

**IN THE UNITED STATES DISTRICT
COURT FOR THE SOUTHERN DISTRICT
OF GEORGIA WACROSS DIVISION**

EDGAR CRUZ GARCIA,)	CIVIL ACTION NO.:
)	
Petitioner)	
)	
v.)	
)	
WARDEN TONY NORMAND, et al.,)	
)	
Respondent.)	
)	

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Edgar Cruz Garcia, has lived in the United States for more than 20 years. He has a wife, three United States citizen children, and he has no criminal history. Nevertheless, he was detained by U.S. Immigration and Customs Enforcement (“ICE”), and it will be futile to go through the charade to request a bond hearing since the immigration judges claim to lack jurisdiction over it under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) because Cruz Garcia 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 Cruz Garcia a bond hearing immediately. This Court should


order the Respondents to respond within three days to explain why Cruz Garcia 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 Edgar Cruz Garcia (A ) is a citizen and national of Mexico. He is a longtime resident of North Charleston, SC. At the time of this filing, he is detained in the Folkston ICE Processing Center in Folkston, Georgia.
2. Respondent is the Warden of Folkston ICE Processing 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 Edgar Cruz Garcia ("Cruz Garcia") is a citizen and national of Mexico.
6. Cruz Garcia has lived in the United States for more than twenty years.
7. He has no significant criminal convictions and no pending charges.
8. In or around 2005, Cruz Garcia entered the United States without inspection.
9. Cruz Garcia is a mason by trade and works in construction.
10. Cruz Garcia married his wife in January of 2023.
11. The couple have three United States citizen children ages 16, 11, and 7.
12. Nevertheless, U.S. Immigration and Customs Enforcement detained him.
13. Cruz is not eligible to be granted bond by the immigration court due to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
14. Cruz Garcia will not get a bond hearing and he will be subject to indefinite detention while his removal proceedings proceed.
15. Cruz Garcia is an exceptionally viable candidate for bond.

16. First, he is the primary provider to his family.

17. Second, he has no criminal history, *and* he has relief from removal available in a 42B Cancellation of Removal Hearing.

18. Third, his family is suffering significantly. The children miss their father, and they are struggling financially to survive.

19. Finally, he is not a flight risk as he has a home and family in North Charleston, SC.

20. Respondents' attempt to detain Cruz Garcia with no bond is unconstitutional, and this Court should order Respondents to provide him with a bond hearing immediately.

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

21. 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

22. 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.

23. 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.

24. 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.

25. 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.”).

26. 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).

27. 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.

28. 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.

29. 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)

30. 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.”

31. This District joined this chorus in the past weeks.

32. 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*.

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

34. 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.

35. 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.*

36. Here, Cruz Garcia has lived in the United States since 2005, though he entered without inspection. He has a three United States citizen children and relief available through the immigration court. When he was detained, he was not seeking admission. Rather, he had lived in the United States for a more than twenty years.

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

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

EQUAL ACCESS TO JUSTICE ACT FEES

39. Respondent's decision to refuse Cruz Garcia a bond hearing is not substantially justified.

40. Cruz Garcia qualifies for fees under the Equal Access to Justice Act.

41. This Court should order Respondents to pay reasonable attorney fees and costs.

PRAYER FOR RELIEF

Cruz Garcia Prays this Court will:

42. Take jurisdiction over this case;

43. Order Respondent to show cause within three days why Cruz Garcia should not be provided a bond hearing immediately;

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

45. Award Cruz Garcia reasonable attorneys' fees and costs; and

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

November 20, 2025

Respectfully submitted,

Is/ Eszter Bardi

Eszter Bardi

The Sonoda Law Firm

1849 Clairmont Road

Decatur, GA 30033

(678) 567-6864

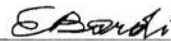
ebardi@sonodalaw.com

GA Bar No. 200449

28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

Respectfully submitted this 20th day of November, 2025.



Eszter Bardi
Georgia Bar # 200449
Attorney for Petitioner
Sonoda Law Firm
1849 Clairmont Road
Decatur, GA 30033
Phone: 470-755-9520
Fax: 404-393-8399
Email: ebardi@sonodalaw.com