


IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Rafael Arroyo Alvarez,)	C/A No.: 4:25-cv-375
)	
Petitioner)	
)	
v.)	
)	
Jason Streeval, Warden, Stewart Detention)	
Center,)	
)	
Respondent.)	
_____)	

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Saul Arroyo Chavez has lived in the United States for more than 20 years. He has a U.S. citizen wife and five U.S. citizen children. And he has no criminal history. Rather, he is simply waiting on a waiver decision that would permit him to regularize his status. Nevertheless, he was detained by U.S. Immigration and Customs Enforcement (“ICE”), and when he asked for a bond hearing, the immigration judge claimed he lacked jurisdiction over it under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) because Arroyo entered the country in 2005 without inspection. But this Court has already rejected *Hurtado*. *J.A.M. v. Streeval*, No. 4:25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *Aguirre-Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025). As such, this Court should order Respondents to provide Arroyo a bond hearing immediately. This Court should order the Respondents to respond within three days to explain why Arroyo should not receive a bond hearing. 28 U.S.C. § 2243 (“The writ, or order to show cause shall be directed to the person having custody of the person detained. It shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.”).

PARTIES

1. Petitioner Rafael Arroyo Alvarez (A ) is a citizen and national of Mexico. He is a longtime resident of Macon, Georgia. At the time of this filing, he is detained in the Stewart Detention Center in Lumpkin, Georgia.
2. Respondent Jason Streeval is the Warden of Stewart Detention Center. He is the petitioner's immediate custodian.

JURISDICTION AND VENUE

3. This Court has jurisdiction to hear Petitioner's habeas claim under 28 U.S.C. § 2241 because his current detention without a bond hearing is unlawful and unconstitutional.
4. Venue is proper because, at the time of filing, Petitioner is currently detained in this Division in this District.

FACTS

5. Petitioner Rafael Arroyo Alvarez ("Arroyo") is a citizen and national of Mexico.
6. Arroyo has lived in the United States for more than twenty years.
7. He has no convictions and no pending charges.
8. In his early twenties, in or around 2005, Arroyo entered the United States without inspection.
9. Arroyo worked hard, eventually becoming the part owner in two successful restaurants.
10. This was due in large part to Arroyo meeting the woman he would marry in 2017.
11. The couple married in October of 2022.
12. Arroyo is the stepfather of his U.S. citizen wife's four children and a five-year-old daughter (with his wife).

13. Arroyo's wife filed a Form I-130, Petition for Alien Relative, which was approved in December of 2023.
14. The family paid the necessary fees with the U.S. State Department. And the family filed for a Form I-601A Provisional Waiver Request on April 29, 2024.
15. Arroyo is simply waiting on a decision from USCIS. If approved, he will be able to depart the United States, attend an interview at the consulate, and seek admission as a lawful permanent resident.
16. Nevertheless, U.S. Immigration and Customs Enforcement detained him.
17. He sought bond, but on October 3, 2025, the immigration judge refused bond under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
18. Then, after this Court ruled in *J.A.M. v. Streeval*, No. 4:25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), Arroyo sought reconsideration based on this Court's decision.
19. The immigration judge reaffirmed his holding that he lacked jurisdiction under *Hurtado*.
20. Arroyo will not get a bond hearing and he will be subject to indefinite detention while his removal proceedings proceed.
21. Arroyo is a very good candidate for bond.
22. First, he is the primary provider to his family and part owner of two restaurants.
23. Second, he has no criminal history *and* he has relief from removal available in a 42B Cancellation Hearing. He is awaiting his long-pending Form I-601A, once approved, he will be able to seek the waiver and pursue lawful permanent residency.
24. Third, his family is suffering significantly. The children miss their father, and they are struggling to make ends meet.
25. Finally, he is not a flight risk as he has a home and family in Macon, Georgia.

26. Respondents attempt to detain Arroyo with no bond is unconstitutional and this Court should order Respondents to provide him a bond hearing immediately.

**FIRST CAUSE OF ACTION
(Unauthorized, Bondless Detention)**

27. The Immigration and Nationality Act (“INA”) establishes two distinct statutory authorities under which the government may detain noncitizens pending removal proceedings: 8 U.S.C. § 1225 and 8 U.S.C. § 1226

28. Section 1225(b) governs “applicants for admission,” meaning individuals encountered at or near the border seeking entry into the United States or those apprehended immediately after unlawful entry. By its plain terms and legislative context, § 1225(b) applies to persons who are literally in the process of seeking admission and authorizes mandatory detention during that limited threshold period.

29. Section 1226(a), by contrast, governs detention of noncitizens who are already *present in the interior of the United States* and subject to removal proceedings. It vests the Attorney General with discretion to either detain or release such individuals on bond, permitting individualized custody determinations by Immigration Judges.

30. For decades, the Department of Homeland Security (“DHS”) and its predecessor agencies uniformly applied § 1226(a) to individuals like Petitioner—noncitizens who entered without inspection years earlier, developed ties in the United States, and were later apprehended well after entry. Immigration Judges routinely held bond hearings in such cases under §§ 236 and 8 C.F.R. § 1003.19.

31. This settled practice was reaffirmed repeatedly in agency and judicial decisions recognizing that once a noncitizen has entered the United States—even unlawfully—and established residence, he or she is “within the United States” and subject to § 1226(a), not §

1225(b). See *Matter of Patel*, 15 I. & N. Dec. 666, 668 (BIA 1976) (“An alien who has effected an entry, even without inspection, is physically present in and has entered the United States.”).

32. Beginning in July 2025, DHS abruptly abandoned this longstanding interpretation. In an internal memorandum issued on July 8, 2025, Acting ICE Director Todd Lyons directed field offices to treat *all* individuals who entered without inspection—regardless of when or where apprehended—as “applicants for admission” subject to mandatory detention under § 1225(b)(2).

33. Two months later, on September 5, 2025, the Board of Immigration Appeals (“BIA”) adopted that view in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), concluding that noncitizens present in the United States without admission fall under § 1225(b)(2) and thus lack eligibility for bond.

34. This reinterpretation upended nearly three decades of settled administrative and judicial practice and has been widely rejected by federal courts. See, e.g., *Garcia v. Noem, et al.*, No. 1:25-CV-1271, 2025 WL 3017200, at *4 (W.D. Mich. Oct. 29, 2025); *Diaz v. Olson, et al.*, No. 25 CV 12141, 2025 WL 3022170, at *5 (N.D. Ill. Oct. 29, 2025); *Rodriguez v. Noem, et al.*, No. 1:25-CV-1196, 2025 WL 3022212, at *6 (W.D. Mich. Oct. 29, 2025); *Puga*, 2025 WL 2938369; *Lopez-Campos*, 2025 WL 2496379, at *8; see also *Rodriguez*, 779 F. Supp. 3d at 1256–61; *Singh v. Lewis*, No. 4:25-cv-96, 2025 WL 2699219, at *3–5 (W.D. Ky. Sept. 22, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337, 2025 WL 2691828, at *7–12 (W.D. Tex. Sept. 22, 2025); *Campos Leon v. Forestal*, No. 1:25-cv-1774, 2025 WL 2694763, at *2–5 (S.D. Ind. Sept. 22, 2025); *Hasan v. Crawford*, No. 1:25-cv-1408, 2025 WL 2682255, at *5–9 (E.D. Va. Sept. 19, 2025); *Garcia Cortes v. Noem*, No. 1:25-cv-2677-CNS, 2025 WL 2652880, at *2–3 (D. Colo. Sept. 16, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093, 2025 WL 2472136, at *2–4 (W.D. La. Aug. 27, 2025); *Romero*, 2025 WL 2403827, at *8–13 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*,

No. 0:25-cv-03142, 2025 WL 2374411, at *9–16 (D. Minn. Aug. 15, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052, 2025 WL 2370988, at *6–9 (D. Mass. Aug. 14, 2025); Lopez Benitez, 2025 WL 2371588, at *3–9; Rosado, 2025 WL 2337099, at *6–11, report and recommendation adopted, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Gomes*, 2025 WL 1869299, at *6–8.

35. As multiple courts have recognized, the government’s new position “would upend decades of practice” and “ignores the plain statutory structure distinguishing between applicants for admission and those already within the United States.” *Duarte Escobar v. Perry*, 2025 WL 3006742 (E.D. Va. Oct. 27, 2025)

36. These courts have uniformly held that noncitizens who have resided in the United States for years and are apprehended within the interior are detained under § 1226(a), not § 1225(b). As Judge Rodriguez explained in *Mendoza Gutierrez*, “the plain structure of the INA, its legislative history, and decades of agency practice make clear that § 1226 governs detention of long-term residents arrested in the interior of the country.”

37. This District joined this chorus last week.

38. In *JAM v. Streeval*, No. 4:25-cv-342, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), Judge Land the Court granted a habeas petition and rejected *Hurtado*.

39. In *JAM*, the immigration judge refused jurisdiction over a long time permanent resident’s bond request under *Hurtado*. 2025 WL 3050094 at *4.

40. The Court recognized that the plain language of the relevant statutes undermined *Hurtado*, and the Court openly rejected *Hurtado* as unpersuasive. *Id.* at *3-5.

41. As such, Judge Land held that the petitioner their—a long time resident of the United States—was detained under § 1226(a), not § 1225(b), and therefore, was entitled to a bond hearing. *Id.*

42. Here, Arroyo has lived in the United States since 2005, though he entered without inspection. He has a U.S. citizen wife and five U.S. citizen children. He has immigration relief available inside and outside of removal proceedings. When he was detained, he was not seeking admission. Rather, he had lived in the United States for a more than twenty years.

43. Respondents are violating Arroyo's statutory and constitutional rights by refusing to provide him a bond hearing because he is detained under § 1226(a), not § 1225(b)(2).

44. As such, this Court should grant this habeas and order Respondents to provide him a bond hearing immediately.

EQUAL ACCESS TO JUSTICE ACT FEES

45. Respondent's decision to refuse Arroyo a bond hearing is not substantially justified.

46. Arroyo qualifies for fees under the Equal Access to Justice Act.

47. This Court should order Respondents to pay reasonable attorney's fees and costs.

PRAYER FOR RELIEF

Arroyo Prays this Court will:

48. Take jurisdiction over this case;

49. Order Respondent to show cause within three days why Arroyo should not be provided a bond hearing immediately;

50. Grant this writ of habeas corpus and order Respondent to provide Arroyo a bond hearing or immediately release him;

51. Declare USCIS's Form I-130 delay unreasonable and enter an order compelling USCIS to make a final decision within 30 days;

52. Award Arroyo reasonable attorneys' fees and costs; and

53. Enter any other order required for justice to be done.

November 10, 2025

Respectfully submitted,

s/Britt Thames

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