

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

BRAYAN FERNEY
LOPEZ LIZARAZO,
Petitioner,

vs.

WARDEN of Folston ICE
Processing Center, et al.
Respondents.

Civil Action No.:
5:25-cv-105

PETITIONER'S SECOND AMENDED PETITION

Petitioner, Brayan Ferney Lopez Lizarazo, respectfully amends his Petition for *Writ of Habeas Corpus* (Dkt. 1) and subsequent Amended Complaint (Dkt. 11) to add the following count against Respondents:

C. Unlawful Detention Under 8 U.S.C. § 1225(b)(2)

1. Petitioner's detention is in violation of law because he is being erroneously subject to mandatory detention by being classified as an alien seeking admission under 8 U.S.C. § 1225(b), instead of being provided the opportunity to seek bond under 8 U.S.C. § 1226(a). *See Aguirre Villa v. Warden*, 5:25-cv-00089-LGW-BWC, 4-7 (S.D. Ga. Nov.

4, 2025); *see also* Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

2. On December 11, 2025, an Immigration Judge entered an Order finding that he lacked jurisdiction to consider Petitioner for bond pursuant to Matter of Yahure Hurtado (Dkt. 17), despite the class action declaratory judgment in Maldonado Bautista, *supra*.

3. Petitioner is not an alien seeking admission because, at the time of his arrest by ICE, he was not asking for admission into the United States and was well within the interior territory. He was detained in Ellabel, Georgia, more than 3 years after his arrival to the United States.

4. Classifying Petitioner as subject to mandatory detention under § 1225(b) is contrary to decades of precedent, clear statutory text, regulations, and the government's own long-standing practice.

5. This interpretation of § 1225(b) has already been rejected by district courts nationwide, including this Honorable Court in Aguirre Villa v. Warden, *supra*.

6. Because Petitioner is not an alien seeking admission, under § 1226(a), he is entitled to a prompt, individualized bond hearing before an Immigration Judge at which the government bears the burden of proving that his continued detention is necessary to serve a legitimate purpose such as preventing flight or protecting the community.

7. By refusing to provide even the minimal safeguards Congress built into § 1226(a), Respondents have acted in a manner that is arbitrary, capricious, and inconsistent with the basic promise of due process, that the government may not imprison a person first and ask questions later.

8. A *writ of habeas corpus* should issue requiring Respondents to provide Petitioner with a bond hearing in Immigration Court within 7 days or release him.

Respectfully submitted this 20 day of December, 2025.

/s/ Giovanna Andrea Holden
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Certificate of Service

I certify that on December 20, 2025, I served the foregoing Respondent to Motion to Dismiss via CM/ECF on counsel for Respondents.

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