**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF GEORGIA**
**WAYCROSS DIVISION**

| | |
|---|---|
| Gabriel SALDIERNA-CRUZ,<br>A# [redacted]<br><br>Petitioner,<br><br>v.<br><br>Tony NORMAND, *in his official capacity as Warden of Folkston ICE Processing Center;* Ladeon FRANCIS, *Field Office Director ICE Atlanta Field Office;* Todd LYONS, *in his official capacity as Acting Director of Immigration and Customs Enforcement;* and Kristi NOEM, *Secretary of Homeland Security,*<br><br>Respondents. | Case No. CV 525-201<br><br>**PETITION FOR WRIT OF HABEAS CORPUS** |

## I. INTRODUCTION

1. Petitioner Gabriel SALDIERNO-CRUZ ("Petitioner" or "Mr. Saldierno-Cruz") is a noncitizen long-resident of the United States who is currently detained by the Department of Homeland Security ("DHS") at the Folkston Main ICE Processing Center in Folkston, Georgia ("Folkston"). He entered the United States without inspection years ago and was arrested in the interior; he is not and has never been placed in expedited-removal proceedings.

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").

3. DHS and the BIA assert that because Mr. Saldierno-Cruz 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). **(Exhibit A, Antonio Aguirre Villa v. Normand).**

4. 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*.

5. Petitioner seeks a writ of habeas corpus directing Respondents to provide him 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.

## II. VENUE AND JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. §§ 2241 and 1331 and Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause). Habeas relief is available to challenge the legality of civil immigration detention and to compel a bond hearing or release.

7. Venue lies in the Waycross Division because Petitioner is confined at the Folkston Main ICE Processing Center within this Division and Respondent Normand is his immediate custodian. *See* 28 U.S.C. §§ 2241(d), 1391(e).

## III. PARTIES

8. Petitioner Gabriel SALDIERNO-CRUZ is a 29-year-old Mexican national who resides in Johns Island, South Carolina. He is currently detained at Folkston.

9. Respondent Tony Normand is the Warden of Folkston. As such, Respondent is responsible for the operation of the detention center where Mr. Toro-Enamorado is detained. Because ICE contracts with private prisons such as Folkston to house immigration detainees such as the Petitioner Respondent Normand has immediate physical custody of the Petitioner.

10. Respondent Ladeon Francis is the Atlanta Field Office Director ("FOD") for ICE Enforcement and Removal Operations ("ERO"). As such, Respondent Sterling is responsible for the oversight of ICE operations at the Folkston. Respondent Francis is being sued in his official capacity.

11. 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. Respondent Lyons is being sued in his official capacity.

12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (hereinafter "DHS"). As Secretary of DHS, Secretary Noem is 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.

## IV. EXHAUSTION AND FUTILITY

13. 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 § 236(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).

## V. STATEMENT OF FACTS

14. Mr. Saldierno-Cruz is a Mexican national born on [redacted] He entered the United States without inspection in August 2014, when he was 18 years old, and has lived continuously in South Carolina for the past ten years. He resides in Johns Island, South Carolina.

15. Mr. Saldierno-Cruz has two minor United-States-citizen children and a United-States-Citizen wife. Mr. Saldierno-Cruz financially supports all his children.

16. On November 12, 2025, Mr. Saldierna-Cruz was pulled over for lane control. During the traffic stop, ICE appeared on the scene stating they were looking for his passenger. Mr. Saldierna-Cruz was taken into ICE custody and transferred to Dorchester County Holding Detention Center.

17. On or about November 13, 2025, ICE transported him to Folkston, where he remains confined.

18. On November 13, 2025, 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. **(Exhibit B, Notice to Appear).**

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

20. Petitioner has not requested a custody redetermination, because DHS and the BIA have taken the position that he is categorically ineligible for bond

because he is an "applicant for admission" under § 235(b)(2)(A). Requesting a custody redetermination would be futile. Upon information and belief, if an IJ hearing occurred, the IJ would invoke *Yajure* and ignore *Maldonado Bautista.*

## VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

21. 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).

22. 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).

23. 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).

24. 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.

## VII. CAUSES OF ACTION

### COUNT ONE

### STATUTORY CLAIM (Detention Governed by INA § 236(a))

25. Petitioner incorporates paragraphs 1 through 24 as if fully set out herein.

26. Section 235(b)(2)(A) does not govern Petitioner's detention because he was not encountered during inspection and is not within any class designated for expedited removal by published notice. Reading § 1225(b)(2)(A) to govern all never-admitted noncitizens regardless of when and where they were arrested would nullify Congress's express two-year limit on interior expedited removal and collapse the statute's two-track scheme. Under § 1226(a) and its implementing regulations, Petitioner is entitled to a prompt bond hearing before a neutral adjudicator.

**COUNT TWO**
**PROCEDURAL DUE PROCESS (U.S. Const. amend. V)**

27. Petitioner incorporates paragraphs 1 through 26 as if fully set out herein.

28. 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 THREE**
**SUBSTANTIVE DUE PROCESS (U.S. Const. amend. V)**

29. Petitioner incorporates paragraphs 1 through 28 as if fully set out herein.

30. 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:

1) Assume jurisdiction over this matter;
2) Issue a writ of habeas corpus directing Respondents to provide Petitioner a bond hearing under 8 U.S.C. § 1226(a) before an Immigration Judge within 7 days of the Court's order, with the Government bearing the burden to establish that Petitioner is a danger to the community or a flight risk, and to consider alternatives to detention (consistent with *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025));
3) Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of these proceedings;
4) Order Respondents to answer the petition within 3 business days; and
5) Grant such other relief as the Court deems just and proper.

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*

Jeremy L. McKinney
Jeremy L. McKinney
McKinney Immigration Law
910 N. Elm St. (POB 1800)
Greensboro, NC 27401 (27402)
Phone: 336-275-5885
Fax: 336-275-6045
jeremy@mckinneyimmigration.com
NC Bar # 23318
*Motion to Appear Pro Hac Vice Forthcoming*

**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
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*

Jeremy Layne McKinney
Jeremy Layne McKinney
McKinney Immigration Law
910 N. Elm St. (POB 1800)
Greensboro, NC 27401 (27402)
Phone: 336-275-5885
Fax: 336-275-6045
jeremy@mckinneyimmigration.com
NC Bar # 23318
*Motion to Appear Pro Hac Vice Forthcoming*

**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*