

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

JOSE MIRANDA NIETO,

Petitioner,

v.

JASON STREEVAL, Warden, Stewart
Detention Center;

GEORGE STERLING, Deputy
Managing Director, Atlanta Field Office,
Immigration and Customs Enforcement,
Removal Operations (ICE/ERO);

TODD M. LYONS, Acting Director of
U.S. Immigration and Customs
Enforcement;

KRISTI NOEM, Secretary of U.S.
Department of Homeland Security;

PAMELA BONDI, Attorney General of
the U.S.,
in their official capacities,

Respondents.

Case No: 4:25-cv-408

Peticicner Alien Number:

A 

PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. Jose Miranda Nieto (“Petitioner”) has lived in the United States since he arrived in 2007.
2. Petitioner is presently detained and kept at Stewart Detention Center located in Stewart County, Georgia.
3. Petitioner has remained in custody since his arrest. Petitioner is presently in the custody and control of the Respondents.

4. In the absence of judicial intervention, it is not reasonably foreseeable that Petitioner will be released; so, he now seeks a writ of habeas corpus to vindicate his regulatory, statutory, and constitutional rights.

II. JURISDICTION

5. Petitioner incorporates and re-alleges all other paragraphs of this Petition as if fully set forth herein, and as if fully set forth under all other parts of this Petition.¹
6. This court has jurisdiction. U.S. Const. art. I, § 9, Cl. 2 (Suspension Clause); 28 U.S.C. § 1331 (Federal subject matter jurisdiction); 28 U.S.C. § 2241 (Habeas corpus). *See also Zadvydas v. Davis*, 533 U.S. 678 (2001) (holding section 2241 habeas proceedings are available as a forum for statutory and constitutional challenges to post-removal-period detention); 28 U.S.C. § 1651 (All Writs Act); 5 U.S.C. § 702 (Administrative Procedure Act - “Right of review”); *Rasul v. Bush*, 42 U.S. 466 (2004) (Jurisdiction over petitions for habeas corpus exists where the custodian can be reached by service of process from the court in which the petition has been brought).
7. This court may grant relief under the U.S. Constitution and habeas corpus statutes. U.S. Const. art. I, § 9, Cl. 2 (Suspension Clause); 28 U.S.C. § 2241 (habeas); *Zadvydas, supra*; 28 U.S.C. § 1651 (All Writs Act); 8 U.S.C. § 1252(e)(2) (Immigration and Nationality Act, “INA”).

¹ To avoid duplicity, Petitioner incorporates and re-alleges all paragraphs of this Petition within each other part of this Petition, and will avoid restating a prefatory sentence of incorporation by reference as, pursuant to Rule 10 of the Federal Rules of Civil Procedure, “A statement in a pleading may be adopted by reference elsewhere in the same pleading [...]” Each paragraph is incorporated within each other paragraph.

8. This court is not deprived of jurisdiction by 28 U.S.C. § 2241(e)(1) (Petitioner has not been determined to be an “enemy alien combatant” and is not “awaiting such determination); or by 8 U.S.C. § 1252(a)(2)(B) (This Petition does not involve the denial of discretionary relief).

III. VENUE

9. Venue is proper in the Middle District of Georgia, because Petitioner is detained at the Stewart Detention Center located in Stewart County, Georgia, in the city of Lumpkin, Georgia, which is in the Middle District.
10. Venue is proper because “a substantial part of the events or omissions giving rise to the claim occurred” in this district. 28 U.S.C. § 1391(b)(2).
11. Venue is also proper because one or more of the Defendants is an officer or employee of the United States or an agency thereof acting in his or her official capacity. 28 U.S.C. § 1391(e)

IV. EXHAUSTION OF REMEDIES

12. There are no other remedies Petitioner can seek before an immigration court to seek his release from custody. *Matter of Yajure Hurtado* decision dictates that an immigration judge does not have the authority to consider bond for an individual who entered the U.S. without inspection. 29 I&N Dec. 216 (BIA 2025)
13. Further, though a detainee can seek release by ICE through a § 212(d)(5) parole, there are no documented or meaningful examples of individuals being released pursuant to this type of request.

V. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

14. Petitioner is presently held in an immigration detention center under Respondents' control by and through their various agents. The Petitioner is therefore in the "custody" of the Respondents under 28 U.S.C. § 2241. *See also Carafas v. LaVallee*, 391 U.S. 234, 237-38 (1968) ("... the 'in custody' determination is made at the time the habeas petition is filed."); *Rumsfeld v. Padilla*, 542 U.S. 426, 437 (2004) ("[O]ur understanding of custody has broadened to include restraints short of physical confinement.").
15. Under 28 U.S.C. § 2243, the court "shall forthwith award the writ or issue an order directing the Respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto."
16. In a petition for a writ of habeas corpus, the following timeline applies: first, the applicant files the petition, second, the court "shall forthwith" either award the writ or issue an order to show cause, third, the writ or order to show cause "shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed." 28 U.S.C. § 2243. When the writ is 'returned' by the respondent, "a day shall be set for hearing, not more than five days after the return unless for good cause additional time is allowed." *Id.*; *see also Fay v. Noia*, 372 U.S. 391, 400 (1963) (The Writ of Habeas Corpus is "perhaps the most important

writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.”).

VI. PARTIES

17. The Petitioner is Jose Miranda Nieto. The Petitioner is not a citizen of the United States and is classified as an “alien” under the INA. 28 U.S.C. § 1101(a)(3).
18. In accordance with 28 U.S.C. § 2242, Petitioner alleges “the name of the person who has actual custody over the petitioner”, for the various Respondent-custodians, are as follows:
 - a. Jason Streeval, the Warden of Stewart Detention Center, with immediate physical custody of the Petitioner based on the contracts of that facility with U.S. Immigration and Customs Enforcement (ICE) to detain noncitizens. Respondent Streeval is a legal custodian of the Petitioner.
 - b. George Sterling, Deputy Managing Director of the Atlanta Field Office of Immigration and Customs Enforcement and Removal Operations (“ICE/ERO”). The Atlanta Field Office is responsible for local custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of noncitizens. Respondent Sterling is a legal custodian of the Petitioner.
 - c. Todd M. Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, and he has general authority over ICE actions. Respondent Lyons is a legal custodian of the Petitioner.

- d. Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS), and has authority over the actions of all other DHS Respondents in this case, as well as the operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.
- e. Pamela Bondi is the Attorney General of the United States of America and a senior official of the U.S. Department of Justice (DOJ), with authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration court and BIA. Respondent Bondi is a legal custodian of the Petitioner.

- 19. Each Respondent is named in his or her official capacity.
- 20. The Petitioner is presently detained at Stewart Detention Center and is under the custody and direct control of the Respondents or their agents.

VII. FACTUAL BACKGROUND

- 21. Petitioner is a 41 year-old native and citizen of Mexico. (Exhibit A). He entered the United States without inspection on or around March 1, 2007. He has remained in the United States since then.
- 22. Petitioner married his United States citizen wife, Luz Maricela Holdsworth, on November 25, 2022. (Exhibits B-D). Petitioner and Luz have two children together. (Exhibits E and F). [REDACTED] is [REDACTED] years old and [REDACTED] is [REDACTED] years old. *Id.* Petitioner also has two children from a previous relationship. His daughter

██████ is twenty-two years old and his son, ██████ is 21 years old. (Exhibits G and H).

23. Petitioner has always been the primary income provider for the family as well as the foundation of their emotional strength and support, and he is well-regarded in his community.
24. Petitioner has no criminal history beyond traffic offenses.

VIII. LEGAL FRAMEWORK

25. Under 8 U.S.C. § 1226(a), individuals are generally entitled to discretionary bond determinations when detained. 8 C.F.R. §§ 1003.19(a), 1236.1(d). Certain noncitizens who are arrested, charged with, or convicted of certain crimes are subject to mandatory detention until removal proceedings are concluded. 8 U.S.C. § 1226(c).
26. Under 8 U.S.C. § 1225(b)(1), certain noncitizens subject to expedited removal are also subject to mandatory detention, as are recent arrivals "seeking admission" under § 1225(b)(2).
27. In 1997, the Executive Office for Immigration Review (EOIR) issued regulatory guidance, stating that those who entered the country without inspection were not considered to be detained under § 1225(b)(2) but were instead governed by § 1226(a). *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled . . . will be eligible for bond and bond redetermination."). From 1997 until

earlier this year, with *Matter of Yajure Hurtado*, noncitizens like the Petitioner were eligible for bond upon detention. 29 I&N Dec. 215 (BIA 2025).

28. Under *Matter Yajure Hurtado*, immigration judges no longer have the authority to consider bond for a detainee who entered the U.S. without inspection. Instead, they are subject to mandatory detention under § 1225(b)(2)(A).
29. District courts, including this Court, addressing this issue have found that the Respondents' reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *J.A.M. v. Streeval*, No. 4:25-CV-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *Sampiao v. Hyde*, 2025 WL 2607924 (D. Mass. Sept. 9, 2025).
30. The district court in *Pizarro Reyes v. Raycraft* also aligns with the application of § 1226(a) rather than § 1225(b)(2)(A). 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025). The court analyzed the decision in *Matter of Yajure Hurtado*, concluding that they “find it difficult to square a noncitizen's continued presence with the term ‘seeking admission,’... [and] is not persuaded by the statutory interpretation advanced by the BIA”. *Id.*
31. The text of § 1226(a) explicitly applies to those charged with inadmissibility after entering without inspection. Congress recently enacted the Laken Riley Act to exclude noncitizens from bond eligibility who entered without inspection and committed certain offenses. *See* 8 U.S.C. § 1226(c)(1)(E). If Congress intended for all nonimmigrants who entered without inspection to be ineligible for bond, it

could have included them all in the Act. Under the canon against surplusage, a statute should be construed "so that no part will be inoperative or superfluous, void or insignificant." *Corley v. United States*, 556 U.S. 303 (2009). There would be no need for Congress to specify that noncitizens who entered without inspection and also committed certain crimes are ineligible for bond under § 1226(c)(1)(E) if they were already inherently ineligible for entering without inspection.

32. In sum, mandatory detention without bond described in § 1225(b)(2) does not apply to those like the Petitioner, who entered without inspection and resided within the United States for years before being apprehended hundreds of miles from the border.

IX. CLAIMS FOR RELIEF

COUNT ONE

Violation of 8 U.S.C. 1226(a) Unlawful Consideration of Bond Redetermination

33. The allegations in the above paragraphs are realleged and incorporated herein.
34. The mandatory detention provision of § 1225(b)(2) does not apply to all noncitizens, like the Petitioner, who have been residing in the United States for years and are not subject to other grounds of inadmissibility. Those detained under § 1226(a) are eligible for consideration of release on bond.
35. Despite this plain reading of the statute that has been the predominant interpretation for over 25 years, Respondents have adopted a new illogical reading under *Matter of Yajure Hurtado* and have applied it here in violation of the INA.

COUNT TWO

Violation of Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19 Unlawful Denial of Consideration for Release on Bond

36. The allegations in the above paragraphs are realleged and incorporated herein.
37. Congress and Respondents have made clear in the past that individuals who have entered without inspection were eligible for bond under § 1226 and its implementing regulations.
38. Despite this, Respondents have continued their policy of unlawfully detaining the Petitioner by misapplying § 1225(b)(2) in violation of the bond regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
39. Because Petitioner's detention has been unaccompanied by the procedural protections that such a significant deprivation of liberty requires under the Due Process Clause of the Fifth Amendment, his continued detention without a bond hearing due to a policy that the immigration court lacks jurisdiction entirely is unlawful.

COUNT THREE

Violation of the Administrative Procedure Act with Arbitrary and Capricious Agency Policy Contrary to Law

40. The allegations in the above paragraphs are realleged and incorporated herein.
41. Under the APA, a "reviewing court shall . . . hold unlawful and set aside agency action, findings, and conclusions found to be . . . arbitrary and capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

42. As discussed throughout, mandatory detention under § 1226(b)(2) does not apply to all noncitizens residing in the United States for years after entry and not apprehended at the border. Such noncitizens are detained under § 1226(a) and are therefore eligible for release on bond provided they are not subject to other grounds of detention.
43. Respondents have implemented a new precedent applying mandatory detention to all noncitizens in violation of the INA. Such action is arbitrary and capricious, and violates the APA. 5 U.S.C. § 706(2).

COUNT FOUR

Violation of the Administrative Procedure Act Failure to Observe Required Procedures

44. The allegations in the above paragraphs are realleged and incorporated herein.
45. Under the Fifth Amendment of the Constitution, no one shall be “deprived of life, liberty, or property, without due process of law.”
46. “Freedom from imprisonment - from government custody, detention, or other forms of physical restraint - lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). This protection applies to “all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis* at 693.
47. Respondents’ mandatory detention of the Petitioner without the possibility of release on bond violates his right to Due Process.

WHEREFORE, Petitioner respectfully requests this Court grant the following:

1. Assume jurisdiction over this matter;
2. Enjoin and prevent the Respondents from relocating the Petitioner to a different detention center during these proceedings.
3. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
4. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
5. Declare that Petitioner's detention violates the Eighth Amendment;
6. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately, or in the alternative, order Respondents to schedule a bond hearing under instruction that 8 U.S.C. § 1226 governs and not 8 U.S.C. § 1225(b).
7. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
8. Grant any further relief this court deems just and proper.

Respectfully submitted this 25th day of November, 2025.

/s/ Shelby Burnam
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LIST OF EXHIBITS

- Exhibit A Petitioner's Birth Certificate;
- Exhibit B Luz's Naturalization Certificate;
- Exhibit C Luz's Passport;
- Exhibit D Marriage Certificate;
- Exhibit E 's Birth Certificate;
- Exhibit F 's Birth Certificate;
- Exhibit G Jocelyn's Birth Certificate; and
- Exhibit H Christopher's Birth Certificate.

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

I represent Petitioner, Jose Miranda Nieto, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Submitted this 25th day of November, 2025.

/s/ Shelby Burnam

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