

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION**

**JOSE AGUILAR GONZALES**

) **Civil No.**

Petitioner,

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v.

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**JASON STREEVAL**, Warden,  
Stewart Detention Center; **LADÉON**  
**FRANCIS**, Field Office Director,  
Atlanta Field Office, U.S.  
Immigration and Customs  
Enforcement; **TODD LYONS**,  
Acting Director, U.S. Immigration  
and Customs Enforcement; **KRISTI**  
**NOEM**, Secretary of Department of  
Homeland Security; **PAMELA**  
**BONDI**, Attorney General of the  
United States, in their official  
capacities;

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In their official capacities,

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Respondents.

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**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO**  
**28 U.S.C. §2241**

**INTRODUCTION**

1. Petitioner Jose Aguilar-Gonzalez hereby files this Petition for a Writ of

Habeas Corpus pursuant to 28 U.S.C. § 2241 seeking his immediate release from unlawful government custody. Mr. Aguilar-Gonzales Bowman has been detained by immigration officials since August 13, 2025.

### **JURISDICTION AND VENUE**

2. This Court has jurisdiction pursuant to 28 U.S.C. § 1331, 2241, and the Suspension Clause, U.S. Const., art. I, § 9, cl. 2, as Mr. Aguilar Gonzales is presently in custody under or by color of the authority of the United States, and such custody is in violation of the U.S. Constitution, laws or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241 and the All Writs Act, 28 U.S.C. §1651.
3. Venue is proper in the United States District Court for the Middle District of Georgia, Columbus Division, pursuant to 28 U.S.C. §1391(e)(1) and Local Rule 3.4, because at least one Respondent is in this District and Division, Mr. Aguilar Gonzales is currently detained in this District and Division, and Mr. Aguilar Gonzales's immediate physical custodian is in this District and Division.

### **PARTIES**

4. Mr. Aguilar Gonzales is currently detained in the Stewart Detention Center after he was taken into custody by Immigration and Customs Enforcement on August 13, 2025.
5. Respondent Jason Streeval is sued in his official capacity as Warden of Stewart Detention Center, where Mr. Aguilar Gonzales is currently detained, as a legal custodian of Mr. Aguilar Gonzales.
6. Respondent LaDeon Francis is sued in his official capacity as the Field Office Director of ICE's Atlanta Field Office, which enforces immigration and custom laws within the District, where Mr. Aguilar Gonzales is detained.
7. Respondent Todd Lyons is sued in his official capacity as the Acting Director of ICE, a component of the Department of Homeland Security ("DHS"). As a result, Respondent Todd Lyons has a responsibility for the administration of the immigration laws pursuant to 8 U.S.C. § 1103 and is a custodian of Mr. Aguilar Gonzales.
8. Respondent Kristi Noem is sued in her official capacity as the Secretary of DHS. In this capacity, she directs DHS and ICE. As a result, Respondent Kristi Noem has responsibility for the administration of the immigration laws pursuant to 8 U.S.C. § 1103 and is a legal custodian of

Mr. Aguilar Gonzales.

9. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States. In this capacity, she has responsibility for the administration of the immigration laws pursuant to 8 U.S.C. §1103, oversees the Executive Office of Immigration review (“EOIR”), and is a legal custodian of Mr. Aguilar Gonzales.

### **STATEMENT OF FACTS**

10. The Petitioner entered the U.S. on or about February 15, 1997 through the U.S./Mexico Border. The entry was “without inspection” aka EWI. The Petitioner is married to a U.S. citizen and has one U.S. citizen child. The Petitioner has one conviction “driving without a valid license” offense. He was previously arrested on this same charge but that first case was dismissed.
11. The Respondent was detained on August 13, 2025 through a joint FBI/ERO (Enforcement and Removal Operations office of Immigration and Customs Enforcement) FBI based on a false report of “elder abuse” apparently made to the FBI by the son an elderly man that is being cared for by the Petitioner’s U.S. citizen spouse. After being detained the Petitioner was issued a Notice to Appear (NTA) by Immigration and

Customs Enforcement charging him with inadmissibility under INA § 212(a)(6)(A)(i), as a noncitizen “present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General.” *See Exhibit A for letter from the Clayton County Police confirming the “false report” against the Petitioner, I-213 and Notice to Appear.*

12. Undersigned counsel filed a second Motion for Bond with the EOIR Stewart on August 28, 2025 (the first motion was denied for lack of jurisdiction because the Petitioner had not been physically moved to the Stewart Detention Center at the time of the first bond hearing held on August 26, 2025). *See Exhibit B for a copy of the Motion for Bond, which includes proof of strong local ties and prima facie eligibility to seek permanent residency in the U.S. through Cancellation of Removal for Non-Lawful Permanent Residents.*

### **LEGAL FRAMEWORK**

13. A few days before the second bond hearing, the Board of Immigration Appeals issued a precedent decision, Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), which upended decades of legal precedent addressing immigration detention under INA § 235(b). This new

decision holds that any noncitizen who is present in the United States without having been inspected and admitted is subject to detention under INA §235(b)(2), not INA §236(a), which makes them subject to mandatory detention and precludes eligibility to seek bond from an Immigration Court. The decision is based on the Board of Immigration Appeal's legal "reinterpretation" of §235, which is a 180 degree turn from literally decades of legal recognition that deemed otherwise. Under the *Yajure Hurtado* holding, only noncitizens who have been "legally admitted" are afforded eligibility for bond before the Immigration Court. This holding constitutes a substantial due process violation which serves as a basis for this instant Habeas Petition. See INA § 101(a)(13)(A) and 29 I&N Dec. at 218, 223. See *Exhibit C for copy of Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025)*.

14. The Stewart Immigration Court Judge that recently denied the Petitioner's Motion for Bond based on lack of jurisdiction issued a written opinion, which basically expressed the Judge's disagreement with the legal holding in *Yajure Hurtado* and further provided that the court **would have granted the Petitioner a \$5000 bond if accorded jurisdiction to do so**. See *Exhibit D for a copy of the Immigration*

*Judge's bond decision.*

15. Subsequent to the court's issuance of the bond denial, the Petitioner asserted legal relief from removal by filing an EOIR 42B Application for Permanent Residency (Cancellation of Removal for Non-Lawful Permanent Residents). *See Exhibit E for proof that the EOIR 42B Application was filed with USCIS and submitted to the EOIR Stewart.*
16. The Court is also respectfully apprised that the legal holding in Yajure Hurtado has already been roundly repudiated by several Federal District Courts. Additionally, the holding also has been repudiated in the First, Second, Fourth, Fifth, Sixth, Eighth and Ninth Circuits. The 11<sup>th</sup> Circuit has not yet rendered an opinion on this instant issue. The above cited courts have all analyzed which statute covers noncitizens who previously entered without inspection and were apprehended in the interior of the country and have consistently found that INA §236, not INA §235(b)(2), authorizes their detention, and as such, individuals falling under these parameters (in this case, entry without inspection) are to be accorded an opportunity to seek bond before an Immigration Court. These courts have further determined that the government has engaged in an expansive interpretation of INA §235(b)(2) by applying mandatory detention to all

foreign nationals that have entered the U.S. without inspection. Virtually all the courts cited above have agreed that §235(b)(2) only applies to foreign nationals who are in the process of entering or who have just entered the United States, as opposed to individuals (such as the Petitioner) who entered EWI but have resided in the U.S. continuously for many years. *See Exhibit F for a Practice Advisory from the American Immigration Council which sets out the numerous and varied jurisdictions that have roundly repudiated the Board of Immigration Appeal's Yajure Hurtado decision.*

17. Numerous Federal District Courts have granted Temporary Restraining Orders or Preliminary Injunctions (***in so doing definitively repudiating the holding in Yajure Hurtado***) which have accorded the foreign national Petitioner a bond hearing before an Immigration Judge. *In Rivera Zumba v Pam Bond, et al Civ. No. 25-cv-14626 (KSH)( issued on 9/26/25 by the New Jersey District court)* the court was presented with the question of whether the Petitioner, a noncitizen who has lived in the United States for over 20 years and effectuated an entry without inspection (EWI), was unlawfully detained under § 235 of the Immigration and Nationality Act (“INA”), 8 U.S.C. §1225 mandatory

detention provision. **The Court granted the habeas petition, and in so doing, declared that the Petitioner’s mandatory detention under §1225 violated the INA and the Due Process Clause of the Fifth Amendment. The Petitioner ordered the Respondents to release the Petitioner from detention within 24 hours.** *See Exhibit G for decisions on a Habeas Petition, TROs and Preliminary Injunctions issued by the U.S. District Courts in New Jersey, Iowa, Florida, California.*

### **PRAYER FOR RELIEF**

WHEREFORE, Plaintiffs pray that the Court:

1. Assume jurisdiction over this matter;
2. Order Respondents to show cause why the writ should not be granted “within three days unless for good cause for additional time, not exceeding twenty days, is allowed.” 28 U.S.C. § 2243;
3. Expedite consideration of this action pursuant to 28 U.S.C. §1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
4. In the event that this Court determines that a genuine dispute of material fact exists regarding the likelihood of Petitioner’s removal in the reasonably foreseeable future, or regarding any other material factual issue, schedule and evidentiary hearing pursuant to 28 U.S.C. §2243.

See *Singh v. U.S. Atty Gen.*, 945 F.3d 1310, 1315-16 (11<sup>th</sup> Cir. 2019).

5. Grant a Writ of Habeas Corpus, ordering Respondents to immediately release Petitioner from their custody, or in the alternative, 1) Declare that the EOIR's legal interpretation in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) is unlawful and should not be accorded deference by this court, and that an EOIR Judge has jurisdiction to render a decision on the Petitioner's Motion for Bond; and 2) Compel EOIR to provide Petitioner an expedited bond hearing.
6. Declare that Petitioner's detention violates the Immigration and Nationality Act;
7. Declare that the Petitioner's detention violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution;
8. Declare that Petitioner's detention violates the Non-Detention Act, 18 U.S.C. § 4001;
9. Declare that the EOIR's legal interpretation in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) is unlawful and should not be accorded deference by this court;
10. Award Petitioner's costs and reasonable attorneys' fees in this action as provided for the Equal Access to Justice Act, 5 U.S.C. § 504 and 28

U.S.C. §2412; and

11. Grant such further relief as the Court deems just and proper.

DATED this 26th day of September, 2025.

LEVINE & ESKANDARI, LLC

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

I hereby verify that the statements in the Petitioner are true and correct to the best of my knowledge.

Dated: September 26, 2025

*By /s/ Jose Aguilar Gonzales*  
Petitioner