

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

Allan Edwin Pineda Lopez,

Petitioner,

v.

Kristi Noemi, in her Official Capacity,
Secretary of the U.S. Department of
Homeland Security;

Pamela Bondi, in her Official Capacity,
Attorney General of the United States;

Pamela Berry, in her Official Capacity,
Assistant Field Office Director for ICE's ERO
of Atlanta, Georgia.

Joseph B. Edlow, Director of U.S. Citizenship
and Immigration Services;

The GEO Group, Inc. who is Acting Director
of the Folkston D Ray ICE Processing Center,

Respondents.

Case No.

Judge:

Magistrate Judge:

No request for jury trial

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS AND COMPLAINT
FOR INJUNCTIVE AND
DECLARATORY RELIEF**

ORAL ARGUMENT REQUESTED

COMES NOW, Petitioner, Allan Edwin Pineda Lopez, , brings this Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief pursuant to 28 U.S.C. § 2241; the All Writs Act, 28 U.S.C. § 1651; the Immigration and Nationality Act (“INA”) and regulations thereunder; the Administrative Procedure Act; and the Suspension Clause of the Constitution, U.S. Const. Art. I § 9, cl. 2. The efforts to remove Petitioner constitute a “severe restraint” on his individual liberty such that Petitioner is “in custody” of the Respondents in violation of the . . . laws of the United States. *Hensley v. Municipal Court*, 411 U.S. 345, 351 (1973); 28 U.S.C. § 2241, including the Immigration Nationality Act, 8 U.S.C. § 1101 et seq.; the

Administrative Procedure Act, 5 U.S.C. § 701 et seq., and the Due Process Clause of the Fifth Amendment of the United States Constitution.

Petitioner has been physically detained since September 29, 2025. He filed a motion before the Executive Office for Immigration Review challenging his detention and seeking a minimal bond to secure release. However, the Immigration Judge denied jurisdiction, citing the recent Board of Immigration Appeals decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), wherein the Board held that Immigration Judges lack jurisdiction to redetermine custody for noncitizens charged as removable under section 236(a)(1) of the Immigration and Nationality Act.

Pursuant to this Court's inherent powers in habeas corpus proceedings, Petitioner Allan Edwin Pineda Lopez respectfully requests that this Court enjoin Respondents from effectuating his removal from the United States and order his immediate release from custody, or in the alternative, or enjoin Respondents from continuing to unlawfully detain him.

Petitioner has been subjected to prolonged detention that far exceeds the brief period constitutionally permitted to facilitate removal. *See Zadvydas v. Davis*, 533 U.S. 678, 701 (2001); *Demore v. Kim*, 538 U.S. 510, 530 (2003). His continued detention no longer serves any legitimate governmental purpose and has become arbitrary and punitive, in violation of the Due Process Clause of the Fifth Amendment.

Petitioner has been residing in the United States since July 24, 2011 and is currently detained at Folkston D. Ray ICE Processing Center. He has a pending Application for Asylum and Withholding of Removal before the Immigration Court and intends to submit an application for T Nonimmigrant Status (T-Visa) with United States Citizenship and Immigration Services

(“USCIS”) based on his experience as a victim of human trafficking. Petitioner must remain in the United States to pursue adjudication of his meritorious claims for humanitarian relief.

Due to the Immigration Court having expressly disclaimed jurisdiction to review or redetermine custody in light of *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), Petitioner is left without an adequate or available administrative remedy, and only this Honorable Court possesses jurisdiction under 28 U.S.C. § 2241 to review the legality of his continued detention and to grant appropriate relief. See *INS v. St. Cyr*, 533 U.S. 289, 314 (2001) (recognizing federal habeas jurisdiction where no other judicial forum is available to test the legality of executive detention).

I. PARTIES

A. Allan Edwin Pineda Lopez is a 35-year-old native and citizen of Guatemala who fled his home country in 2011, due to extreme poverty and escalating threats from criminal gangs. He was subjected to human trafficking and forced labor during his journey to the United States, including coercion, threats, and physical deprivation while transiting through multiple countries. Petitioner entered the United States on or about July 24, 2011 and is currently detained at the Folkston ICE Processing Center in East Folkston, Georgia. He suffers from ongoing physical and psychological trauma resulting from the abuse and exploitation he endured during his trafficking experience. Petitioner has filed a defensive asylum application and qualifies for T Nonimmigrant Status (T-Visa) based on his victimization and intent to cooperate with law enforcement. He must remain in the United States to pursue adjudication of his meritorious claims for humanitarian relief.

B. Respondent, Kristi Noem, is the Secretary of the U.S. Department of Homeland Security (“DHS”), the federal agency responsible for enforcing Petitioner’s arrest, detention and removal. Respondent Noem’s address is 2707 Martin Luther King Jr. Ave, SE Washington, DC 20528-0485.

- C. Respondent Pamela Bondi is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws as exercised by the Executive Office for Immigration Review, pursuant to section 103(g) of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1103(g). She routinely transacts business in the Southern District of New York, is legally responsible for administering Petitioner’s removal proceedings and the standards used in those proceedings, and as such, is the legal custodian of Petitioner. Respondent Bondi’s address is U.S. Department of Justice, 950 Pennsylvania Avenue, N.W., Washington, District of Columbia 20530.
- D. Respondent, Pamela Berry, in her Official Capacity as the Assistant Field Office Director for Enforcement and Removal Operations (ERO), U.S. Immigration and Customs Enforcement, Atlanta Field Office, is the local ICE official who has immediate authority over the Petitioner. Respondent Berry’s address is 180 Spring Street SW, Suite 522, Atlanta, GA 30303..
- E. Respondent, Joseph B. Edlow, is the Senior Official Performing the Duties of the Director of U.S. Citizenship and Immigration Services, the federal agency responsible for adjudicating Petitioner’s T visa application. His address is 5900 Capital Gateway Drive, Mail Stop 2120, Camp Springs, MD 20588-0009.
- F. The GEO Group, Inc. who is Acting Director of the Folkston D Ray ICE Processing Center, where Petitioner is being held. They are the custodian of Petitioner and is named in their official capacity. Their address is 262 HWY 252 East Folkston , GA 31537.

II. JURISDICTION & VENUE

The Court has jurisdiction under the Suspension Clause. The Suspension Clause provides, "The privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. Art. I § 9, cl. 2. This Court has habeas corpus jurisdiction pursuant to 28 U.S.C. §§ 2241 *et seq.*, as protected under Art. I § 9,

cl. 2 of the United States Constitution (Suspension Clause), and federal question jurisdiction under 28 U.S.C. § 1331. This case arises under the United States Constitution; the INA, 8 U.S.C. §§ 1101 *et seq.*; the APA, 5 U.S.C §§ 701 *et seq.*; the Due Process Clause of the Fifth Amendment and the Fourth Amendment. Petitioner’s current removal order as enforced by Respondents constitutes a “severe restraint[] on [Petitioner’s] individual liberty,” such that Petitioner is “in custody in violation of the . . . laws . . . of the United States.” *See Hensley*, 411 U.S. at 351 (1973); 28 U.S.C. § 2241(c)(3). Petitioner is also subject to prolonged physical detention.

While the courts of appeals have jurisdiction to review removal orders directly through petitions for review, *see* 8 U.S.C. § 1252, federal district courts have jurisdiction under 28 U.S.C. § 2241(d) to hear habeas claims by noncitizens challenging the lawfulness or constitutionality of Respondents’ conduct. *See Demore v. Kim*, 538 U.S. 510, 516–517 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). No Supreme Court or Second Circuit precedent applicable to immigration detainees, nor the habeas statute, indicates that venue is not proper in the District Court of the Southern District of Georgia. *See* 28 U.S.C. § 2241. Venue is proper in the United States District Court for the Southern District of Georgia because a substantial part of the events and omissions giving rise to this action occurred within the District. *See* 28 U.S.C. § 1391(b)(2). Petitioner is currently being held at the Folkston ICE Processing Center, located in Charlton County, Georgia.

III. FACTS GIVING RISE TO THE HABEAS PETITION

Petitioner, Mr. Allan Pineda, is currently in removal proceedings before Immigration Ryan Fisher at the Atlanta Immigration Court, located at 3262 Highway 252 Folkston, Georgia 31537. A Notice to Appear initiating these proceedings was issued on September 29, 2025(*see Exhibit “A”*). Petitioner is scheduled for an individual hearing on his Application for Asylum and for

Withholding of Removal on December 9, 2025, at 8:30 AM. Petitioner is represented by counsel, Andrea C. Soto, who has entered a notice of appearance before this Honorable Court *pro hac vice*.

Mr. Pineda is a native and citizen of Guatemala (*See Exhibit "B"*). On October 29, 2025, Mr. Pineda filed an application for asylum and withholding of removal pursuant to sections 208 and 241(b)(3) of the Immigration and Nationality Act, respectively (*see Exhibit "C"*). His claims are based on past persecution and a well-founded fear of future harm at the hands of [REDACTED] a

[REDACTED] in Guatemala. Mr. Pineda was subjected to intimidation, extortion, and threats to his life by [REDACTED]

[REDACTED] His application details the specific acts of harm he endured and the ongoing danger he faces if returned to Guatemala. These facts establish a credible basis for humanitarian protection under U.S. law.

The Petitioner is also *prima facie* eligible for T Nonimmigrant Status based on his experience as a victim of human trafficking during his journey to the United States. He was subjected to deception, financial coercion, and physical violence by organized smugglers, including extortion, armed assault, and repeated transfers between traffickers. These circumstances reflect key indicators of trafficking under federal law—such as fraud, coercion, restricted movement, and exposure to life-threatening conditions—and support his eligibility for protection under the T visa program, which assists victims present in the United States due to such victimization.

Petitioner filed a Motion for Custody Redetermination before the Immigration Court, which was summarily denied based on the ruling issued by the Board of Immigration Appeals in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025, citing the holding that Immigration

Judges do not have jurisdiction to determine bond or custody determinations under a new interpretation of Section 236(a) of the Immigration and Nationality Act. (See **Exhibit “D”**).

Petitioner remains in ICE custody despite having a viable claim for asylum and substantial humanitarian equities that warrant release. His continued detention at the Folkston ICE Processing Center without a bond hearing violates his constitutional rights and imposes undue hardship, particularly in light of the physical and psychological trauma he continues to suffer as a result of his past victimization and the persecution he fears if returned to Guatemala.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

1. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

2. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . 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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

V. V. APPLICABLE LAW

A. The Government Is Detaining Petitioner Under the Wrong Statutory Provision and Lacks Authority to Hold Him Under 8 U.S.C. § 1225(b)(2)(A).

The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings. First, 8 U.S.C. § 1226 governs the arrest and detention of individuals placed in ordinary removal proceedings before an IJ pursuant to 8 U.S.C. § 1229a. Individuals in § 1226(a)

detention are subject to discretionary civil detention and are generally entitled to a bond hearing, *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, provided they cannot show an exception. *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). Third, 8 U.S.C. § 1231(a)–(b) governs 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).

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).

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).

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)).

On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ 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.

On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and

¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ---, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 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); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

Courts have uniformly 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 Petitioner.

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].”

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.

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.

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).

Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

B. Petitioner’s Continued Detention Violates the Fifth Amendment’s Due Process Clause

The Due Process Clause applies to all persons in the United States, “whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. at 693; *see also Yick Wo v. Hopkins*, 118 U.S. 356 (1886). The Supreme Court declared “that the Due Process Clause protects individuals against two types of government action” giving rise to distinct claims of substantive and procedural due process violations. *United States v. Salerno*, 481 U.S. 739, 746 (1987). Thus, “the touchstone of due process is protection of the individual against arbitrary action of government ... whether the fault lies in the denial of fundamental due process fairness [procedural due process] ... or in the exercise of power without any reasonable justification in the service of a legitimate government objective [substantive due process]....” *City of Sacramento v. Lewis*, 523 U.S. 833 (1998) (citations and internal quotations omitted).

Procedural due process constrains governmental decisions that deprive individuals of property or liberty interests within the meaning of the Due Process Clause of the Fifth Amendment. *See Matthews v. Eldridge*, 424 U.S. 319, 332 (1976); *see also Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972) (reliance on informal policies and practices may establish a legitimate claim of entitlement to a constitutionally-protected interest). Infringing upon a protected interest triggers a right to a hearing before that right is deprived, and a right to meaningful process afforded at a

meaningful time. *See Bd. of Regents v. Roth*, 408 U.S. 564, 569–70 (1972). “‘Substantive due process’ prevents the government from engaging in conduct that ‘shocks the conscience,’... or interferes with rights ‘implicit in the concept of ordered liberty.’” *Salerno*, 481 U.S. at 746. (internal citations omitted).

In the Eleventh Circuit, immigration detention is subject to constitutional limits, and federal courts retain broad habeas jurisdiction to review the legality of executive detention. *See Ly v. Hansen*, 351 F.3d 263, 267 (11th Cir. 2003). The Due Process Clause applies fully to noncitizens regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). The Eleventh Circuit recognizes that detention must not be arbitrary, excessive, or punitive. *See Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199, 1217–18 (11th Cir. 2016). The Southern District of Georgia has applied these principles, granting habeas where detention without individualized review became unconstitutional. *See Burgos v. Dubois*, No. 1:18-cv-20, 2018 WL 1612298, at *7 (S.D. Ga. Mar. 30, 2018). The district court retains jurisdiction to review detention despite § 1252’s limitations. *Ortega v. U.S. Att’y Gen.*, 416 F. Supp. 3d 1338, 1347 (S.D. Ga. 2019). Immigration detention becomes unconstitutional when it ceases to be reasonably related to its purpose. *See Al Najjar v. Ashcroft*, 273 F.3d 1330, 1340–41 (11th Cir. 2001). Because the Immigration Judge has disclaimed jurisdiction under *Matter of Yajure-Hurtado*, Petitioner has no administrative path to challenge detention. Lack of process itself violates due process. *See Doe v. Johnson*, 2017 WL 4051684 (N.D. Ga. Sept. 13, 2017). The Suspension Clause guarantees habeas review where no adequate substitute exists. *INS v. St. Cyr*, 533 U.S. 289, 305 (2001). Since *Yajure-Hurtado* removes administrative review, habeas is the sole mechanism available.

“Habeas corpus is at its core, an equitable remedy.” *Schlup v. Delo*, 513 U.S. 298, 319 (1995). Judges have “broad discretion” to fashion an appropriate remedy. It may extend beyond simply

ordering the release of a petitioner, *Carafas v. La Vallee*, 391 U.S. 234 (1968), and is to “be administered with the initiative and flexibility essential to ensure that miscarriages of justices within its reach are surfaced and corrected.” *Harris v. Nelson*, 394 U.S. 286, 291 (1969). Habeas corpus “never has been a static, narrow, formalistic remedy; its scope has been to achieve its grand purpose - the protection of individuals against erosion of their right to be free from wrongful restraints upon their liberty.” *Jones v. Cunningham*, 371 U.S. 236, 243 (1963). At its historical core, habeas corpus “has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest.” *Rasul v. Bush*, 542 U.S. 466, 474 (2004) (citations omitted). These protections extend fully to noncitizens subject to an order of removal. See *I.N.S. v. St. Cyr*, 533 U.S. 289, 301 (2001); see also *Martinez v. McAleenan*, 385 F.Supp.3d 349, 355 (“Due to its talismanic significance in protecting individual liberty from unlawful detention, habeas corpus is fundamentally governed by equity. The Supreme Court has granted the writ when justice has so required.”) (citing *Munaf v. Geren*, 128 S.Ct. 2207 (2008) and *Carafas v. LaVallee*, 392 U.S. 234 (1968)). The Supreme Court has noted the writ’s “scope and flexibility--its capacity to reach all manner of illegal detention--its ability to cut through barriers of form and procedural mazes.” *Harris*, 394 U.S. at 291.

Furthermore, in *Demore*, the Supreme Court held that mandatory detention under § 1226(c) was not unconstitutional on its face, but limited its holding to a brief period of detention, stating “Congress, justifiably concerned that deportable criminal aliens who are not detained continue to engage in crime and fail to appear for their removal hearings in large numbers, may require that persons such as respondent be detained for *the brief period* necessary for their removal proceedings.” 538 U.S. at 513 (emphasis added). The Court described the “brief period” that it held

valid: "in the majority of cases," detention pursuant to § 1226(c) in 2003 "lasts for less than ... 90 days." *Id.* at 529.

In the present case, the Petitioner is being detained in violation of the Fifth Amendment's Due Process Clause and the INA. Pursuant to well established case law, his detention is governed by Section 1226(a), allowing for release on bond. Indeed, there is no indication that Petitioner's current detention is temporary or limited to a brief period necessary to effectuate removal. To the contrary, Petitioner has been subjected to prolonged detention that may continue for an indefinite period, potentially extending for years. Petitioner has actively pursued relief from removal through multiple avenues, including a pending application for asylum currently before the Immigration Court. He also intends to file an application for T Nonimmigrant Status (T-Visa) with United States Citizenship and Immigration Services ("USCIS") based on his experience as a victim of human trafficking. A T-Visa is a specific humanitarian protection that Congress created to safeguard victims of severe forms of human trafficking, including individuals with pending or even final orders of removal. *See* 8 C.F.R. § 214.11(d)(1)(ii); *see also* *S.N.C. v. Sessions*, No. 18-CV-7680, 2018 WL 6175902 (S.D.N.Y. Nov. 26, 2018). However, continued presence within the United States is a statutory condition of eligibility for T-Visa relief. *See* 8 C.F.R. § 214.11(g).

Contrary to the Respondents' anticipated position, the Petitioner is not an "alien seeking admission" because he was arrested years after his unlawful entry. Thus, Section 1226(a) should govern in this instance. The plain language of the statute supports the Petitioner's position. Indeed, the INA defines "admission and "admitted: as the "lawful entry of the alien in to the United States after inspection and authorization by an immigration officer." *See* 8 U.S.C. 1101(a)(13)(A). The Supreme Court discussed the differences between Sections 1225 and 1226 in *Jennings*. It explained that Section 1225 "authorizes the Government to detain certain aliens seeking admission

into the country[.]” while Section 1226 “authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings[.]” *Jennings*, 583 U.S. at 289. LUIS A. VASQUEZ CARCAMO, Petitioner, v. KRISTI NOEM et al., Respondents., No. 2:25-CV-00922-SPC-NPM, 2025 WL 3119263, at *4 (M.D. Fla. Nov. 7, 2025). As such, in the absence of action by the Court, Petitioner’s rights will be violated either by unreasonably prolonged detention, or by interference with his T visa application, or both.

VI. REQUEST FOR RELIEF

Pending the adjudication of this Petition, Petitioner respectfully requests that the Court use its authority under 28 U.S.C. §2243 to order the Respondents to file a return within three days, unless they can show good cause for additional time. *See* 28 U.S.C. §2243. (Order to show cause why a petition for a writ of habeas corpus should not be granted should be “returned within three days unless for good cause additional time, not exceeding twenty days, is allowed”).

Petitioner respectfully requests that Respondents be restrained from removing him from the United States pending adjudication of his removal proceedings, Application for Asylum and Withholding of Removal, and his anticipated application for T Nonimmigrant Status, which he intends to file based on qualifying grounds. Premature removal would preclude him from pursuing this form of relief and undermine his ability to seek protection under applicable immigration laws.

Without this Court’s intervention, the Respondents will seek to remove Petitioner in violation of law and inflict further cruel and unnecessary harm on Petitioner. Petitioner requests that this Court issue an order that Respondents must notify the Court and Petitioner’s counsel five days prior to any removal of Petitioner.

Furthermore, Petitioner respectfully requests release from detention pending resolution of this matter. He has been subjected to prolonged detention despite having a bona fide Application for Asylum and Withholding of Removal currently pending before the Immigration Court. Continued

detention imposes significant hardship and interferes with his ability to meaningfully prepare and present his claims for humanitarian relief.

Without this Court's intervention, the Respondents will seek to remove Petitioner in violation of law and inflict further cruel and unnecessary harm. Although Petitioner has a limited criminal history, none of the offenses are serious or disqualifying. Petitioner respectfully requests that this Court issue an Order requiring Respondents to notify the Court and Petitioner's counsel at least five days prior to any attempt to remove him from the United States.

VII. EXHAUSTION OF REMEDIES

Petitioner's claims regarding the constitutionally inadequate process and unlawful deprivation of liberty are not subject to any statutory requirement of administrative exhaustion. See *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). To the extent that prudential concerns might lead the Court to consider exhaustion as a discretionary matter, Petitioner has taken all reasonable steps available to him within the administrative framework.

Petitioner is currently in removal proceedings before the Immigration Court and is represented by counsel. He has a scheduled individual hearing on December 9, 2025, and intends to proceed on his claims for asylum and withholding of removal. In addition, Petitioner intends to file a T Nonimmigrant Status application with USCIS based on his experience as a victim of human trafficking and forced labor. These remedies remain pending or forthcoming, and no final order of removal has been issued.

Moreover, neither the Immigration Judge nor the Board of Immigration Appeals has jurisdiction to adjudicate the constitutional claims raised in this habeas petition. These claims fall squarely within the purview of this Court.

Finally, Petitioner faces irreparable harm in the form of continued detention, psychological trauma, and the risk of premature removal before he can pursue the legal remedies available to

him. Respondents have the authority to parole Petitioner under 8 C.F.R. §§ 235.3(b)(2)(iii), 1235.3(b)(2)(iii), yet have declined to do so despite his eligibility and humanitarian circumstances. Further, because the administrative process offers no meaningful opportunity for relief due to the recent holding of the Board of Immigration Appeals in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), exhaustion of remedies is not required. See *McCarthy v. Madigan*, 503 U.S. 140, 146–49 (1992) (exhaustion excused where administrative remedies are inadequate or futile); *INS v. St. Cyr*, 533 U.S. 289, 314 (2001).

VIII. REQUEST FOR ORAL ARGUMENT

Petitioner respectfully requests oral argument on this Petition.

IX. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;
2. Issue a Writ of Habeas Corpus on the ground that Petitioner's continued detention violates the Due Process Clause and order Petitioner's immediate release;
3. In the alternative, issue injunctive relief ordering Respondents to immediately release Petitioner on the ground that his continued detention violates the Due Process Clause;
4. Enjoin Respondents from removing Petitioner from the United States;
5. Order Respondents file a return within three days pursuant to 28 U.S.C. § 2243.
6. Declare that the process as applied to Petitioner by Respondents violates the Suspension Clause, the Due Process Clause of the Fifth Amendment, the Fourth Amendment, the INA, the APA, and federal regulations;
7. Issue a writ of habeas corpus directing Respondents to pursue a constitutionally adequate process to justify adverse immigration actions against Petitioner;
8. Stay Petitioner's removal from the United States until the adjudication of his T visa by USCIS is completed;
9. Order Respondents to provide five days of notice to the Court and Petitioner of his imminent removal;

10. Order Respondents to comply with all applicable rules, regulations, laws, and constitutional protections in relation to Petitioner's pending removal proceedings and his application for asylum and withholding of removal, as well as his intent to pursue T Nonimmigrant Status and U Nonimmigrant Status before United States Citizenship and Immigration Services (USCIS).
11. Award Petitioner his costs and reasonable attorney's fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. §2412, or other statutes;
12. Grant such further relief as the Court deems just and proper.

Dated: November 14, 2025

Respectfully submitted,

By: _____

Shirley C. Zambrano
ZAMBRANO LAW
1995 N Park PL SE, Suite 360
Atlanta, Georgia 30339
T: 770-373-4032
E: szambrano@zambranolaw.com

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

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. On the basis of those discussions, on information and belief, I hereby verify that the factual statements made in the attached Verified Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief are true and correct to the best of my knowledge.

November 14th, 2025

Respectfully submitted,

By: _____

Shirley C. Zambrano
ZAMBRANO LAW
1995 N Park PL SE, Suite 360
Atlanta, Georgia 30339
T: 770-373-4032
E: szambrano@zambranolaw.com

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA

Allan Edwin Pineda Lopez,

Petitioner,

v.

Kristi Noemi, in her Official Capacity, Secretary
of the U.S. Department of Homeland Security;

Pamela Bondi, in her Official Capacity,
Attorney General of the United States

Pamela Berry, in her Official Capacity, Assistant
Field Office Director for ICE's ERO of Atlanta,
Georgia.

Joseph B. Edlow, Director of U.S. Citizenship
and Immigration Services;

The GEO Group, Inc. who is Acting Director
of the Folkston D Ray ICE Processing Center,

Respondents.

Case No.

Judge:

Magistrate Judge:

No request for jury trial

**APPLICATION FOR ISSUANCE OF
ORDER TO SHOW CAUSE AND
MOTION FOR TEMPORARY
RESTRAINING ORDER AND
INJUNCTIVE RELIEF**

**PETITIONER'S BRIEF IN SUPPORT OF HIS ORDER TO SHOW CAUSE AND MOTION
FOR TEMPORARY RESTRAINING ORDER AND INJUNCTIVE RELIEF**

INTRODUCTION

Petitioner, Mr. Allan Edwin Pineda Lopez ("Mr. Pineda Lopez"), is a citizen and national of Guatemala. He is a thirty-five-year-old male who resides in Port Chester, New York, and was unlawfully detained pursuant to 8 U.S.C. § 1225(b)(2). Mr. Pineda Lopez has lived in the United States since July 2011, more than twelve years, and currently has a pending application for asylum

and withholding of removal. He also is intending to seek T Nonimmigrant Status due to the human experience he suffered. He has sought redetermination of his custody before the Immigration Court; however, the Immigration Judge summarily dismissed the Petitioner's request for custody redetermination citing lack of jurisdiction relying on the recent Board of Immigration Appeals' decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

Petitioner now challenges the legality of his detention and respectfully requests the issuance of an Order to Show Cause, as well as a temporary restraining order (TRO) preventing his transfer outside the jurisdiction of this Court while the habeas petition remains pending.

FACTS OF THE CASE

Mr. Allan Edwin Pineda Lopez, a thirty-five-year-old citizen and national of Guatemala (*See Exhibit "A"*), is currently in removal proceedings before Immigration Judge Ryan Fisher at the Atlanta Immigration Court, located at 3262 Highway 252, Folkston, Georgia 31537. Notably, he was detained on or about September 29, 2025, but never issued a Record of Arrest Form I-213, or Warrant for Arrest, Form I-220. These documents were never produced by the government. A Notice to Appear initiating removal proceedings was issued on September 29, 2025 (*See Exhibit "B"*). Mr. Pineda is scheduled for an individual hearing on his Application for Asylum and Withholding of Removal on December 9, 2025, at 8:30 A.M. He is represented by counsel, Andrea C. Soto, who has entered a notice of appearance before this Honorable Court pro hac vice.

Mr. Pineda filed his Application for Asylum and Withholding of Removal on October 29, 2025, pursuant to sections 208 and 241(b)(3) of the Immigration and Nationality Act (*See Exhibit "C"*). His claims are based on past persecution and a well-founded fear of future harm at the hands of [REDACTED]

[REDACTED] in Guatemala. Mr. Pineda was subjected to intimidation, extortion, and threats to his life by [REDACTED] whose

 His application details the specific acts of harm he endured and the ongoing danger he faces if returned to Guatemala, establishing a credible basis for humanitarian protection under U.S. law.

In addition to his asylum claim, Mr. Pineda is prima facie eligible for T Nonimmigrant Status based on his experience as a victim of human trafficking during his journey to the United States. He was subjected to deception, financial coercion, and physical violence by organized smugglers, including extortion, armed assault, and repeated transfers between traffickers. These circumstances reflect key indicators of trafficking under federal law—such as fraud, coercion, restricted movement, and exposure to life-threatening conditions—and support his eligibility for protection under the T visa program, which assists victims present in the United States due to such victimization.

Mr. Pineda filed a Motion for Custody Redetermination before the Immigration Court, which was summarily dismissed based on the ruling issued by the Board of Immigration Appeals in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), citing the holding that Immigration Judges do not have jurisdiction to determine bond or custody determinations under a new interpretation of Section 236(a) of the Immigration and Nationality Act (*See Exhibit “D”*).

Petitioner remains in ICE custody at the Folkston ICE Processing Center despite having a viable claim for asylum and substantial humanitarian equities that warrant release. His continued detention without a bond hearing violates his constitutional rights and imposes undue hardship, particularly in light of the physical and psychological trauma he continues to suffer as a result of his past victimization and the persecution he fears if returned to Guatemala.

LEGAL ARGUMENT

Mr. Pineda Lopez has not been issued a final order of removal in this instance. He continues to await adjudication of his pending Application for Asylum and Withholding of

Removal, which, if granted, would protect him from removal from the United States. Mr. Pineda Lopez is challenging the constitutionality of the statutory framework by which the Respondents are detaining him without bond, despite his eligibility for humanitarian relief and the absence of any significant violent criminal history.

I. Motion for Temporary Restraining Order and Preliminary Injunctive Relief.

To obtain a temporary restraining order, a petitioner-plaintiff “must establish that he is likely to succeed on the merits, that he is likely to suffer irreparable harm in the absence of preliminary relief, that the balance of equities tips in his favor, and that an injunction is in the public interest.” *Winter v. Natural Resources Defense Council*, 555 U.S. 7, 20 (2008); *Siegel v. LePore*, 234 F.3d 1163, 1176 (11th Cir. 2000) (en banc). Under disturbingly similar circumstances, courts within this Circuit have granted petitions for a writ of habeas corpus pursuant 28 U.S.C. § 2241 where, as here, the petitioner has been present in the United States for more than two years, was unlawfully detained in the interior by the Department of Homeland Security under §§ 1225(a)(1), (b)(2) and sought immediate release.

In a similar case where the Petitioner had been present in the United States for a lengthy period of time, this Court found that detaining her under 8 U.S.C. § 1225(b)(2) was unlawful and inapplicable—holding that § 1225(b)(2) did not authorize her interior arrest and detention. See *Rivera Zumba v. Bondi*, Civ. No. 25-cv-14626 (KSH), D.N.J. (Sept. 26, 2025) (Hayden, U.S.D.J.). Another recent decision by this Court held that detention under 1225(b)(2)(A) amounts to detention in violation of the laws of the U.S. *Mugliza Castillo v. Lyons*, No. 2:25-cv- 16219 (D.N.J. filed Oct. 3, 2025) (Farbiarz, J.).

The elements are easily satisfied here, Mr. Pineda Lopez's detention is unlawful and a textbook violation of his Due Process rights.

a) *Mr. Pineda Lopez will likely succeed on the merits.*

Mr. Pineda Lopez seeks his immediate release because he is unlawfully and unconstitutionally deemed ineligible for bond based on an erroneous finding that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

In examining the relevant provisions of §§ 1225 and 1226, the Court considers “whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case.” *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). The Court’s “job is to interpret the words consistent with their ‘ordinary meaning . . . at the time Congress enacted the statute.’” *Wis. Cent. Ltd v. U.S.*, 585 U.S. 274, 277 (2018) (quoting *Perrin v. U.S.*, 444 U.S. 37, 42 (1979)); *see also New Prime Inc. v. Oliveira*, 586 U.S. 105, 113 (2019) (If courts could “freely invest old statutory terms with new meanings, we would risk amending legislation” and “upsetting reliance interests in the settled meaning of a statute”) (internal quotations and citations omitted). Of course, the words of a statute “cannot be construed in a vacuum. It is a fundamental canon of statutory construction that the words of a statute must be read in their context and with a view to their place in the overall statutory scheme.” *Roberts v. Sea-Land Services, Inc.*, 566 U.S. 93, 101 (2012) (quoting *Davis v. Mich. Dep’t of Treasury*, 489 U.S. 803, 809 [1989]); *United States v. Johnson*, 980 F.3d 1364, 1371 (11th Cir. 2020) (“When interpreting a statute, we begin with the text, giving words their ordinary meaning and considering context within the overall statutory scheme.”)

In *Jennings v. Rodriguez*, the Supreme Court analyzed the interplay between Section 1225 and Section 1226. 583 U.S. 281 (2018). Following enactment of IIRIRA, the Executive Office for Immigration Review codified the longstanding understanding that noncitizens who entered without inspection and were later apprehended inside the United States are not detained under § 1225 at all, but instead fall 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). EOIR explained that

individuals not apprehended “at the time of entry” are not considered applicants for admission for purposes of § 1225(b). This regulatory interpretation remained controlling for nearly three decades and reflected the practical reality that § 1226(a) is the default detention provision governing interior arrests—including those who originally entered without inspection.

Congress itself reinforced this distinction in the text of § 1226. Subparagraph (c)(1)(E) expressly references individuals inadmissible under § 1182(a)(6)(A)(i)—the very charge applicable to Petitioner—as falling within the § 1226 detention framework. This provision confirms that Congress understood noncitizens who entered without inspection to be detained under § 1226(a) by default. As multiple courts have recognized, when Congress creates narrow exceptions to a general detention statute, it necessarily confirms that the general statute applies unless the exception is met. See *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025). Because Petitioner is charged only under § 1182(a)(6)(A)(i), the statutory text mandates § 1226(a), not § 1225(b)(2)(A).

The Supreme Court noted that Section 1225(b) applies primarily to “aliens seeking entry into the United States.” See quoting *Jennings*, 583 U.S. at 297. The statute itself contemplates “arriving,” “seeking,” the present tense of someone at the port of entry, where the Government must determine whether an alien seeking to enter the country is admissible. *Kostak v. Trump*, No. 3:25-cv-01093, slip op. at 6 (W.D. La. Aug. 27, 2025) (Edwards, J.) (citing *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018)).

For non-citizens already present inside the United States, “Section 1226(a) creates a default rule for those aliens by permitting the Attorney General to release them on bond, ‘except as provided in subsection (c) of this section.’” See *Jennings*, 583 U.S. at 303.

A line must be drawn between how §§ 1225 and 1226 function when it comes to detention of noncitizens, and it is straightforward: detention authority under § 1225 is exercised at or near the

port of entry for those seeking admission, and detention authority under §1226 must be used when a non-citizen is arrested in the interior of the United States. See *Martinez v. Hyde*, – F.Supp.3d –, 2025 WL 2084238 at *4 (D. Mass. July 24, 2025) (The line historically drawn between these two sections, making sense of their text and overall statutory scheme, is that section 1225 governs detention of non-citizens “seeking admission into the country,” whereas section 1226 governs detention of non-citizens “already in the country.”); As the Eleventh Circuit recognized, § 1226(a) provides the default rule for detention of noncitizens already present in the United States. *Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199, 1211 (11th Cir. 2016). District courts within this Circuit have similarly held that interior arrests fall under § 1226(a), not § 1225(b)(2). *Barrera-Alcala v. McAleenan*, 2020 WL 364231, at *4 (N.D. Ga. Jan. 22, 2020).

Courts across the country have uniformly rejected DHS’s July 2025 reinterpretation and the BIA’s decision in *Matter of Yajure-Hurtado*, concluding that § 1225(b)(2)(A) cannot be applied to individuals apprehended long after entering the United States. More than twenty federal courts—including those in Massachusetts, Michigan, California, Arizona, New York, Minnesota, Nebraska, and Louisiana—have held that the government lacks statutory authority to detain longtime residents under § 1225(b)(2)(A) and must instead proceed under § 1226(a). These courts have likewise rejected *Yajure-Hurtado*’s conclusion that any prior unlawful entry automatically subjects an individual to perpetual mandatory detention. The unanimous national consensus reinforces that Petitioner’s detention under § 1225(b)(2)(A) is ultra vires.

b) Mr. Pineda Lopez will Suffer Irreparable Harm

The deprivation of liberty without due process constitutes irreparable harm. *KH Outdoor, LLC v. City of Trussville*, 458 F.3d 1261, 1271 (11th Cir. 2006); *Elrod v. Burns*, 427 U.S. 347, 373 (1976). The deprivation of an alien’s liberty is, in and of itself, irreparable harm. *Scott v. Roberts*, 612 F.3d 1279, 1297 (11th Cir. 2010), Irreparable harm is virtually presumed in cases like this one

where an individual is detained without due process. *Torres-Jurado v. Biden*, No. 19 CIV. 3595 (AT), 2023 WL 7130898, at *4 (S.D.N.Y. Oct. 29, 2023). (“[B]efore the Government unilaterally takes away that which is sacred, it must provide a meaningful process.”).

Petitioner’s due process rights have also been violated because, under *Matter of Yajure-Hurtado*, the Immigration Judge summarily disclaimed jurisdiction to review the legality of his detention. This leaves Petitioner with no administrative mechanism to challenge his custody under § 1226(a), even though Congress expressly required individualized custody determinations in that context. The absence of any process to contest detention renders the government’s actions arbitrary and unconstitutional. *See Ly v. Hansen*, 351 F.3d 263, 267 (11th Cir. 2003); *Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199, 1217–18 (11th Cir. 2016). Because the government is detaining Petitioner under a statute that does not apply to him, and because there exists no administrative pathway to correct that error, due process requires immediate release.

c) Balance of the Equities and Public Interest

The “public interest is best served by ensuring the constitutional rights of persons within the United States are upheld.” *See Opulent Life Church v. City of Holly Springs*, 697 F.3d 279, 295 (5th Cir. 2012) (quoting *Elrod v. Burns*, 427 U.S. 347, 373 (1976)). As discussed above, the abrupt detention without bond of Mr. Pineda Lopez likely violated federal law and his due process. “There is generally no public interest in the perpetuation of unlawful agency action,” and “there is a substantial public interest in having governmental agencies abide by the federal laws that govern their existence and operations.” *League of Women Voters of United States v. Newby*, 838 F.3d 1, 12 (D.C. Cir. 2016) (cleaned up).

Here, Mr. Pineda Lopez’s continued detention without a bond hearing is in violation of his Fifth Amendment rights and far outweighs any burden the Respondents would suffer.

II. The Court Has Authority to Grant Mr. Pineda Lopez’s Immediate Release Pending the Adjudication of His Habeas Petition.

As a general matter, writs of habeas corpus are used to request release from custody. See *Wilkinson v. Dotson*, 544 U.S. 74, 78 (2005); *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051 (11th Cir. 2002). A habeas court has “the power to order the conditional release of an individual unlawfully detained—though release need not be the exclusive remedy and is not the appropriate one in every case in which the writ is granted.” *Boumediene v. Bush*, 553 U.S. 723, 779 (2008) (noting that at “common-law habeas corpus was, above all, an adaptable remedy”).

Release in this case is appropriate. Mr. Pineda Lopez has demonstrated eligibility for humanitarian relief and does not pose a danger to the community. He has no significant criminal history and has complied with immigration procedures, including the timely filing of his asylum and withholding application. The only change in circumstances leading to his current detention is a policy shift in the interpretation of §1225, which now subjects him to mandatory detention without a bond hearing—despite his strong equities and pending protection claims.

Furthermore, Mr. Pineda Lopez has already requested a bond from an Immigration Judge, who denied his request on October 23, 2025. The Petitioner has been detained since September 2025. Therefore, Petitioner argues that release from detention is the appropriate relief in this case so that he may return home to Port Chester, New York.

CONCLUSION

For the foregoing reasons, the Court should grant the instant writ and order his immediate release from ICE custody.

Dated: November 14, 2025,

Respectfully Submitted,

s/s Shirley Zambrano

Shirley C. Zambrano
ZAMBRANO LAW
1995 N Park PL SE Suite 360
Atlanta, GA 30339
T: 770-769-5820
E: szambrano@zambranolaw.com

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA**

Allan Edwin Pineda Lopez,

Petitioner,

v.

Kristi Noemi, in her Official Capacity, Secretary of
the U.S. Department of Homeland Security;

Pamela Bondi, in her Official Capacity,
Attorney General of the United States;

Pamela Berry, in her Official Capacity, Assistant
Field Office Director for ICE's ERO of Atlanta,
Georgia;

Joseph B. Edlow, Director of U.S. Citizenship and
Immigration Services;

The GEO Group, Inc. who is Acting Director of the
Folkston D Ray ICE Processing Center,

Respondents.

Case No.

Agency Number:

**EXHIBIT LIST IN SUPPORT
OF PETITIONER'S
VERIFIED PETITION FOR
WRIT OF HABEAS CORPUS**

LIST OF EXHIBITS

I, Shirley C. Zambrano, am the attorney representing the petitioner, Allan Edwin Pineda Lopez. I make this declaration based on personal knowledge and am willing and able to provide testimony regarding the exhibits if called to do so. The exhibits are as follows:

- A. Attached hereto as Exhibit A is a copy of Petitioner's passport, submitted in support of identity and nationality.
- B. Attached hereto as Exhibit B is the Notice to Appear issued to Petitioner by the Department of Homeland Security.
- C. Attached hereto as Exhibit C is a copy of Petitioner's Form I-589, Application for Asylum and for Withholding of Removal, submitted in support of his claim for protection under the Immigration and Nationality Act.

D. Attached hereto as Exhibit D is the Immigration Judge's Order denying Petitioner's bond request on jurisdictional grounds.

I swear, under penalty of perjury of the laws of the United States of America, the statements above are true and correct to the best of my abilities.

Signed this November 14, 2025.

s/s Shirley Zambrano

Shirley C. Zambrano
ZAMBRANO LAW
1995 N Park PL SE, Suite 360
Atlanta, Georgia 30339
T: 770-373-4032
E: szambrano@zambranolaw.com

JS 44 (Rev. 03/24)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

<p>I. (a) PLAINTIFFS Allan Edwin Pineda Lopez</p> <p>(b) County of Residence of First Listed Plaintiff <u>Charlton County</u> <i>(EXCEPT IN U.S. PLAINTIFF CASES)</i></p> <p>(c) Attorneys <i>(Firm Name, Address, and Telephone Number)</i> Zambrano Law, LLC, 1995 North Park Place SE, Suite 360, Atlanta, GA 30339, (770) 769-5820</p>	<p>DEFENDANTS Pamela Bondi, in her Official Capacity as the Attorney General of the United States</p> <p>County of Residence of First Listed Defendant _____ <i>(IN U.S. PLAINTIFF CASES ONLY)</i></p> <p>NOTE IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.</p> <p>Attorneys <i>(If Known)</i> Margaret Heap, U.S. Attorney, Southern District of GA.</p>
---	---

<p>II. BASIS OF JURISDICTION <i>(Place an "X" in One Box Only)</i></p> <p><input type="checkbox"/> 1 U.S. Government Plaintiff</p> <p><input type="checkbox"/> 2 U.S. Government Defendant</p> <p><input checked="" type="checkbox"/> 3 Federal Question <i>(U.S. Government Not a Party)</i></p> <p><input type="checkbox"/> 4 Diversity <i>(Indicate Citizenship of Parties in Item III)</i></p>	<p>III. CITIZENSHIP OF PRINCIPAL PARTIES <i>(Place an "X" in One Box for Plaintiff and One Box for Defendant)</i></p> <table border="0" style="width:100%;"> <tr> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> <td style="width:33%;"></td> <td style="width:10%; text-align: center;">PTF</td> <td style="width:10%; text-align: center;">DEF</td> </tr> <tr> <td>Citizen of This State</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td style="text-align: center;"><input type="checkbox"/> 1</td> <td>Incorporated or Principal Place of Business In This State</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> <td style="text-align: center;"><input type="checkbox"/> 4</td> </tr> <tr> <td>Citizen of Another State</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td style="text-align: center;"><input type="checkbox"/> 2</td> <td>Incorporated and Principal Place of Business In Another State</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> <td style="text-align: center;"><input type="checkbox"/> 5</td> </tr> <tr> <td>Citizen or Subject of a Foreign Country</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td style="text-align: center;"><input type="checkbox"/> 3</td> <td>Foreign Nation</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> <td style="text-align: center;"><input type="checkbox"/> 6</td> </tr> </table>		PTF	DEF		PTF	DEF	Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4	Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5	Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6
	PTF	DEF		PTF	DEF																				
Citizen of This State	<input type="checkbox"/> 1	<input type="checkbox"/> 1	Incorporated or Principal Place of Business In This State	<input type="checkbox"/> 4	<input type="checkbox"/> 4																				
Citizen of Another State	<input type="checkbox"/> 2	<input type="checkbox"/> 2	Incorporated and Principal Place of Business In Another State	<input type="checkbox"/> 5	<input type="checkbox"/> 5																				
Citizen or Subject of a Foreign Country	<input type="checkbox"/> 3	<input type="checkbox"/> 3	Foreign Nation	<input type="checkbox"/> 6	<input type="checkbox"/> 6																				

IV. NATURE OF SUIT *(Place an "X" in One Box Only)* Click here for: [Nature of Suit Code Descriptions](#)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES	
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excludes Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury <input type="checkbox"/> 362 Personal Injury - Medical Malpractice	<input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 367 Health Care/Pharmaceutical Personal Injury Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 690 Other LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Management Relations <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 751 Family and Medical Leave Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Employee Retirement Income Security Act IMMIGRATION <input type="checkbox"/> 462 Naturalization Application <input type="checkbox"/> 465 Other Immigration Actions	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 INTELLECTUAL PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 835 Patent - Abbreviated New Drug Application <input type="checkbox"/> 840 Trademark <input type="checkbox"/> 880 Defend Trade Secrets Act of 2016 SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609	<input type="checkbox"/> 375 False Claims Act <input type="checkbox"/> 376 Qui Tam (31 USC 3729(a)) <input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit (15 USC 1681 or 1692) <input type="checkbox"/> 485 Telephone Consumer Protection Act <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 896 Arbitration <input type="checkbox"/> 899 Administrative Procedure Act/Review or Appeal of Agency Decision <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN *(Place an "X" in One Box Only)*

1 Original Proceeding
 2 Removed from State Court
 3 Remanded from Appellate Court
 4 Reinstated or Reopened
 5 Transferred from Another District *(specify)*
 6 Multidistrict Litigation - Transfer
 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*
 28 U.S.C. § 2241

Brief description of cause
 Petition for writ of habeas corpus under 28 U.S.C. § 2241 challenging prolonged immigration detention by ICE

VII. REQUESTED IN COMPLAINT:

CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND \$** _____

CHECK YES only if demanded in complaint
JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY *(See instructions):*

JUDGE _____ DOCKET NUMBER _____

DATE 11/12/25 SIGNATURE OF ATTORNEY OF RECORD _____

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG JUDGE _____