

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

MARCIO DE SILVA BALBINO,



Case No.

Petitioner,

v.

**APPLICATION FOR ISSUANCE
OF ORDER TO SHOW CAUSE**

LADEON FRANCIS, Field Office
Director of Enforcement and Removal
Operations, Atlanta Field Office,
Immigration and Customs Enforcement;
TODD LYONS, Acting Director, U.S.
Immigration Customs Enforcement,
KRISTI NOEM, Secretary, U.S.
Department of Homeland Security; PAM
BONDI, U.S. Attorney General;
DAREN K. MARGOLIN, Director,
Executive Office for Immigration
Review (EOIR); MICHAEL
BRECKON, Warden of FOLKSTON
ICE PROCESSING CENTER,

Respondents.

1
2 1. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that this
3 Court “forthwith” issue an order directing Respondents to show cause why the
4 petition for a writ of habeas corpus filed by Petitioner pursuant to 28 U.S.C. § 2241
5 should not be granted.

6 2. Petitioner challenges his ongoing immigration detention as unlawful
7 and contrary to statute. Petitioner is being held at Folkston ICE Processing Center
8 after DHS and EOIR determined he is subject to *mandatory detention* under 8 U.S.C.
9 § 1225(b)(2)(A)—a statute that applies to individuals seeking admission at the
10 border. DHS recently issued a policy (July 8, 2025) and the BIA followed with a
11 binding precedent (*Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025))
12 extending § 1225(b)(2)(A) to anyone who entered without inspection, thereby
13 denying them bond eligibility.

14
15 3. The petition argues this interpretation is legally erroneous because §
16 1225(b)(2)(A) governs *arriving aliens*, not individuals like Petitioner who have long
17 been living inside the United States. Instead, he falls under § 1226(a), which
18 authorizes release on bond or parole. The new DHS and BIA interpretations
19 contradict the statutory framework and decades of established practice. *See* Petition
20 for Writ of Habeas Corpus, Dkt. No. 1.

21
22 4. The federal habeas corpus statute provides that “[a] court, justice or
23 judge entering a writ of habeas corpus shall forthwith award the writ or issue an

1 order directing the respondent to show cause why the writ should not be granted,
2 unless it appears from the application that the applicant or person detained is not
3 entitled thereto.” 28 U.S.C. § 2243.

4
5
6
7 5. Section 2243 further provides that the writ or order to show cause “shall
be returned within three days unless for good cause additional time, not exceeding
twenty days, is allowed.”

8
9
10 6. Section 2243 further provides that the court shall hold a hearing on the
writ or order to show cause “not more than five days after the return unless for good
cause additional time is allowed.”

11
12 7. In addition, Section 2243 states that the court “shall summarily hear and
determine the facts and dispose of the matter as law and justice require.”

13
14 8. Pursuant to Section 2243, Petitioner requests that the Court
15 immediately issue an Order to Show Cause directing Respondent(s) to file a return
16 within three days of the Court’s order, showing cause, if any, why the writ of habeas
17 corpus should not be granted, and to provide Petitioner an opportunity to file a reply
18 within 7 days after Respondent(s) file the return.

19
20 9. Giving Respondent(s) additional time to respond is inappropriate in this
21 case because Petitioner faces irreparable harm due to the continued deprivation of
22 his physical liberty. Each additional day of unlawful detention inflicts harm that
23 cannot be remedied by later judicial review. Petitioner remains confined under
24

1 conditions of restraint without any lawful basis or opportunity for a bond hearing,
2 violating fundamental due process protections.

3 DATED this 16th day of October, 2025.
4

5 Shirley C. Zambrano
6 GA BAR 741429
7 Zambrano Law LLC
8 1995 N. Park Place, Suite 360
9 Atlanta, GA 30339
T: (770) 769-5820
F: (770) 769-5810
E: szambrano@zambranolaw.com

10 *Attorneys for Petitioner*
11
12
13
14
15
16
17
18
19
20
21
22
23
24