243, at *29 (C.D. Cal. Mar. 15, 2023) ("Individuals in regular removal proceedings enjoy far more robust due process protections

[than those in expedited removal] because Congress has conferred additional statutory rights on them.").

36. Respondents' actions in detaining Petitioner without any legal justification violate the Fifth Amendment. Respondents have not demonstrated that Petitioner needs to be detained. *See Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen's appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Petitioner cannot be safely released back to his community. To the contrary, because his removal is not reasonably foreseeable, his detention is arbitrary and punitive in effect and cannot be narrowly tailored to any compelling governmental interest. See *United States v. Salerno*, 481 U.S. at 747.

37. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

SECOND CAUSE OF ACTION

Violation of the Immigration and Nationality Act

38. Petitioner re-alleges and incorporates by reference the paragraphs above.

39. 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. Mandatory detention 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) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

40. Respondents have wrongfully adopted a policy and practice of arguing that all noncitizens, such as Petitioner, are subject to mandatory detention under § 1225(b)(2).

THIRD CAUSE OF ACTION

Fifth Amendment – Due Process
Denial of Opportunity to Contest
Mis-Inclusion in Mandatory Category of Detention

41. Petitioner re-alleges and incorporates by reference the paragraphs above.

42. Mr. Pulido Perozo has a vested liberty interest in preventing his removal because he is eligible for asylum and is entitled to pursue that relief outside of detention by showing he is neither a danger to the community nor a flight risk under 8 U.S.C. § 1226(a).

43. By detaining Petitioner, the Government has effectively cut off all opportunities for him to gather and prepare any and all evidence needed to prepare his case—a burden made all the more severe because he was not scheduled until 2028 for his first hearing.

44. For all of the above reasons, Respondents' attempts to detain Petitioner without a meaningful opportunity to be heard violate his Procedural Due Process rights under the Fifth Amendment.

RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests that this Court:

1) Assume jurisdiction over this matter;

2) Order Respondents to show cause why the writ should not be granted within three days, and set a hearing on this Petition within five days of the return, as required by 28 U.S.C. § 2243;

3) Declare that Petitioner's detention violates the Immigration and Nationality Act, and specifically that Petitioner is subject to detention, if at all, under 8 U.S.C. § 1226(a) rather than 8 U.S.C. § 1225(b)(2);

4) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;

5) Grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody along with all property and immigration documents he had in his possession when he was detained;

6) Order Respondents to file with the Court a complete copy of the administrative file from the Department of Justice and the Department of Homeland Security;

7) Enjoin ICE from transferring Mr. Pulido Perozo outside of the Western District of Texas while this matter is pending; and

8) Grant any other relief that this Court deems just and proper.

PRAYER FOR EXPEDITED CONSIDERATION

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests expedited consideration.

Each day of unlawful detention inflicts irreparable physical and emotional harm on Petitioner and his family. Prompt judicial intervention is necessary to protect Petitioner's constitutional rights and his well-being.

Dated: July 9, 2026

Respectfully submitted,

/s/ Yasmin E. Voglewede
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VERIFICATION OF COUNSEL

I represent Petitioner, Mr. Jorge Jonathan Pulido Perozo, and submit this verification on his 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: July 9, 2026

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