


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

FREDERICO REYES-HERNANDEZ)	CIVIL ACTION No.:
)	
Petitioner)	
)	
v.)	
)	
WARDEN TONY NORMAND,)	
FOLKSON ICE PROCESSING CENTER)	
Respondent.)	
_____)	

PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Federico Reyes-Hernandez has lived in the United States for more than 17 years. He has two United States citizen children and no significant 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 Reyes-Hernandez entered the country in 2008 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 Reyes-Hernandez a bond hearing immediately. This Court should order the Respondents to respond within three days to explain why Reyes-Hernandez 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 Frederico Reyes-Hernandez (A ) is a citizen and national of Mexico. He is a longtime resident of Monck's Corner, 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, Frederico Reyes-Hernandez ("Reyes-Hernandez") is a citizen of Mexico.
6. Reyes-Hernandez has lived in the United States for more than seventeen years.
7. He has no convictions and no significant pending charges.
8. In his early twenties, in or around 2008, Reyes-Hernandez entered the United States without inspection.
9. Reyes-Hernandez has two United States citizen daughters ages 6 and 5.
10. Nevertheless, U.S. Immigration and Customs Enforcement detained him
11. Reyes-Hernandez will not get a bond hearing, and he will be subject to indefinite detention while his removal proceedings proceed.
12. Reyes-Hernandez is an extremely viable candidate for bond.
13. First, he is the primary provider to his family.
14. Second, he has no criminal history *and* he has relief from removal available through 42B Cancellation of Removal.

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

16. Finally, he is not a flight risk as he has a home and family in Monck's Corner, SC

17. Respondents' attempt to detain Reyes-Hernandez 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)**

18. 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

19. 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.

20. 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.

21. 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.

22. 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.”).

23. 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).

24. 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.

25. 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.

26. 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)

27. 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.”

28. This District joined this chorus in recent weeks. *Aguirre-Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025).

29. The Court recognized that the plain language of the relevant statutes undermined *Hurtado*, and the Court openly rejected *Hurtado* as unpersuasive. *Id.*

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

31. Here, Reyes-Hernandez has lived in the United States since 2008, though he entered without inspection. He has two United States citizen children and has immigration relief available through 42B Cancellation of Removal. When he was detained, he was not seeking admission. Rather, he had lived in the United States for a more than seventeen years.

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

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

EQUAL ACCESS TO JUSTICE ACT FEES

34. Respondent's decision to refuse Reyes-Hernandez a bond hearing is not substantially justified.

35. Reyes-Hernandez qualifies for fees under the Equal Access to Justice Act.

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

PRAYER FOR RELIEF

Reyes Hernandez Prays this Court will:

37. Take jurisdiction over this case;

38. Order Respondent to show cause within three days why Reyes Hernandez should not be provided a bond hearing immediately;

39. Grant this writ of habeas corpus and order Respondent to provide Reyes-Hernandez a bond hearing or immediately release him;

40. Award Reyes-Hernandez reasonable attorney fees and costs; and

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

November _21_, 2025

Respectfully submitted,

E. Bardi

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

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 21st day of November, 2025.

E. Bardi

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