

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

NESTOR ANTONIO DUQUE CRUZ,

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Petitioner,

v.

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

Respondents.

Case No.

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

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

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

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

17 4. The federal habeas corpus statute provides that “[a] court, justice or judge entering
18 a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to
19 show cause why the writ should not be granted, unless it appears from the application that the
20 applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

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

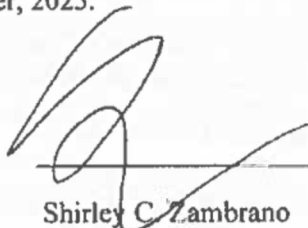
1 6. Section 2243 further provides that the court shall hold a hearing on the writ or order
2 to show cause "not more than five days after the return unless for good cause additional time is
3 allowed."

4 7. In addition, Section 2243 states that the court "shall summarily hear and determine
5 the facts and dispose of the matter as law and justice require."

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

10 9. Giving Respondent(s) additional time to respond is inappropriate in this case
11 because Petitioner faces irreparable harm due to the continued deprivation of his physical liberty.
12 Each additional day of unlawful detention inflicts harm that cannot be remedied by later judicial
13 review. Petitioner remains confined under conditions of restraint without any lawful basis or
14 opportunity for a bond hearing, violating fundamental due process protections.

15 DATED this 20th day of November, 2025.

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