UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIA
BAKERSFIELD DIVISION

FILED

JUL 22 2026

CLERK U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIA
BY _____ DEPUTY CLERK

ANDRY PEREZ-CASTILLO,

Petitioner,

V.

1:26-cv-5702-JLT-CDB

Warden of the CENTRAL VALLEY ANNEX; TODD M. LYONS, in his official capacity as Acting Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations Washington Field Office; MARKWAYNE MULLIN, in his official capacity as Secretary of the Department of Homeland Security; TODD BLANCHE, in his official capacity as Attorney General of the United States,

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner *Pro Se*, Andry Perez-Castillo, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner is currently in the custody of U.S. Immigration and Customs Enforcement ("ICE") at Central Valley Annex, where Petitioner's continued detention is unlawful under the Constitution and laws of the United States. The petitioner has no final order of removal. The Immigration Judge denied custody redetermination after concluding the immigration court lacked jurisdiction. Petitioner seeks immediate release, or in the alternative, a constitutionally adequate bond hearing.

I. INFORMATION ABOUT PETITIONER

1. Petitioner's name is: ANDRY PEREZ-CASTILLO

2. Petitioner's Alien Registration Number is: [redacted]

3. Petitioner is a native, citizen, and national of Cuba

4. Petitioner was born on [redacted] in Cuba.

5. Petitioner is currently detained at: Central Valley Annex

254 Taylor Avenue, McFarland, CA 93250.

6. Petitioner was taken into ICE custody on or about April, 2026.

7. Petitioner has continuously resided in the United States.

8. Petitioner is seeking relief in the form of Asylum before the Immigration Court.

9. Petitioner has no criminal convictions and does not present a danger to the community.

10. Petitioner has strong family and community ties in the United States, including close relatives and long-term friendships.

II. JURISDICTION AND VENUE

11. 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 immigration detention as contrary to the Constitution and laws of the United States.

12. Venue is proper in this Court because Petitioner is detained within the Eastern District of California.

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

14. Petitioner is currently being denied a bond hearing because the position and precedent of the Board of Immigration Appeals is that the Immigration Courts have no jurisdiction to consider bond.

III. PARTIES

15. Petitioner ANDRY PEREZ-CASTILLO is currently detained at an immigration detention center located at 254 Taylor Avenue, McFarland, CA 93250, and has a pending removal proceedings with the Immigration Court.

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

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

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

19. The Warden/Facility Administrator of Central Valley Annex 254 Taylor Avenue, McFarland, CA 93250, is Petitioner's immediate custodian and has day-to-day control over Petitioner's confinement.

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

IV. FACTUAL BACKGROUND

21. Petitioner has a steady work history, demonstrating his stability and reliability.

22. Petitioner has no serious criminal convictions and does not present a danger to the community.

23. A criminal record search reflects no criminal convictions for Petitioner.

24. The Petitioner is without a meaningful opportunity for an individualized release (or custody) determination despite a record that accounts for his strong equities, strong and lengthy ties to the community, and lack of dangerousness.

25. Petitioner is not a flight risk. He has substantial ties to the United States, including family, employment, and she is willing to comply with any 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

26. The Fifth Amendment to the United States Constitution guarantees that no person shall be deprived of liberty without due process of law.

27. 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.

28. 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 have not been admitted" or those "arriving in the United States." Id.

29. 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).

30. 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).

31. "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).

32. 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.

33. 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).

34. 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).

35. 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 Attorney General may either continue to detain the individual or release them on bond or conditional release. See 8 U.S.C. § 1226(a).

36. The statute thus "establishes a discretionary detention framework." *Gomes*, 2025 WL 1869299, at *2. Importantly for purposes of the instant action, "federal 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.").

37. 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 her 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."). The NTA reflects that DHS proceeded under section 1226 when it encountered Petitioner. Specifically, the NTA did not classify Petitioner as an "arriving alien." Instead, the NTA 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).

38. 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).

39. 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).

40. 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 – PROLONGED IMMIGRATION DETENTION WITHOUT A CONSTITUTIONALLY ADEQUATE BOND HEARING VIOLATES THE FIFTH AMENDMENT

41. The Due Process Clause of the Fifth Amendment prohibits the federal government from subjecting noncitizens to prolonged civil immigration detention without adequate procedural protections.

42. While immigration detention may be permissible for a limited period, it becomes unconstitutional when it is prolonged and no longer reasonably related to its purported purpose, absent meaningful procedural safeguards. *See Zadvydas v. Davis*, 533 U.S. 678 (2001).

43. Petitioner has been detained for approximately four months, a period that courts within the Ninth Circuit, including this District, routinely recognize as "prolonged" for purposes of due process analysis.

44. Under binding Ninth Circuit precedent, due process requires a bond hearing before a neutral decisionmaker once detention becomes prolonged, at which the government must justify continued detention. *See Rodriguez v. Marin*, 909 F.3d 252 (9th Cir. 2018) (as amended).

45. At such a hearing, due process requires that:

a) The government bears the burden of proof,

b) detention be justified by clear and convincing evidence, and

c) The court considers alternatives to detention.

46. The petitioner has not received such a constitutionally adequate bond hearing. As a result, Petitioner's continued detention violates the Fifth Amendment.

COUNT TWO – PETITIONER'S DETENTION IS NOT AUTHORIZED UNDER THE PROPER STATUTORY FRAMEWORK

47. Respondents have improperly classified Petitioner's detention under [INA § 1225 / § 1226(c)], thereby denying Petitioner access to a bond hearing.

48. Courts within the Ninth Circuit, including district courts in this Circuit, have recognized that misclassification of detention authority results in unlawful custody subject to habeas relief under 28 U.S.C. § 2241.

49. If Petitioner is properly classified under INA § 1226(a), then Petitioner is entitled to an individualized bond hearing before an Immigration Judge.

50. If Respondents assert mandatory detention under § 1226(c) or § 1225(b), such detention—when prolonged—still requires constitutional safeguards, including a bond hearing.

51. Because Respondents have applied the incorrect statutory authority and/or denied the procedural protections required by law, Petitioner's detention is unlawful.

COUNT THREE – CONTINUED DETENTION VIOLATES DUE PROCESS BECAUSE IT IS NO LONGER REASONABLY RELATED TO ITS PURPOSE

52. Civil immigration detention is justified only for limited purposes, including ensuring appearance at proceedings and protecting the community.

53. Once detention becomes prolonged, it must be supported by individualized findings that detention remains necessary to serve those purposes.

54. Here, Respondents have failed to make any individualized determination that Petitioner poses a flight risk or danger sufficient to justify continued detention.

55. Instead, Petitioner remains detained pursuant to a categorical or automatic scheme, which the Supreme Court has made clear is constitutionally insufficient in the context of prolonged civil detention. See *Zadvydas*, 533 U.S. at 690.

56. Petitioner's continued detention has therefore become punitive in effect and violates the Fifth Amendment.

COUNT FOUR – HABEAS RELIEF IS PROPER UNDER 28 U.S.C. § 2241

57. Petitioner is "in custody" within the meaning of 28 U.S.C. § 2241.

58. That custody violates the Constitution and laws of the United States for the reasons stated above.

59. Federal courts, including this Court, have authority to order release or a constitutionally adequate bond hearing where immigration detention becomes unlawful.

VII. REQUEST FOR RELIEF

WHEREFORE, Petitioner, ANDRY PEREZ-CASTILLO, 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.

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,

Andry Perez Castillo

Pro se, ANDRY PEREZ-CASTILLO
A# [redacted]
Central Valley Annex
254 Taylor Avenue,
McFarland, CA 93250.

VIII. VERIFICATION

I, ANDRY PEREZ-CASTILLO, with alien number [redacted] 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.

Andry Perez Castillo

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254 Taylor Avenue,
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