

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT GEORGIA
COLUMBUS DIVISION

NICOMEDE REGUEIRA SUGIA)	
Petitioner,)	
)	CASE NO.:
vs.)	4:25-cv-00399-CDL-AGH
)	
JASON STREEVAL, <i>in his official capacity as</i>)	
<i>Warden of Stewart Detention Center; and</i>)	
LADEON FRANCIS, <i>ICE Atlanta</i>)	
<i>Field Office Director; and</i>)	
TODD LYONS, <i>in his official capacity as Acting</i>)	
<i>Director of Immigration and Customs</i>)	
<i>Enforcement; and</i>)	
KRISTI NOEM, <i>Secretary of Homeland Security</i>)	
And PAMELA BONDI, <i>U.S. Attorney General.</i>)	
)	
Respondents.)	
_____)	

PETITIONER’S MOTION FOR IMMEDIATE AND UNCONDITIONAL RELEASE

Petitioner, by and through the undersigned counsel, respectfully moves this Court for an order of immediate release, notwithstanding any general practice of remanding for a bond hearing before an immigration judge under *J.A.M. v. STREEVAL*, NO. 4:25-cv-342 (CDL), 2025 WL 3050094 (MDGA Nov. 1, 2025). This request is predicated on the government’s failure to provide any individualized justification for Petitioner’s continued detention and its noncompliance with the Court’s show cause order.

As stated in the verified Complaint, Petitioner REGUEIRA SUGIA’s case involves novel issues unaddressed by *J.A.M. v. STREEVAL*, including unlawful arrest and detention. See generally ECF 1 and therefore a motion for an evidentiary hearing was requested. However,

since Respondents have utterly and completely failed to Show Cause why Petitioner is detained, the Court can just order Petitioner's unconditional release.

I. STATEMENT OF FACTS

On November 20, 2025, Petitioner filed the instant *verified* Petition for Writ of Habeas Corpus, challenging his unlawful detention. ECF 1. On December 1, 2025, this Court issued an Order to Show Cause, directing Respondents to “show cause within seven (7) days as to why Petitioner’s application for habeas relief should not be granted.” ECF 4. On December 8, 2025, Respondents filed a Motion to Dismiss or, Alternatively, to Stay. ECF 7. That motion does not address the merits of Petitioner’s detention, offers no justification for his confinement, and presents no evidence that he is a flight risk or a danger to the community. Instead, it argues for dismissal based solely on Petitioner’s membership in the nationwide class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). To date, Respondents have failed to comply with this Court’s order to justify Petitioner’s detention.

II. RESPONDENTS FAILED TO COMPLY WITH THE COURT’S ORDER TO SHOW CAUSE

Petitioner’s detention is unlawful and must be terminated by immediate release. This is not a case involving a mere procedural defect or a close call on statutory interpretation; it is a case where Respondents detained a man under the wrong statute, in defiance of this Court’s own precedent, and then, when ordered to justify their actions, offered nothing. The patent inadequacy of Respondents’ response to this Court’s Order to Show Cause, combined with the fact that Petitioner’s detention was unlawful from its inception, compels a remedy of immediate release. A post-hoc bond hearing cannot cure a constitutional violation that has already occurred

and would only serve to reward the government's procedural gamesmanship and its failure to meet its most basic burden: to justify the deprivation of a person's liberty.

The government has not alleged, let alone proven, that Petitioner is a danger or flight risk, nor has it produced any evidence to justify his continued detention. Requiring a bond hearing would prolong Petitioner's detention for several more days or weeks, incurring additional costs, despite the absence of any demonstrated need for his confinement.

III. PETITIONER'S ARREST AND DETENTION IS UNLAWFUL *AB INICIO*

Respondents' entire basis for Petitioner's detention rests on a flawed and rejected legal theory. They have classified Petitioner, a man who has lived in the United States for many years, as an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b). This classification is statutorily baseless. Section 1225 governs the inspection of noncitizens "arriving in the United States" and those "seeking admission" a provision applicable only to individuals encountered at the border or a port of entry. It does not, by any reasonable reading, apply to an individual apprehended in the country's interior decades after entry. Petitioner's custody should be governed by 8 U.S.C. § 1226(a), which provides for discretionary detention and bond hearings for noncitizens arrested and detained pending a decision on whether they are to be removed. This constitutes a fundamental statutory violation that cannot be retroactively cured by a post hoc justification or a belated warrant. The only appropriate remedy for an arrest and detention made under the wrong statutory authority is immediate and unconditional release.

Petitioner's arrest was executed without a warrant, probable cause, or exigent circumstances, in direct contravention of 8 U.S.C. § 1357(a)(2), which authorizes warrantless arrests for civil immigration violations **only when there is probable cause of unlawful presence and a likelihood of escape before a warrant can be obtained**. See also 8 C.F.R. § 287.8(b)(2). In other words, ICE may only make a warrantless arrest for a civil immigration

violation if there is both probable cause of unlawful presence and probable cause that the person is likely to escape before a warrant can be obtained. Courts have repeatedly held that mere unlawful presence is a civil, not criminal, violation, and that suspicion or knowledge of a civil immigration violation does not provide probable cause for a criminal arrest or for prolonged detention. See *United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 872–73 (S.D. Ohio 2016). The government’s failure to meet the statutory and constitutional prerequisites for a warrantless arrest rendered both the arrest and all derivative evidence unlawful and subject to suppression.

This Court has already unequivocally rejected the government’s statutory interpretation in nearly identical cases. In *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025), this Court held that § 1226(a), not § 1225(b), applies to noncitizens arrested in the interior, entitling them to a bond hearing. This is not a good-faith disagreement over an unsettled area of law; it is a decision to detain Petitioner based on a legal position this very Court has already declared unlawful. As such, his detention was unlawful ab initio—from the moment it began.

Because Petitioner’s detention was unlawful from its inception, a subsequent bond hearing is an inadequate remedy. The constitutional injury—the deprivation of liberty without statutory authority and without any individualized assessment of flight risk or dangerousness—has already occurred. A “post-deprivation review is wholly inadequate to remedy that unlawful detention,” as it cannot retroactively justify an arrest made under the wrong statutory authority. See *Rodriguez-Acurio v. Almodovar*, No. 2:25-CV-6065 (NJC), 2025 WL 3314420, at *31 (E.D.N.Y. Nov. 28, 2025). The government cannot be permitted to violate the law and then

seek a “do-over” in a bond hearing that it should have provided—or determined was unnecessary—in the first instance under the correct statute.

A growing consensus of federal courts has concluded that where detention is initiated without legal authority, the only just and constitutionally sufficient remedy is immediate release. In *Armando De Macedo Mendes v. Hyde*, C.A. No. 25-cv-627-JJM-AEM, 2025 WL 3274606 (D.R.I. Dec. 5, 2025), a court facing this exact scenario granted an individual habeas petition and ordered immediate release, finding that a bond hearing would not remedy the core violation. Remanding for a bond hearing now would implicitly validate the government’s unlawful initial action and fail to vindicate Petitioner’s fundamental right to be free from arbitrary confinement.

Most critically, Respondents’ procedural conduct in this very case provides an independent and compelling basis for granting immediate release. On December 8, 2025, this Court issued a clear and direct Order to Show Cause, commanding Respondents to justify Petitioner’s detention. Respondents utterly failed to do so. Their Motion to Dismiss offers no factual or legal justification for Petitioner’s confinement; it is entirely silent on why this individual should remain incarcerated. It presents no evidence, no argument, and not even a bare assertion that Petitioner poses a flight risk or a danger to the community.

Instead of answering the Court’s straightforward order, Respondents pivoted to a purely procedural argument about a separate class action, thereby evading their fundamental burden to justify the severe deprivation of a person’s liberty. This is not a mere oversight; it is a calculated refusal to engage on the merits of the detention. In the context of a habeas corpus petition, where the Petitioner’s liberty is at stake, the government’s failure to justify its actions when ordered to do so by a federal court amounts to a concession. Having been given the

opportunity to defend their detention of Petitioner and having offered no defense whatsoever, Respondents have left this Court with nothing to weigh against Petitioner's profound liberty interest.

IV. CONCLUSION AND RELIEF REQUESTED

While this Court has in other cases ordered a bond hearing as the appropriate remedy, the procedural posture here is starkly different and demands a more definitive response. To remand for a bond hearing now would be to ignore Respondents' non-compliance and reward their strategy of procedural deflection. The only remedy that vindicates both Petitioner's rights and the authority of this Court is to grant the writ and order his immediate and unconditional release.

The writ of habeas corpus is a "swift and imperative remedy" for illegal restraint or confinement. *Fay v. Noia*, 372 U.S. 391, 399 (1963). The Supreme Court has affirmed the high place of the writ, stating "there is no higher duty than to maintain it unimpaired." *Id.* When imprisonment cannot be shown to conform with fundamental law, the individual is entitled to immediate release. *Id.* 399-402.

Petitioner faces ongoing and irreparable harm, including deprivation of liberty, loss of employment, and separation from family, which cannot be remedied by monetary damages and will continue without immediate judicial intervention. The Court has the inherent power to consider habeas petitions and grant relief.

WHEREFORE, Petitioner respectfully requests that this Court order Respondents to IMMEDIATELY release Petitioner from custody without conditions given Respondents have failed to meet their burden on the Show Cause order.

Respectfully Submitted,

This 13th day of December, 2025.

/ Karen Weinstock

Karen Weinstock

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CERTIFICATE OF SERVICE

I hereby certify that on this 13th day of December, 2025, this DOCUMENT was served, via electronic delivery to Respondents' counsel via the CM/ECF system, which will forward copies to Counsel of Record.

/s/ Karen Weinstock
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