


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

Gladis Matias Velasquez,)	C/A No.: 4:25-CV-409
)	
Petitioner)	
)	
v.)	
)	
Jason Streeval, Warden, Stewart Detention)	
Center,)	
)	
Respondent.)	
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PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Gladis Matias Velasquez, has lived in the United States for more than 20 years. She has four children ages 26, 20, and three of which are United States citizens. The Petitioner has no criminal history and no pending criminal charges. Nevertheless, she was detained by U.S. Immigration and Customs Enforcement (“ICE”), and it is futile to request a bond hearing since the immigration judges claim to lack jurisdiction over bond under *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) because Velasquez entered the country in or around 2004 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 the Petitioner a bond hearing immediately. This Court should order the Respondents to respond within three days to explain why the Petitioner 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 Gladis Matias Velasquez (A ) is a citizen and national of Guatemala. She is a longtime resident of Marietta, GA. At the time of this filing, she is detained in the Stewart Detention Center in Lumpkin, Georgia.
2. Respondent, Jason Streeval, is the Warden of Stewart Detention 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 her 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 Gladis Matias Velasquez ("Velasquez") is a citizen and national of Guatemala.
6. Velasquez has lived in the United States for more than twenty years.
7. She has no convictions and no pending charges.
8. In her twenties, in or around 2004, Velasquez entered the United States without inspection.
9. Velasquez worked hard as a factory laborer to support her growing family.
10. Velasquez is the mother of four children. The oldest child has DACA and the remaining three are United States citizens. Velasquez is statutorily eligible for 42B Cancellation of Removal before the immigration court.
11. Nevertheless, U.S. Immigration and Customs Enforcement detained her.
12. Velasquez is not eligible to be granted bond by the immigration court due to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
13. Velasquez will not get a bond hearing, and she will be subject to indefinite detention

while her lengthy removal proceedings proceed.

14. Velasquez is an exceptionally viable candidate for bond.

15. First, she is the primary care giver for her family and provides financial support as well.

16. Second, she has no criminal history, *and* she has relief from removal available in a 42B Application for Cancellation of Removal.

17. Third, her family is suffering significantly. The children miss their mother, are extremely depressed, and are struggling to survive.

18. Finally, she is not a flight risk as she has a home and family in Marietta, Georgia.

19. Respondent's attempt to detain Velasquez with no bond is unconstitutional, and this Court should order Respondents to provide her with a bond hearing immediately.

FIRST CAUSE OF ACTION
(Unauthorized, Bondless Detention)

20. 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

21. 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.

22. 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.

23. 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.

24. 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.”).

25. 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).

26. 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.

27. 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; *Sing 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.

28. 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)

29. 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.”

30. This District joined this chorus this month.

31. In *JAM v. Streevai*, 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*.

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

33. 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.

34. 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.*

35. Here, Velasquez has lived in the United States since 2004, though she entered without inspection. She has three U.S. citizen children. She has immigration relief available inside of removal proceedings. When she was detained, she was not seeking admission. Rather, she had lived in the United States for a more than twenty years.

36. Respondents are violating Velasquez's statutory and constitutional rights by refusing to provide her with a bond hearing because she is detained under § 1226(a), not § 1225(b)(2).

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

EQUAL ACCESS TO JUSTICE ACT FEES

38. Respondent's decision to refuse Velasquez a bond hearing is not substantially justified.

39. Velasquez qualifies for fees under the Equal Access to Justice Act.

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

PRAYER FOR RELIEF

Velasquez Prays this Court will:

41. Take jurisdiction over this case;

42. Order Respondent to show cause within three days why Velasquez should not be provided a bond hearing immediately;

43. Grant this writ of habeas corpus and order Respondent to provide Velasquez a bond hearing or immediately release her;

44. Award Velasquez reasonable attorney fees and costs; and

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

November 25, 2025

Respectfully submitted,

s/Britt Thames
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