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

MATEO GOMEZ GOMEZ,

Petitioner,

v.

JASON STREEVAL, Warden, Stewart Detention Center, Lumpkin, GA; GEORGE STERLING, Director of the Atlanta Field Office, Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the U.S. Department of Homeland Security; and PAMELA BONDI, Attorney General of the United States, in their official capacities,

Respondents.

Case No. _____

**PETITION FOR WRIT OF
HABEAS CORPUS**

ORAL ARGUMENT REQUESTED

Expedited Hearing Requested

INTRODUCTION

1. This case challenges Respondents' unlawful re-arrest and continued detention of Petitioner Mateo Gomez Gomez (Mr. Gomez Gomez). Mr. Gomez Gomez has resided in the United States for a total of twenty-four years. He has peacefully lived and worked in his Gainesville, Georgia community for the last twelve years, after being released from immigration custody on his own recognizance; he is a loving parent to six minor U.S. citizen children and has

been an active and law-abiding member of his community and church. But in June of 2025, he was re-arrested without notice or justification and is now detained at the Stewart Detention Center.

2. Mr. Gomez Gomez was ordered released on bond by an Immigration Judge (IJ), but the Board of Immigration Appeals' (Board or BIA) subsequently overturned that decision. Respondents' continued detention of Mr. Gomez Gomez is contrary to statute and regulation and violates the Due Process Clause of the Fifth Amendment.

3. Mr. Gomez Gomez is purportedly detained pursuant to the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) which, in a change from long-standing agency practice, held that that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission, treating such individuals as subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond. But Mr. Gomez Gomez's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Mr. Gomez Gomez who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.

4. Since his detention, Mr. Gomez Gomez suffered a painful injury to his left glute. Respondents disregarded his repeated complaints of pain and failed to provide appropriate medical attention. As a result of Respondents' neglect, his condition deteriorated into a severe soft-tissue infection, causing him to lose consciousness and require emergency surgery. Respondents' failure to respond to his medical complaints, to provide timely and adequate medical care, and to maintain a safe and sanitary environment constitutes deliberate indifference to his serious medical needs.

5. The continued detention of Mr. Gomez Gomez violates his due process rights by subjecting him, as a civil detainee, to punitive conditions of confinement and by constituting

deliberate indifference to his serious medical needs. The failures to provide adequate medical care, protection, and accommodations to Mr. Gomez Gomez also violate the Administrative Procedure Act and the Rehabilitation Act. Mr. Gomez Gomez therefore seeks this Court's intervention ordering his immediate release.

6. Additionally, to vindicate Mr. Gomez Gomez's rights, this Court should grant the instant petition for a writ of habeas corpus directing Respondents to release Mr. Gomez Gomez because his continued confinement violates the plain language of the Immigration and Nationality Act, the regulations, and the Fifth Amendment of the United States Constitution.

JURISDICTION

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

8. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

10. Mr. Gomez Gomez is in the physical custody of Respondents. He is detained at the Stewart Detention Center in Lumpkin, Georgia.

VENUE

11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), because Mr. Gomez Gomez is physically detained in Respondents' custody at the Stewart Detention Center in Lumpkin, Georgia, which is within the jurisdiction of this District.

12. Venue is proper in the Middle District of Georgia under 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Georgia.

REQUIREMENTS OF 28 U.S.C. § 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the Mr. Gomez Gomez is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

14. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

15. Petitioner Mateo Gomez Gomez is a noncitizen. Mr. Gomez Gomez is currently detained at Stewart Detention Center in Lumpkin, Georgia. He is in the custody, and under the direct control, of Respondents and their agents.

16. Respondent Jason Streeval is the Warden of Stewart Detention Center, and he has immediate physical custody of Mr. Gomez Gomez pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Mr. Gomez Gomez. He is sued in his official capacity.

17. Respondent George Sterling is named in his official capacity as the Director of the Atlanta Field Office of U.S. Immigration and Customs Enforcement. Respondent Sterling is a legal custodian of Mr. Gomez Gomez and has authority to release him. He is sued in his official capacity.

18. Respondent Kristi Noem is named in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Mr. Gomez Gomez's detention and custody. Respondent Noem is a legal custodian of Mr. Gomez Gomez. She is sued in her official capacity.

19. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the EOIR, which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Mr. Gomez Gomez. She is sued in her official capacity.

LEGAL FRAMEWORK

20. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. See 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, see 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, see 8 U.S.C. § 1226(c). Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2). Last,

the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, see 8 U.S.C. § 1231(a)–(b). This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

21. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

22. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

23. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104–469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

24. This settled interpretation was recently disrupted. Beginning in 2022, the Tacoma immigration court began misclassifying § 1226(a) detainees as subject to mandatory detention under § 1225(b)(2), based solely on the manner of their initial entry. *See Rodriguez Vazquez v.*

Bostock, 779 F. Supp. 3d at 1244 (W.D. Wash. 2025). In April of 2025, the U.S. District Court for the Western District of Washington ruled that this practice was likely illegal. *See id.* at 1263.

25. Nevertheless, on July 8, 2025, DHS and DOJ adopted this misclassification nationwide. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,” claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

26. DHS trial attorneys began urging Immigration Judges nationwide to reclassify bond-eligible detainees under 8 U.S.C. § 1226(a) as subject instead to mandatory detention under § 1225(b)(2), thereby denying them bond hearings altogether. Some Immigration Judges adopted this erroneous interpretation, resulting in the unlawful deprivation of bond hearings for numerous detainees.

27. On September 5, 2025, the BIA issued *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) (“*Matter of Hurtado*”), a precedential decision that purports to require Immigration Judges nationwide to adopt this unlawful reclassification. Dozens of federal courts have already rejected its new interpretation of the detention statutes as contrary to law. *See, e.g., Chogllo Chafila v. Scott*, No. 25-437, 2025 WL 2688541, at *7 (D. Me. Sept. 21, 2025) (“I find *Yajure Hurtado* to be unavailing. . . .”); *Sampiao v. Hyde*, No. 25-11981, 2025 WL 2607924, at *8 n.11 (“[T]he Court disagrees with the BIA for the reasons given herein.”); *Pizarro Reyes v. Raycraft*, No. 25-cv-12456, 2025 WL 2609425, at *7 (“[T]he BIA’s decision to pivot from three decades of consistent statutory interpretation and call for [Petitioner’s] detention under § 1225(b)(2)(A) is at odds with every District Court that has been confronted with the same question

of statutory interpretation.”); *Beltran Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565, at *6 (W.D. Ky. Sept. 19, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099, at *11 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025) *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025); *see also*, e.g., *Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same).

28. Nevertheless, the decision purports to require Immigration Judges nationwide to adopt this unlawful reclassification.

29. In the *Rodriguez* case discussed above, the court recently granted summary judgment to one of the certified classes, finding the practice at issue unlawful. *See Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d ---, 2025 WL 2782499, at *16-27 (W.D. Wash. Sept. 30, 2025).

30. Courts have consistently rejected DHS’s and EOIR’s new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Mr. Gomez Gomez.

31. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

32. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025 WL 1869299, at *7.

33. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

34. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

35. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Mr. Gomez Gomez, who have already entered (including after release on their own recognizance) and were residing in the United States at the time they were apprehended.

36. Despite the numerous federal court decisions, DHS and DOJ continue to apply *Matter of Hurtado* to deny noncitizens arrested inside the United States access to bond hearings,

in clear violation of the Immigration and Nationality Act, the Administrative Procedure Act, and the Fifth Amendment’s Due Process Clause.

Due Process

37. “In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987).

38. This fundamental principle of our free society is enshrined in the Fifth Amendment’s Due Process Clause, which specifically forbids the Government to “deprive[]” any “person . . . of . . . liberty . . . without due process of law.” U.S. Const. amend. V.

39. The Due Process Clause protects all persons within the United States, including noncitizens, regardless of their immigration status. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953). Freedom from physical restraint “lies at the heart of the liberty” the Clause protects. *Zadvydas*, 533 U.S. at 690.

40. The Supreme Court has long held that any form of civil confinement constitutes a serious deprivation of liberty requiring procedural safeguards, including an individualized hearing. *See Addington v. Texas*, 441 U.S. 418, 425 (1979); *Foucha v. Louisiana*, 504 U.S. 71, 81–83 (1992); *Kansas v. Hendricks*, 521 U.S. 346, 357 (1997); *Salerno*, 481 U.S. at 755.

STATEMENT OF FACTS

41. Petitioner Mateo Gomez Gomez, a native and citizen of Guatemala, entered the United States without inspection in 2001 and has resided in the country continuously for the past 24 years.

42. For the past two decades, Mr. Gomez Gomez has resided peacefully and productively in the United States, without any criminal conviction apart from traffic-related offenses. He has built a life defined by stability, integrity, and deep familial responsibility. Mr.

Gomez Gomez and his wife own a home in Hall County, Georgia, where they are raising their six U.S. citizen children in a loving and secure environment. Their family also includes Mr. Gomez Gomez's two adult children, who live independently nearby, as well as two stepchildren who continue to reside in the home. Their commitment to providing care and stability extends beyond their immediate family—two dependent children were entrusted to their care by the Georgia Department of Family and Children Services (DFCS), where they have received consistent emotional and material support. In recognition of Mr. Gomez Gomez's exemplary caregiving and moral character, DFCS petitioned in May 2025 for Mr. Gomez Gomez and his wife to be appointed as the children's permanent legal guardians.

43. Twelve years ago, on July 14, 2013, Mr. Gomez Gomez was stopped by local law enforcement for a traffic-related matter. During that encounter, ICE became involved pursuant to an agreement under 8 U.S.C. § 1357—commonly known as a “287(g) agreement”—which authorizes certain local officers to act on behalf of federal immigration authorities. The following day, after determining that Mr. Gomez Gomez posed no flight or security risk, ICE released him on his own recognizance and issued a Notice to Appear (NTA), initiating removal proceedings under 8 U.S.C. § 1229a. The NTA alleged that Mr. Gomez Gomez was inadmissible to the United States under 8 U.S.C. § 1182(a)(6)(A)(i). *See* Exhibit 1 (NTA and Form I-830). Following his release, Mr. Gomez Gomez always attended his immigration court hearings, biometrics appointments, and any other appearance required by DHS.

44. On February 5, 2015, an Atlanta Immigration Judge (IJ) granted a joint motion by Mr. Gomez Gomez and Respondent DHS Counsel to administratively close the removal proceedings. *See* Exhibit 2 (Immigration Judge Order of Administrative Closure). That closure effectively allowed Mr. Gomez Gomez to continue residing openly in the United States—a

decision that reflected Respondents' acknowledgment that his removal served no enforcement priority and was not in the public interest. In reliance on that long-standing posture, Mr. Gomez Gomez built a life of stability, purchased a home, raised a large family, and contributed meaningfully to his community. For more than a decade, Respondents took no action to disturb this settled reliance—until Mr. Gomez Gomez's unexpected detention in the summer of 2025.

45. Mr. Gomez Gomez has two applications for nonimmigrant status pending before U.S. Citizenship and Immigration Services (USCIS). In December of 2023, he filed an application for T nonimmigrant status as a victim of a severe form of human trafficking. USCIS collected his biometrics for that application on Feb. 22, 2024. *See* Exhibit 3 (Stamped Form I-914 Biometrics Appointment Notice).

46. Mr. Gomez Gomez also filed an application for U Nonimmigrant Status. He qualifies for such status as the victim of armed robbery and aggravated assault,¹ crimes for which he courageously cooperated with law enforcement. The Hall County District Attorney's Office issued a signed U Visa Certification (Form I-918B) confirming his assistance in the investigation and prosecution of the offense. USCIS received the U Visa application on July 2, 2025. Due to ongoing national processing delays at USCIS, a formal receipt notice has not yet been issued; however, proof of delivery and the certified Form I-918B are included at Exhibit 4.

47. Mr. Gomez Gomez has worked tirelessly to provide stability, comfort, and opportunity for his family and has demonstrated exceptional dedication to his community. In the summer of 2024, the Georgia Department of Family and Children Services (DFCS) entrusted him with the care of two dependent children, ages six and one. Mr. Gomez Gomez readily accepted

¹ The incident was covered by local news outlets. *See* Phillips, Jamarlo, "'Like a Scene from Home Alone' Georgia Man Slips on Ice After Attempted Robbery," Atlanta News First (Dec. 28, 2022, 4:37 PM), <https://www.atlantaneWSfirst.com/2022/12/28/like-scene-home-alone-georgia-man-slips-ice-after-attempted-robbery/>.

this responsibility, opening his home and heart to ensure that the children received stability, security, and affection. His willingness to assume care for these vulnerable minors—on top of his existing family obligations—speaks powerfully to his upstanding moral character. DFCS’s decision to entrust Mr. Gomez Gomez with the guardianship and subsequent petition for his permanent guardianship of these children underscores his strong moral character, dependability, and the confidence that state authorities and his community have placed in him.

48. On June 24, 2025, a Georgia State Patrol Officer conducted a traffic stop, pulling over Mr. Gomez Gomez’s vehicle without any basis to do so. On information and belief, the Georgia State Patrol Officer contacted ICE officials prior to conducting the traffic stop. Mr. Gomez Gomez was not charged with a crime or even a traffic violation,² but upon information and belief, was instead detained on account of DHS-sanctioned enforcement criteria including race, ethnicity, accent, location, or occupation.³

49. Respondent ICE arrested and detained Mr. Gomez Gomez without articulating a reason as for the re-detention. There was no allegation that Mr. Gomez Gomez had become a flight risk or danger to his community and no allegation that he had violated any of the conditions associated with his release on recognizance from 2013

50. Upon information and belief, Mr. Gomez Gomez was transferred among three Georgia detention facilities before being placed at the Stewart Detention Center, where he has remained in custody since approximately mid-July 2025.

² In an attempt to obtain the dispatch or incident report for the encounter on June 24, undersigned Counsel’s Office contacted the Georgia State Patrol on September 26, 2025. The Georgia State Patrol asserted that there was no record of contact with Mr. Gomez Gomez on June 24, 2025.

³ *Noem v. Vasquez Perdomo*, No. 25A169, slip op. at ___ (S. Ct. Sept. 8, 2025) (Kavanaugh, J., concurring) (describing factors such as “presence at particular locations ... the type of work one does; ... speaking Spanish or speaking English with an accent; and ... apparent race or ethnicity”). However, this unconstitutional stop is not the subject of the instant habeas petition.

51. At a bond hearing before an Immigration Judge on July 16, 2025, Counsel for Respondent DHS asserted that Mr. Gomez Gomez was subject to mandatory detention because he entered the United States without inspection or admission. The IJ rejected that argument on account of Mr. Gomez Gomez's prior release on his own recognizance and administratively closed removal proceedings and granted bond in the amount of \$6,000. In making his decision, the IJ concluded that Mr. Gomez Gomez (then referred to as "Respondent" in the immigration proceedings) is not a danger to the community and identified Mr. Gomez Gomez's positive equities, *inter alia*, his pending U and T Nonimmigrant applications, the presence of a qualified sponsor, and ". . .over thirty affidavits of support were filed by family and community members to attest to [his] good moral character and demonstrating his strong community ties. . ." Exhibit 5 (Immigration Judge Order Granting Mr. Gomez Gomez's Bond).

52. On July 16, 2025, Counsel for Respondent DHS immediately filed a Notice of Service Intent to Appeal Custody Redetermination (Form EOIR-43). Upon filing this form, Respondents invoked an automatic stay of the IJ's bond decision pursuant to 8 C.F.R. § 1003.19(i)(2) and therefore prevented Mr. Gomez Gomez's family from paying the bond as the IJ had ordered.

53. On July 23, 2025, Respondents filed an appeal with the Board of Immigration Appeals. Pursuant to the BIA's briefing schedule, both parties were required to submit briefs on or before August 25, 2025. Mr. Gomez Gomez complied, timely filing his opposition brief on August 22, 2025. Respondents, however, submitted a brief that was rejected twice and never properly filed. Nevertheless, on September 26, 2025, relying on its decision in *Matter of Hurtado*, the BIA issued its decision sustaining the appeal in Respondents' favor and vacating Mr. Gomez Gomez's bond. See Exhibit 6 (BIA Order Sustaining Bond Appeal).

54. Mr. Gomez Gomez's family and community have suffered deeply in his absence. Respondents' arbitrary and capricious detention of Mr. Gomez Gomez has left his family in financial hardship and emotional distress, disrupting the stability Mr. Gomez Gomez worked for years to build.

55. The juvenile court with jurisdiction over the dependent children in Mr. Gomez Gomez's care has a permanency hearing scheduled for those children on November 14, 2025. The State will likely have to take the children back into custody in the event Mr. Gomez Gomez is not released. Georgia law prioritizes permanency planning and stability for children removed from DFACS custody. *See Georgia Juvenile Code (O.C.G.A. § 15-11-2 et seq.)* The Juvenile Court cannot finalize a permanent guardianship without the guardian's participation. *See O.C.G.A. § 15-11-241 et seq.* By detaining Mr. Gomez Gomez and preventing his appearance, ICE is effectively obstructing a state court's mandate to secure permanency for these children—a direct interference with state sovereignty and the children's best interests.

56. On or about July 17, 2025, while in Respondents' custody, Mr. Gomez Gomez sustained an injury to his left gluteal region during transport between detention facilities. Despite his repeated and urgent pleas for medical attention, Respondents ignored his worsening condition, offering only naproxen while his wound visibly deteriorated. For eighteen days, Mr. Gomez Gomez endured unbearable pain and a spreading infection that Respondents willfully refused to treat. Their deliberate indifference allowed the infection to advance until he collapsed and lost consciousness. He awoke in a hospital bed following emergency surgery, where physicians informed him that he had narrowly escaped amputation of his left leg due to the unchecked *E. coli* infection that had ravaged his tissue.

57. During Mr. Gomez Gomez's hospitalization, Respondents denied him all communication with his family and legal counsel. In an email to undersigned counsel, Counsel for Respondent DHS stated only that Mr. Gomez Gomez "was admitted to Piedmont Hospital in Columbus, GA on 8/4/25 due to a soft tissue infection that they're treating. Once he's back, you should be able to schedule a legal call." *See* Exhibit 7 (Email exchange with Stewart Duty Attorney).

58. Consequently, Undersigned counsel repeatedly contacted Piedmont and all hospitals in Columbus, GA inquiring about Mr. Gomez Gomez. Each hospital denied his admission. For five days, undersigned counsel and Mr. Gomez Gomez's family had no idea where he was and feared for his life on account of the high mortality rate of inmates at the Stewart Detention Center on account of medical neglect.⁴ Between 2017 and 2024, at least ten people died following detention at the Stewart Detention Center, making it the facility with the highest number of detention deaths in the entire nation.⁵

59. Upon his return to Stewart Detention Center following discharge from the hospital, Mr. Gomez Gomez was provided access to his prescribed pain medication only once, despite repeatedly requesting relief for ongoing pain. This unresponsiveness and medical neglect are common. One recent report documented major failures in medical care at Stewart Detention Center, noting that only twelve percent of detainees' medical grievances received a response. The

⁴ *See* Anna Schechter, "Report Finds 'Widespread Human Rights Abuses' in U.S. Immigration Detention Centers," NBC News (Sept. 12, 2024), <https://www.nbcnews.com/news/us-news/immigration-detention-human-rights-abuses-report-rcna222499>; *see also* FOX 5 Atlanta, "2 Die at Georgia ICE Facility; Ossoff, Warnock Call for Investigation," FOX 5 Atlanta (Apr. 26, 2024), <https://www.fox5atlanta.com/news/ice-facility-deaths-2-die-georgia-ossoff-warnock-call-investigation>; *see also* Michael Sainato, "Georgia Detainee Becomes Double Amputee After Being Held in Solitary Confinement," The Guardian (July 31, 2025), <https://www.theguardian.com/us-news/2025/jul/31/georgia-detainee-double-amputee-solitary-confinement>.

⁵ ACLU, American Oversight, Physicians for Human Rights, *Deadly Failures: Preventable Deaths in U.S. Immigration Detention* 64 (2024), at 33, <https://phr.org/wp-content/uploads/2024/06/REPORT-ICE-Deadly-Failures-ACLU-PHR-AO-2024.pdf>

report concluded that these deficiencies reflect systemic problems in the facility's medical care practices.⁶

60. Like all immigration detention facilities, Stewart Detention Center must comply with national detention standards. Stewart Detention Center is governed by the Performance-Based National Detention Standards 2011 (revised 2016) ("PBNDS").⁷ These standards require that Respondents meet minimum standards for medical care and disability access.

61. The PBNDS require that Respondents provide Mr. Gomez Gomez, *inter alia*:

- A "continuum of health care services, including screening, prevention, health education, diagnosis and treatment." PBNDS, § 4.3(II)(1);
- "Prescriptions and medications . . . ordered, dispensed and administered in a timely manner and as prescribed by a licensed health care professional." *Id.* § 4.3(II)(20);
- "[A] written treatment plan, including access to health care and other care and supervision personnel, shall be developed and approved by the appropriate qualified licensed health care provider, in consultation with the patient, with periodic review." *Id.*;

62. By adopting these standards, Respondents have recognized that it is their responsibility to ensure adequate and timely medical care for detainees.

CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. § 1226(a) and Associated Regulations

63. The allegations in the above paragraphs are realleged and incorporated herein.

64. 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. As relevant here, it 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

⁶ U.S. Department of Homeland Security, Office of Inspector General, *Major Management Challenges and Performance Deficiencies at Stewart Detention Center*, OIG-23-38, July 2023, at 10 (DHS OIG).

⁷ *Id.* at 3.

Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231

65. Mr. Gomez Gomez may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

66. Under § 1226(a) and its implementing regulations, Mr. Gomez Gomez is entitled to an individualized custody redetermination – commonly known as a bond hearing. *See* 8 C.F.R. §§ 236.1(d), 1236.1, 1003.19(a)-(f).

67. Mr. Gomez Gomez exercised this statutory and regulatory right and was granted release on bond by an IJ. However, through its decision sustaining Respondents’ appeal, the BIA revoked that grant of bond and extinguished Mr. Gomez Gomez’s right to a subsequent bond hearing, stating:

. . .based on intervening case law issued since the Immigration Judge’s bond decision, we note that Immigration Judges lack authority to hear bond requests or to grant bond to respondents present in the United States without admission. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025); *see also* the Immigration and Nationality Act § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A); *see also* 8 C.F.R. § 235.3(b)(1)(ii).

68. Although Mr. Gomez Gomez’s detention is authorized, if at all, by 8 U.S.C. § 1226(a), which entitles him to a bond hearing, ICE is detaining him pursuant to 8 U.S.C. § 1225(b)(2) and, under *Matter of Hurtado*, the BIA sustained DHS’s appeal of his bond, instead requiring him to be held in no-bond detention.

69. For these reasons, the application of § 1225(b)(2) to Mr. Gomez Gomez unlawfully mandates his continued detention and violates the INA, and Mr. Gomez Gomez’s continuing detention is unlawful.

COUNT TWO
Violation of Fifth Amendment Right to Due Process
(Procedural)

70. The allegations in the above paragraphs are realleged and incorporated herein.

71. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693; *accord Reno v. Flores*, 507 U.S. 292, 306 (1993).

72. Moreover, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas*, 533 U.S. at 690.

73. Mr. Gomez Gomez has a vested liberty interest in his lawful conditional release. Due Process does not permit the government to strip him of that liberty without a hearing before this Court. *See Morrissey v. Brewer*, 408 U.S. 471, at 487-488 (1972).

74. For these reasons, Respondents’ continuing detention of Mr. Gomez Gomez without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process and is unlawful.

COUNT THREE

Violation of Fifth Amendment Right to Due Process (Substantive)

75. The allegations in the above paragraphs are realleged and incorporated herein.

76. The Due Process Clause of the Fifth Amendment forbids the government from depriving individuals of their right to the right to be held in safe, non-punitive conditions of confinement. U.S. Const. amend. V.

77. The Due Process Clause guarantees civil detainees the right to be provided with adequate medical care. U.S. Const. amend. V.

78. Respondents failed to provide timely and adequate medical care and to maintain safe and sanitary conditions for Mr. Gomez Gomez, resulting in a preventable soft-tissue infection caused by E. coli, which led to significant pain and necessitated surgical intervention. Thereafter, Respondents continued to exhibit deliberate indifference to his medical needs by failing to comply with physician-ordered medication administration and post-operative care.

79. For these reasons, Respondents' conduct, and Mr. Gomez Gomez's continuing detention violates his right to substantive due process and is unlawful.

COUNT FOUR

Violation of the Administrative Procedure Act ("APA"), 5 U.S.C. § 706

80. The allegations in the above paragraphs are realleged and incorporated herein.

81. Respondents have failed to comply with their own policies regarding medical care and disability accommodations for detained individuals at Stewart Detention Center.

82. Respondents' failure to comply with their own detention standards constitutes "arbitrary, capricious" conduct under 5 U.S.C. § 706(2)(A) and "agency action unlawfully withheld" under 5 U.S.C. § 706(1) in violation of the Administrative Procedure Act.

PRAYER FOR RELIEF

WHEREFORE, Mr. Gomez Gomez respectfully requests this Court to grant the following:

- (A) Assume jurisdiction over this matter;
- (B) Order that Mr. Gomez Gomez shall not be transferred outside the State of Georgia;
- (C) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (D) Declare that Mr. Gomez Gomez's detention is unlawful;

- (E) Issue a Writ of Habeas Corpus ordering Respondents to release Mr. Gomez Gomez immediately, or, in the alternative, upon payment of the \$6,000 bond originally set by the Immigration Judge;
- (F) Award Mr. Gomez Gomez attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412 and on any other basis justified under law; and
- (G) Grant any further relief this Court deems just and proper.

Respectfully submitted on October 14, 2025.

/s/ Stacy M. Ehrisman
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Counsel for Petitioner

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

I represent Petitioner, Mateo GOMEZ GOMEZ, 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: October 14, 2025
Lawrenceville, GA

/s/ Stacy M. Ehrisman
Stacy M. Ehrisman, Esq.