UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

ELIAS ISRAEL MARTINEZ ZAMARRON,
A# [redacted]

Petitioner,

v.

TONY NORMAND, Warden of Folkston ICE Processing Center,
LADEON FRANCIS, Field Office Director of Enforcement and Removal Operations, Atlanta Field Office;
TODD LYONS, in his official capacity as Acting director of Immigration and Customs Enforcement;
KRISTI NOEM, Secretary, U.S. Department of Homeland Security; and
PAMELA BONDI, U.S. Attorney General.

Respondents.

Civile Action No.:

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner ELIAS ISRAEL MARTINEZ ZAMARRON, A# [redacted], is a 42-year old native and citizen of Mexico who entered the United States without detection in 1998. On or about March 2024, he was arrested in the interior of the United States. He is not and has never been placed in expedited removal proceedings. He is current currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Folkston ICE Processing Center in Folkston, Georgia ("Folkston"). **(See Exhibit A – ICE Detainee Locator).** He is subject to ongoing removal proceedings pursuant to 8 U.S.C. § 1226(a). **(See Exhibit B – NTA).** On August 18, 2025, the Immigration Judge ("IJ") granted a $10,000 bond for Mr. Martinez Zamarron, but the Department of Homeland Security ("DHS") appealed this bond to the Board of Immigration Appeals ("BIA") and continued to detain Mr. Martinez Zamarron. On November 6, 2025, the BIA sustained DHS' bond appeal and vacated the IJ's bond order, relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and finding that the IJ lacked jurisdiction to hear bond proceedings for Mr. Martinez Zamarron.
2. Under the Immigration and Nationality Act ("INA"), individuals arrested in the interior and placed in § 240 removal proceedings are detained, if at all, under 8 U.S.C. § 1226(a), with a right to a custody redetermination by an Immigration Judge ("IJ").
1. DHS and the BIA assert that because Martinez Zamarron was never formally admitted, he is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and ineligible for bond. That position contravenes the statute, the implementing regulations, decades of pattern & practice, and a judge of this Court rejected the same theory recently in ordering a § 1226(a) bond hearing for another Folkston

detainee. *Antonio Aguirre Villa v. Normand,* No. 5:25-cv-89, 2025 LX 442534 (S.D. Ga. Nov. 4, 2025). **(See Exhibit C, Antonio Aguirre Villa v. Normand).**

2. Courts have also rejected the Government's position on a classwide basis as well. In *Maldonado Bautista v. Santacruz*, the Central District of California granted partial summary judgment declaring that 8 U.S.C. § 1226(a)—not § 1225(b)(2)—governs detention for long-present interior arrestees placed directly into § 240 proceedings, and days later certified a nationwide Bond-Eligible Class and ordered access to § 236(a) bond hearings for class members. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (partial summary judgment); *id.* (Nov. 25, 2025) (class certification and injunctive relief). Despite the federal court order, DHS counsel and immigration judges at Stewart Immigration Court continue to follow *Yajure*.
3. Petitioner seeks a writ of habeas corpus directing Respondents to release Petitioner immediately. Alternatively, Petitioner seeks a writ of habeas corpus directing Respondents to provide Petitioner with a prompt, individualized bond hearing before a neutral adjudicator under § 1226(a) (within 7 days), at which the Government bears the burden to show by clear and convincing evidence that he is a danger or flight risk, or, in the alternative, an order for his immediate release under reasonable conditions. He also seeks an order prohibiting transfer outside this District during the pendency of these proceedings.

JURISDICTION

3. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

4. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

5. Additionally, this Court has authority to issue a declaratory judgement and to grant temporary, preliminary and permanent injunctive relief pursuant to Rules 57 and 65 of the Federal Rules of Civil Procedure (FRCP), as well as 28 U.S.C. §§ 2201-2202.

6. Habeas relief is available to challenge the fact, duration, and conditions of immigration detention, as well as the constitutionality of the procedures by which DHS seeks to effectuate removal, where a petitioner does not seek review of a final order of removal itself. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678 (2001).

7. Petitioner's claims challenge only his civil immigration detention and the procedures used to prolong it—not the merits of removability or any final order of removal—and therefore fall outside 8 U.S.C. § 1252(b)(9)'s channeling provision. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (detention challenges are not "questions of law or fact arising from" removal proceedings). Consistent with that framing, any injunctive relief sought here is strictly as-applied to Petitioner— for example, directing Petitioner's release under § 1226(a) or barring application of § 1225 as to Petitioner —and does not "enjoin or restrain the operation" of any statute within § 1252(f)(1)'s bar. In any event, § 1252(f)(1) permits individualized, as-applied relief for a single noncitizen, even while prohibiting class-wide injunctions. *See Garland v. Aleman Gonzalez*, 596 U.S. 543, 548–49 (2022).

8. Section 1252(f)(1) does not bar the individualized injunctive relief sought here. That provision limits lower courts' authority to "enjoin or restrain the operation" of the INA's detention and removal provisions on a class-wide or programmatic basis but expressly

preserves injunctive relief "with respect to the application of such provisions to an individual alien against whom proceedings under such part have been initiated." 8 U.S.C. § 1252(f)(1); Garland v. Aleman Gonzalez, 596 U.S. 543, 548–50 (2022). Petitioner seeks only as-applied relief tailored to Petitioner —e.g., directing Petitioner's release under § 1226(a) or precluding DHS from enforcing the "arriving alien" definition of § 1225 toward Petitioner. That relief neither halts the general operation of any INA provision nor provides class-wide relief and thus falls squarely within § 1252(f)(1)'s carve-out.

9. Section 1252(g) is likewise inapplicable. It is a "narrow" jurisdictional bar that applies only to three discrete decisions or actions: "to commence proceedings, adjudicate cases, or execute removal orders." *Reno v. Am.-Arab Anti- Discrimination Comm.*, 525 U.S. 471, 482 (1999). Petitioner does not challenge any such decision. Petitioner challenges ongoing civil detention and DHS's use of an unlawful interpretation to nullify the plain language of the INA and its regulations as applicable to these agencies. Such detention-related claims and challenges to custody procedures fall outside § 1252(g). See id. at 482–83; *cf. Jennings v. Rodriguez*, 138 S. Ct. 830, 840–41 (2018) (§ 1252(b)(9) does not channel detention claims).

VENUE

10. Habeas petitions generally are filed in the district court with jurisdiction over the filer's place of custody, also known as the district of confinement, pursuant to 28 U.S.C. § 2241.

11. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Folkston ICE Processing Center in Stewart, Georgia. **(See Exhibit A – ICE Detainee Locator).** Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500

(1973), venue lies in the United States District Court for the SOUTHERN DISTRICT of Georgia, the judicial district in which Petitioner currently is detained.

12. Additionally, with respect to Petitioner's non-habeas claims seeking prospective declaratory and injunctive relief against federal officials (agencies and officers of the United States) sued in their official capacities, venue is proper under 28 U.S.C. § 1391(e)(1)(B) because a substantial part of the events or omissions giving rise to these claims, including the initial arrest and continued detention of Petitioner and the enforcement of the mandatory detention agency interpretation, occurred in the Southern District of Georgia. Furthermore, the Respondents are officers of United States agencies, the Petitioner resides within this District, and there is no real property involved in this action.

REQUIREMENTS OF 28 U.S.C. § 2243

16 . The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

17 Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

18. Petitioner ELIAS ISRAEL MARTINEZ ZAMARRON is a 42-year-old citizen and national of Mexico who has resided in the United States since 1998, after entering the United States undetected. He is currently detained at the Folkston ICE Processing Center.

19. Respondent TONY NORMAND is employed by The GEO Group, Inc. as Warden of the Folkston ICE Processing Center, where Petitioner is detained. This Respondent is responsible for the operation of the Detention Center where Petitioner is detained and is the immediate custodian who is currently holding Petitioner in physical custody. Because ICE contracts with private and county-operated detention facilities to house immigration detainees, Respondent Warden of the Folkston ICE Processing Center has immediate physical custody of the Petitioner and is sued in his or her official capacity.

20. Respondent LaDeon Francis is the Atlanta Field Office Director (FOD) for ICE. As such, Respondent Francis is responsible for the oversight of ICE operations at the Folkston ICE Processing Center. Respondent Francis is being sued in his official capacity. He is the head of the ICE office that unlawfully arrested Petitioner, and such arrest took place under his direction and supervision. He is the immediate legal custodian of Petitioner.

21. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Lyons is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Lyons is being sued in his official capacity.

22. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Noem is the cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

23. Respondent Pamela Bondi is the Attorney General of the United States and is sued in her official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as her designees at the Executive Office for Immigration Review (EOIR).

24. Petitioner acknowledges that under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), the proper respondent to the habeas claim is the immediate custodian, and Petitioner does not rely on these officials as "habeas respondents." Petitioner names federal officials in their official capacities solely to ensure the Court can issue effective relief on non-habeas claims, consistent with *Rumsfeld v. Padilla*. To the extent the Court deems them improper Respondents on the habeas count, Petitioner respectfully requests that any dismissal be limited to that claim and without prejudice to their continued status as Respondents on the non-core claims, such as declaratory judgement and injunctive relief, so that effective, agency-directed relief can issue to the officials with authority to implement it.

EXHAUSTION OF REMEDIES

25. No statute imposes an exhaustion requirement for habeas petitions under 28 U.S.C. § 2241 in this context. Any prudential exhaustion is excused because Immigration Judges in the Stewart Immigration Court are bound by *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and have been declining bond jurisdiction for entrants without inspection, rendering any motion futile. The question presented is purely legal and urgent, and Petitioner faces ongoing deprivation of physical liberty absent judicial intervention. Futility is further underscored by *Maldonado Bautista v. Santacruz*, which has already required 8 U.S.C. § 1226(a) bond access for similarly situated interior arrestees nationwide, reinforcing that the

Government's § 1225(b)(2) position is unlawful and is currently being ignored by DHS counsel and immigration judges at Stewart Immigration Court. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20 & 25, 2025).

26. Petitioner is not required to exhaust his administrative remedies. Even if Petitioner were required to exhaust remedies, Petitioner was already awarded a bond but Respondents refused to honor the IJ's bond order. Accordingly, habeas relief is the only available and effective remedy to secure Petitioner's release or a lawful custody hearing.

STATEMENT OF FACTS

18. Mr. Martinez Zamarron is a citizen and national of Mexico born on December 8, 1982. Mr. Martinez Zmarron entered the United States undetected at an unknown place along the U.S. -Mexico border in 1998 and has continuously resided in the United States.
19. Mr. Martinez Zamarron resides in Atlanta, Georgia, where he works and raises his four U.S. Citizen children. All children are under the age of eighteen and rely on Mr. Martinez Zamarron for financial support and parental care.
20. On or about March 2024, Mr. Martinez Zamarron was arrested by the Gwinnett County Police Department on charges of battery. To date, these charges remain pending. Mr. Martinez Zamarron also has a Driving Without License conviction from 2014.
21. Mr. Martinez Zamarron was transferred to ICE custody on or about June 4, 2025.
22. On or about June 4, 2025, DHS placed DHS placed Petitioner in removal proceedings under 8 U.S.C. § 1228 (INA § 240) by filing a Notice to Appear (NTA) (dated and allegedly served on November 13, 2025) charging him as removable under 8 U.S.C. §

1182(a)(6)(A)(i) (INA § 212(a)(6)(A)(i)) and under 8 U.S.C. § 1182(a)(7)(A)(i)(I) (INA § 212(a)(7)(A)(i)(I)), as an applicant for admission. **(See Exhibit B – NTA).**

23. DHS has never processed Petitioner for § 235 admission or expedited removal under § 235(b)(1).

24. On August 18, 2025, the Immigration Judge ("IJ") granted a $10,000 bond for Mr. Martinez Zamarron, but the Department of Homeland Security ("DHS") appealed this bond to the Board of Immigration Appeals ("BIA") and continued to detain Mr. Martinez Zamarron. On November 6, 2025, the BIA sustained DHS' bond appeal and vacated the IJ's bond order, relying on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and finding that the IJ lacked jurisdiction to hear bond proceedings for Mr. Martinez Zamarron.

LEGAL FRAMEWORK

25. Section 236(a) of the INA, 8 U.S.C. § 1226(a), governs discretionary civil immigration detention for "any alien" arrested and detained pending a decision on removal, unless § 236(c) applies. It authorizes release on bond and gives Immigration Judges custody-redetermination authority by regulation. See 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a).

26. Section 235(b)(2) of the INA, 8 U.S.C. § 1225(b)(2), governs detention in the inspection context and the classes designated for expedited removal—settings that occur at or near the border and, by regulation, only for individuals described in published Federal Register notices. *See* 8 C.F.R. § 235.3(b)(1)–(2). Interior expedited removal is limited to certain encounters and, at most, to those who cannot show two years' continuous presence. 84 Fed. Reg. 35,409 (July 23, 2019). Individuals—like Petitioner—who were arrested in the interior long after entry and placed in § 240 proceedings are detained, if at all, under § 1226(a).

27. In *Aguirre Villa v. Normand* (S.D. Ga. Nov. 4, 2025), the court rejected the government's *Yajure* theory and held that § 1226(a) governs interior arrests charged into § 240, not § 1225(b)(2). The judge explained that "the expression 'alien seeking admission' plainly describes [an] individual taking some action, and, given the placement in the statute, that action would likely occur at the border upon inspection," so "an individual like Petitioner, who has resided inside the United States for some period of time, is not an 'alien seeking admission.'" *Id.* at *18-19. Reading § 1225 to cover long-settled EWIs would "render § 1226(a) essentially irrelevant." The judge noted "Respondents were unable to identify any category of individuals who would be subject to § 1226(a)", and that such a construction would also nullify Congress's 2025 Laken Riley Act amendments to § 1226(c). *Id.* at *23-25. The court found *Matter of Yajure Hurtado* "unpersuasive," aligned with the already large and still growing district-court consensus, and concluded the petitioner is entitled to discretionary bond under § 1226(a).

28. The same statutory reading has now been adopted in classwide relief. In *Maldonado Bautista v. Santacruz*, the court held that detention for interior arrests charged into § 240 is governed by § 1226(a) and not § 1225(b)(2), and it directed that class members be afforded individualized bond hearings before an immigration judge under § 236(a) on a prompt timeline. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (partial summary judgment); *id.* (Nov. 25, 2025) (class certification). That class relief confirms the statute's two-track structure: § 235 governs the inspection/expedited-removal track; § 236(a) governs detention during § 240 removal proceedings for long-present interior arrestees.

CLAIMS FOR RELIEF

COUNT I
Declaratory Judgment

29. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

30. Petitioner requests a declaration from this Court that Petitioner is not an applicant for admission "seeking admission" or "an arriving alien" subject to mandatory detention under 8 U.S.C. §§ 1225(b)(1) or (b)(2). Petitioner further requests a declaration that Petitioner's current detention by Respondents, if justified at all, is governed solely by 8 U.S.C. § 1226(a).

COUNT II

Statutory Violation of the Immigration and Nationality Act: No-Bond Detention in Violation of 8 U.S.C. § 1226(a) and Unlawful Detention Under Improper Statutory Classification (INA §§ 1225 vs. 1226)

31. Petitioner realleges and incorporates by reference all paragraphs above as if fully set forth here.

32. Since Petitioner is not an applicant for admission "seeking admission" or an "arriving alien" subject to 8 U.S.C. §§ 1225(b)(1) or (b)(2) and has no disqualifying criminal arrests or convictions subject to 8 U.S.C. § 1226(c), Petitioner is entitled to a bond redetermination hearing by an immigration judge pursuant to 8 U.S.C. § 1226(a).

33. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under §

1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231 (which is not the case with Petitioner).

34. Petitioner's continued detention under § 1225(b)(2) is unauthorized by statute, contrary to longstanding agency practice, and in violation of the INA and APA.

COUNT III
Violation of the Bond Regulations

35. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

36. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

37. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

38. The application of § 1225(b)(2) to Petitioner unlawfully mandates Petitioner's continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT IV
Procedural Due Process (U.S. Const. amend. V)

39. The allegations in the above paragraphs are realleged and incorporated herein.

40. Prolonged civil detention without a neutral bond hearing violates procedural due process. If Respondents' position categorically forecloses any IJ bond review for interior arrestees like Petitioner, it denies a meaningful opportunity to be heard and invites arbitrary confinement. At minimum, due process requires a prompt bond hearing at which the Government bears the burden to justify detention by clear and convincing evidence.

COUNT IV
Procedural Due Process (U.S. Const. amend. V)

41. The allegations in the above paragraphs are realleged and incorporated herein.

42. Civil detention must remain reasonably related to its purposes of ensuring appearance and protecting the community. Detaining Petitioner without any individualized assessment, solely on a categorical theory rejected by this Court days ago, bears no reasonable relation to any legitimate aim and is excessive in relation to its purposes.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

a. Assume jurisdiction over this matter under 28 U.S.C. §§ 2241 and 1331and the Suspension Clause;

b. Enjoin and prevent the Respondents from relocating the Petitioner to a different detention center during these proceedings.

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;

d. Declare that Petitioner is not an "applicant for admission "1225(b),

seeking admission" or an "arriving alien" and that Petitioner's detention is unlawful;

e. Declare that Respondents may properly detain Petitioner, if at all, only pursuant to 8 U.S.C. § 1226(a)

f. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner immediately or, in the alternative, within three (3) days provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a), where the government bears the burden to prove, by clear and convincing evidence, that Petitioner is a flight risk or a danger to the community;

g. Enjoin Respondents from re-detaining Petitioner in the future pursuant to 8 U.S.C. § 1225;

h. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

i. Grant any other and further relief that this Court deems just and proper.

Respectfully submitted this 3rd day of December, 2025.

____//Eszter 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 3rd day of December, 2025.

____//Eszter 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

CERTIFICATE OF COMPLIANCE

I hereby certify that the document to which this certificate is attached has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1 for documents prepared by computer.

Respectfully submitted this 3rd day of December, 2025

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