

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION

Claudio AMBROCIO LOPEZ,

Petitioner,

v.

JASON STREEVAL, *in his official capacity*  
*as Warden of Stewart Detention Center*, and  
GEORGE STERLING, *Field Office Director ICE*  
*Atlanta Field Office* and TODD LYONS, *in his*  
*official capacity as Acting Director of Immigration*  
*and Customs Enforcement* and KRISTI NOEM  
*Secretary of Homeland Security*,

Respondents.

Case No. 4:25-cv-285

**PETITION FOR WRIT  
OF HABEAS CORPUS**

A 

**I. INTRODUCTION**

1. Petitioner Claudio Ambrocio Lopez (“Mr. Ambrocio”) is a 40-year-old Mexican national who first entered the United States in 2000 at the age of sixteen. He has resided in Charlotte, North Carolina for roughly twenty-five years. He is married and has two U.S. citizen children.

2. On July 25, 2025, an Immigration Judge (“IJ”) ordered Mr. Ambrocio released on a \$8,000 bond, finding he poses neither danger to the community nor flight risk. No additional conditions were imposed.

3. Mr. Ambrocio’s family attempted in person to post the bond the same day, and then again on August 11, 2025, and on August 12, 2025, but was refused each time. On September 10, 2025, the obligor attempted to post the bond online, but on September 11, 2025, Immigration and Customs Enforcement (“ICE”), a component of the Department of Homeland Security (“DHS”) also denied this request.

4. DHS filed a notice of appeal with senior-official certification with the Board of Immigration Appeals (“BIA”) dated August 6, 2025 (docketed August 14, 2025), triggering a ninety-day automatic stay pursuant to § 1003.19(i)(2). Mr. Ambrocio remains confined at Stewart Detention Center in Lumpkin, Georgia.

5. The automatic-stay regulation exceeds any authority Congress conferred in the Immigration and Nationality Act (“INA”) and violates the Fifth Amendment’s Due Process Clause.

6. On September 5, 2025, the BIA issued *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), adopting DHS’s position that noncitizens “present in the United States without admission” are subject to mandatory detention under INA § 235(b)(2)(A) and that immigration judges lack bond jurisdiction even when ICE has placed the case in § 240 proceedings. DHS will now rely on *Yajure Hurtado* in Petitioner’s pending bond appeal to argue that the IJ never had authority to set bond and that continued detention—without judicial bond review—is required. That new precedent is unlawful and cannot justify Petitioner’s ongoing confinement: it misreads the statute, conflicts with binding regulations that limit expedited-removal custody to classes designated by Federal Register notice, and

raises grave constitutional concerns the avoidance canon requires courts to steer away from. *See* INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A); 8 C.F.R. § 235.3(b)(1)–(2); 62 Fed. Reg. 10,312, 10,314, 10,318 (Mar. 6, 1997); 69 Fed. Reg. 48,877, 48,880–81 (Aug. 11, 2004); 84 Fed. Reg. 35,409, 35,412 (July 23, 2019); *Jennings v. Rodriguez*, 583 U.S. 281 (2018); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Clark v. Martinez*, 543 U.S. 371 (2005).

7. Mr. Ambrocio therefore seeks a writ of habeas corpus directing his immediate release.

## II. VENUE AND JURISDICTION

8. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the Constitution (Suspension Clause).

9. Venue lies in this Division because Mr. Ambrocio is detained in Stewart Detention Center, within the Columbus Division, and Respondent Streeval is his immediate custodian. *See* 28 U.S.C. §§ 2241(d), 1391(e).

## III. PARTIES

10. Petitioner Claudio Ambrocio Lopez (“Mr. Ambrocio”) is a 40-year-old Mexican national who resides in Charlotte, North Carolina. He is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

11. Respondent Jason Streeval is the Warden of Stewart Detention Center. As such, Respondent is responsible for the operation of the Detention Center where Mr. Ambrocio is detained. Because ICE contracts with private prisons such as Stewart to house immigration detainees such as Mr. Ambrocio, Respondent

Streeval has immediate physical custody of the Petitioner.

12. Respondent George Sterling is the Atlanta Field Office Director (“FOD”) for ICE Enforcement and Removal Operations (“ERO”). As such, Respondent Sterling is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Sterling is being sued in his official capacity.

13. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (“ICE”). As such, Respondent Lyons is responsible for the oversight of ICE operations. Respondent Lyons is being sued in his official capacity.

14. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (hereinafter “DHS”). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

#### **IV. EXHAUSTION OF REMEDIES**

15. No statutory exhaustion requirement applies. Moreover, ICE’s refusal to honor the IJ’s bond order leaves no administrative avenue to secure release; additional agency steps would be futile.

16. Mr. Ambrocio has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

## V. STATEMENT OF FACTS

17. Mr. Ambrocio is a Mexican national born on [REDACTED] He entered the United States without inspection in 2000, when he was sixteen years old, and has lived continuously in North Carolina for the past twenty-five years. He resides in Charlotte, Mecklenburg County, North Carolina.

18. Mr. Ambrocio has two United-States-citizen children—[REDACTED] who was born on [REDACTED] and Ronaldo who was born on [REDACTED] 2005. Mr. Ambrocio financially supports his youngest child, [REDACTED] who is still a minor.

19. On February 5, 2025, Mr. Ambrocio was pulled over in Gaston County, North Carolina due to issues with the tags on his vehicle. Mr. Ambrocio was in possession of stolen property that he had just purchased through Facebook Marketplace. He was immediately taken into custody and charged with (F) Possession of Stolen Goods or Property which was later reduced to (M) Possession of Stolen Goods or Property on June 4, 2025. He was then transferred into ICE custody.

20. On or about June 4, 2025, ICE transported Mr. Ambrocio to Stewart Detention Center in Lumpkin, Georgia, a privately operated CoreCivic facility, where he has remained ever since.

21. Removal defense counsel filed a written motion for custody redetermination on July 23, 2025. Following a full evidentiary hearing on July 25, 2025, Immigration Judge James Ward rejected ICE's argument that every entrant without inspection ("EWI") is an "Applicant for Admission" subject to mandatory

detention and granted release on an \$8,000 bond. **(Exhibit A, Immigration Judge's Bond Packet).**

22. On July 25, 2025, ICE filed Form EOIR-43 ("Notice of DHS Intent to Appeal Custody Redetermination"), triggering a provisional automatic stay contained in 8 C.F.R. § 1003.19(i)(2). **(Exhibit B, Form EOIR-43:).**

23. On August 6, 2025, ICE filed its formal notice of appeal, together with the senior-official certification required to extend the automatic stay; the BIA docketed the appeal on August 14, 2025, and directed both parties to file briefs by September 18, 2025. **(Exhibit C, Notice of Appeal with Senior-Official Certification).** No discretionary stay has been requested by ICE or issued by the BIA. **(Exhibit D, BIA Briefing Schedule Notice, requiring party briefs by September 18, 2025).**

24. On July 25, 2025, August 11, 2025, and August 12, 2025, Mr. Ambrocio's family attempted to tender the full \$8,000 bond in person. The obligor attempted to pay the bond online on September 10, 2025. DHS denied each request.

25. Mr. Ambrocio is seeking cancellation of removal under 8 U.S.C. § 1229b(b)(1) based on exceptional-and-extremely-unusual hardship to his U.S.–citizen children. His next master-calendar hearing is scheduled in person on September 19, 2025, at 10:00 a.m. before IJ Fuller in Lumpkin. **(Exhibit E, EOIR Case Status).**

26. Mr. Ambrocio remains detained solely because the automatic-stay regulation blocks execution of Judge Ward's bond order, even though bond can be

posted and no stay has been granted by the BIA or any court. He now seeks habeas relief because continued detention under 8 C.F.R. § 1003.19(i)(2) exceeds statutory authority and violates the Fifth Amendment.

27. After the Immigration Judge granted bond and DHS appealed, the BIA decided *Matter of Yajure Hurtado*, which DHS will now invoke to contend that the IJ lacked bond authority *ab initio* and that Petitioner must remain detained under § 235(b)(2)(A) while the appeal is pending. But Yajure’s construction cannot be applied to retroactively strip a lawfully issued bond order, and—more fundamentally—its reading is contrary to the statutory scheme and the governing regulations that channel non-expedited-removal arrests into § 240 with custody governed by § 236(a) and IJ bond jurisdiction. *See* 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a), 1003.19(h); 8 C.F.R. § 235.3(b)(1)–(2); 62 Fed. Reg. at 10,314, 10,318; 69 Fed. Reg. at 48,880–81; 84 Fed. Reg. at 35,412.

## VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

28. Habeas corpus relief extends to a person “in custody under or by color of the authority of the United States” if the person can show he is “in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241 (c)(1), (c)(3); *see also Antonelli v. Warden, U.S.P. Atlanta*, 542 F.3d 1348, 1352 (11th Cir. 2008) (holding a petitioner’s claims are proper under 28 U.S.C. section 2241 if they concern the continuation or execution of confinement).

29. “[H]abeas corpus is, at its core, an equitable remedy,” *Schlup v. Delo*, 513 U.S. 298, 319 (1995), that “[t]he court shall ... dispose of [] as law and justice

require,” 28 U.S.C. § 2243. “[T]he court’s role was most extensive in cases of pretrial and noncriminal detention.” *Boumediene v. Bush*, 553 U.S. 723, 779–80 (2008). “[W]hen the judicial power to issue habeas corpus properly is invoked the judicial officer must have adequate authority to make a determination in light of the relevant law and facts and to formulate and issue appropriate orders for relief, including, if necessary, an order directing the prisoner’s release.” *Id.* at 787.

## **VII. CAUSES OF ACTION**

### **COUNT ONE THE REGULATION IS *ULTRA VIRES***

30. Petitioner incorporates paragraphs 1 through 29 as if fully set out herein.

31. The Immigration and Nationality Act, 8 U.S.C. § 1226(a), authorizes discretionary detention subject to an Immigration Judge’s bond decision; it does not authorize Immigration and Customs Enforcement to nullify that judicial decision by administrative fiat.

32. Regulation 8 C.F.R. § 1003.19(i)(2) purports to impose an automatic stay that takes effect the moment ICE files—or merely intends to file—a notice of appeal, without any neutral review or individualized findings.

33. By turning discretionary custody into de facto mandatory detention for detainees not subject to 8 U.S.C. § 1226(c), § 1003.19(i)(2) exceeds the statutory power Congress delegated.

34. Detention premised solely on this ultra vires regulation is “not in accordance with law,” “in excess of statutory jurisdiction,” and “arbitrary [and]

capricious” under 5 U.S.C. § 706(2), entitling Petitioner to immediate release.

35. Respondent’s presumed reliance on *Matter of Yajure Hurtado* collapses the statute’s two-track system. Section 235 governs the inspection setting—ports of entry and those stopped soon after crossing—with a fast-track screening and detention regime that Congress and the Supreme Court have treated as a distinct, inspection-stage context. Section 236, by contrast, governs interior arrests and vests Immigration Judges with bond authority in § 240 cases. Reading § 235(b)(2)(A) to control whenever a person was never “admitted” converts the border screen into a universal no-bond rule and all but writes § 236(a) out of existence. That interpretation is irreconcilable with the implementing rules, which limit expedited-removal processing—and its custody—to published Federal Register designations (now capped at two years of presence), and with the case law up to *Yajure Hurtado* that kept §§ 235 and 236 on separate footing. *See* 8 C.F.R. § 235.3(b)(1)–(2); 62 Fed. Reg. 10,312, 10,314, 10,318 (Mar. 6, 1997); 69 Fed. Reg. 48,877, 48,880–81 (Aug. 11, 2004); 84 Fed. Reg. 35,409, 35,412 (July 23, 2019); *Jennings v. Rodriguez*, 583 U.S. 281, 287–99 (2018); *DHS v. Thuraissigiam*, 591 U.S. 103, 119–21 (2020). Even if *Yajure Hurtado* was correct (it is not), using a new precedential gloss to nullify a bond already granted while the DHS’s appeal was pending is impermissibly retroactive. *See Landgraf v. USI Film Prods.*, 511 U.S. 244, 265–73 (1994).

**COUNT TWO  
(PROCEDURAL DUE PROCESS)**

36. Petitioner incorporates paragraphs 1 through 29 as if fully set out herein.

37. The Fifth Amendment forbids a deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker.

38. Subsection 1003.19(i)(2) strips Petitioner of that protection by allowing the prosecuting agency—after losing at the bond hearing—to veto the Immigration Judge’s order with a one-page notice that requires no showing of danger, flight risk, or likelihood of success on appeal.

39. Applying the *Mathews v. Eldridge*, 424 U.S. 319 (1976), test, Petitioner’s liberty interest is paramount; the risk of erroneous deprivation is extreme considering the Immigration Judge’s determination that Petitioner is not subject to mandatory detention under 8 U.S.C. § 1226(c), is not a flight risk, and does not pose a danger to the community. Likewise, the risk of erroneous deprivation of liberty is great due to the lack of a non-independent adjudicator. *Marcello v. Bonds*, 39 U.S. 302, 305-306 (1955). In filing the Form EOIR-43, ICE is acting as both the prosecutor as well as the adjudicator. Lastly, the interest of the government in being able to invoke the challenged regulation is minimal, as there is a substitute administrative provision available. Under 8 C.F.R. §1003.19(i)(1), DHS may request an emergency stay from the BIA on the merits of the Immigration Judge’s decision to release Petitioner on bond.

40. Read as Respondents will urge, *Yajure Hurtado* would categorically deny any bond hearing to noncitizens arrested in the interior who are outside the published expedited-removal designations—people whom Congress and the regulations routed into § 240 with § 236(a) custody. That construction raises serious due-process and Suspension Clause questions: it authorizes prolonged civil detention with no neutral decision-maker weighing flight risk or danger, despite settled law that civil detention must remain closely tied to its purposes. *See Zadvydas*, 533 U.S. at 690–701. Under the constitutional-avoidance canon, where a statute is susceptible of more than one construction, courts must prefer the reading that avoids grave constitutional problems. *See Clark*, 543 U.S. at 381–82. The far better (and textually faithful) reading is that § 235(b) governs the inspection track and the classes designated for expedited removal, while everyone else is detained—if at all—under § 236(a) with IJ bond review. *See Jennings*, 583 U.S. at 287–99.

### **COUNT THREE (SUBSTANTIVE DUE PROCESS)**

41. Petitioner incorporates paragraphs 1 through 29 as if fully set out herein.

42. All persons residing in the United States are protected by the Due Process Clause of the Fifth Amendment.

43. The Due Process Clause of the Fifth Amendment provides that “[n]o person shall be ... deprived of life, liberty, or property, without due process of law.”

U.S. CONT. amend. V. Freedom from bodily restraint is at the core of the liberty protected by the Due Process Clause. This vital liberty interest is at stake when an individual is subject to detention by the federal government.

44. Under the civil-detention framework set out in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and its progeny, the Government may deprive a non-citizen of physical liberty only when the confinement serves a legitimate purpose—such as ensuring appearance or protecting the community—and is reasonably related to, and not excessive in relation to, that purpose.

45. Once the Immigration Judge found Petitioner neither dangerous nor a flight risk and set a bond that his mother immediately posted, the Government’s lawful objectives were satisfied; continued confinement therefore bears no reasonable, non-punitive relationship to any legitimate aim and is unconstitutionally arbitrary.

46. The regulation is also excessive because an alternative provision enables ICE to seek an emergency stay of the immigration judge’s release order on the merits. The “emergency stay” provision at 8 C.F.R. § 1003.19(i)(1) permits ICE to file an emergency request for a stay of release with the BIA, just as in any other proceeding in which the losing party seeks appellate review of an adverse decision and a stay pending appeal.

47. The continued detention of Petitioner pursuant to the “automatic stay” regulation violates his due process rights. *See, e.g. Leal-Hernandez v. Noem*, No. 1:25-cv-02428, 2025 U.S. Dist. LEXIS 327685 (D. Md. Aug. 24, 2025); *Maldonado*

*v. Olson*, No. 25-cv-3142 (SRN/SGE), 2025 U.S. Dist. LEXIS 349096 (D. Minn. Aug. 15, 2025). But for intervention by this Court, Petitioner has no means of release pending ICE’s appeal.

48. Even apart from the stay regulation, continuing to jail Petitioner by invoking *Yajure Hurtado*—after an IJ already found he is neither a danger nor a flight risk and set bond—bears no reasonable relation to any legitimate purpose and is arbitrary in violation of substantive due process. *See Zadvydas*, 533 U.S. at 690. The BIA’s new interpretation would convert a definitional label (“applicant for admission”) in the “inspection” statute into a perpetual, interior no-bond regime untethered to Congress’s two-track structure and the Federal Register limits that cabin expedited-removal custody. If § 235(b)(2)(A) could be stretched that far, the Court should reject that construction under constitutional avoidance; if accepted, it would invite precisely the kind of unreviewable, prolonged civil detention the Constitution forbids. *See Clark*, 543 U.S. at 381–82; *Jennings*, 583 U.S. at 300–01.

### **PRAYER FOR RELIEF**

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

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing the Respondents to immediately release him from custody, under reasonable conditions of supervision;
- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
- 4) Order Respondents to file a response within 3 business days of the filing of this petition;
- 5) Award attorneys' fees to Petitioner; and
- 6) Grant any other and further relief which this Court deems just and proper.

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

Respectfully submitted this 12<sup>th</sup> day of September, 2025

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Forthcoming*

### **CERTIFICATE OF COMPLIANCE**

I hereby certify that the document to which this certificate is attached has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1 for documents prepared by computer.

/s/ Helen L Parsonage

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