

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

CESAR ARCE PALMA,
Petitioner,

vs.

JASON STREEVAL in his official capacity as Warden of Stewart County Detention Center; MARCOS CHARLES, in his official capacity as the Acting Executive Director of Enforcement and Removal Operations for U.S. Immigration and Customs Enforcement; TODD LYONS, in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement; KRISTI NOEM, in her official capacity as U.S. Secretary of Homeland Security; PAMELA BONDI, in her official capacity as the U.S. Attorney General; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; and U.S. DEPARTMENT OF HOMELAND SECURITY;
Respondents.

Civil Action No.:

HEARING REQUESTED

PETITION FOR *WRIT OF HABEAS CORPUS* BY AN ALIEN DETAINEE

To the Honorable Judges of this Court:

Petitioner, Cesar Arce Palma, respectfully brings this Petition for *Writ of Habeas Corpus* seeking relief to remedy his unlawful detention.

I. FACTUAL BACKGROUND

1. Petitioner, a 55-year-old Nicaraguan national, entered the United States in December of 2003, and has resided continuously here since then.
2. U.S. Immigration and Customs Enforcement (ICE) arrested Petitioner on or about September 2, 2025, following an arrest for driving without a license, and transported him to the Stewart County Detention Center (SCDC) pending removal proceedings.
3. At the time of his arrest by ICE, Petitioner was not seeking lawful admission to the United States.
4. On September 5, 2025, the Board of Immigration Appeals (BIA) issued an unprecedented, precedential decision in Matter of Yahure Hurtado, 29 I&N Dec. 216 (BIA 2025), reclassifying all undocumented immigrants present in the United States as “applicants for admission” under 8 U.S.C. § 1225(b)(2), subjecting them to mandatory detention without bond hearings, thereby depriving Petitioner of being considered for release on bond.

5. On December 2, 2025, an Immigration Judge entered an Order finding that it lacked jurisdiction to consider Petitioner for bond based on Matter of Yahure Hurtado, despite a district court order extending declaratory judgment to all Bond Denial Class member, which includes individuals like Petitioner, who entered the United States without being apprehended. Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment). The Declaratory Judgment held that the Bond Denial Class members are detained under 8 USC § 1226(a) and may not be denied consideration for release on bond based on 8 USC § 1225(b).

6. Nonetheless, the Executive Office for Immigration Review, and its subagency the Immigration Court, and the Department of Homeland Security (DHS) have blatantly refused to abide by the declaratory relief and have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

7. Petitioner seeks to enforce his rights as a member of the bond denial class in Maldonado Bautista and an order declaring § 1225(b)(2) inapplicable to him and mandating a § 1226(a) bond hearing.

8. Due to irreparable harm to his 3-month long detention, he requests an order to show cause within three days under 28 U.S.C. § 2243 and reserves the right to seek a temporary restraining order under Fed. R. Civ. P. 65(b).

9. The Court should expeditiously grant this petition. Because Respondents are detaining Petitioner in violation of the declaratory judgment and in violation of law, the Court should accordingly order that Respondents release Petitioner within one day, or, alternatively, provide him with a bond hearing under 8 USC § 1226(a) within 3 days.

II. JURISDICTION AND VENUE

10. This action arises under the United States Constitution, the Immigration and Nationality Act of 1952 (INA), 8 U.S.C. § 1101 *et seq.*


11. This Court has jurisdiction to grant a *writ of habeas corpus* under 28 U.S.C. § 2241, Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), and the Fifth Amendment's Due Process Clause. The Court also has federal question jurisdiction under 28 U.S.C. § 1331, mandamus jurisdiction under 28 U.S.C. §

1361, and authority to issue declaratory and injunctive relief under 28 U.S.C. §§ 2201–2202 and the All Writs Act, 28 U.S.C. § 1651.

12. Petitioner challenges only the statutory applicability of § 1225(b)(2), not its implementation or regulations. Thus, 8 U.S.C. § 1252(e)(3), which limits review of such implementation to the District of Columbia, does not apply. J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 3-4.

13. Petitioner is detained at the Stewart Detention Center (SCDC) in Lumpkin, Georgia, which lies within the Middle District of Georgia, Columbus Division. Venue is therefore proper pursuant to 28 U.S.C. § 1391(b)–(e).

III. PARTIES

14. Petitioner, Cesar Arce Palma, is a Nicaraguan citizen currently detained by Respondents at the SCDC. His alien registration number is  He entered the United States in December of 2003 without being apprehended by Respondents.

15. Respondent Jason Streeval is the Warden of the Stewart County Detention Center and is being sued in his official capacity. He is responsible for the operations of the SCDC and has control over Petitioner as his immediate custodian.

16. Respondent Marcos Charles is the Acting Executive Associate Director of Enforcement and Removal Operations for Respondent ICE and is being sued in his official capacity. He is responsible for Respondent ICE's operations in the arrest, detention, and removal of aliens. He is a legal custodian of Petitioner.

17. Respondent Todd Lyons is the Acting Director of Respondent ICE and is being sued in his official capacity. He is responsible for the administration of ICE and the implementation and enforcement of immigration laws, including detention. He is a legal custodian of Petitioner.

18. Respondent Kristi Noem is the U.S. Secretary of Homeland Security and is responsible for the administration of DHS. She is being sued in her official capacity. She is a legal custodian of Petitioner.

19. Respondent Pamela Bondi is the U.S. Attorney General and is being sued in her official capacity.

20. U.S. Department of Immigration and Customs Enforcement (ICE) is a governmental agency of the United States, and part of Respondent DHS, charged with the enforcement of immigration laws. It is a legal custodian of Petitioner.

21. U.S. Department of Homeland Security (“DHS”) is a governmental agency of the United States charged, *inter alia*, with the adjudication of applications and petitions related to immigration and citizenship. It is a legal custodian of Petitioner.

IV. CLAIM FOR RELIEF – *WRIT OF HABEAS CORPUS*

22. The Constitution guarantees the right of *writ of habeas corpus* to every individual detained within the United States, including immigration-related detention. Zadvydas v. Davis, 533 U.S. 678, 687 (2001). A *writ of habeas corpus* must be granted if the person is in custody in violation of the Constitution or federal law. 28 U.S.C. § 2241(c)(3) as in here, where Petitioner is being detained based on an incorrect application of federal law and in violation of his due process rights.

23. The legal issues presented by this Petition have already been resolved by the declaratory judgment in Maldonado Bautista, *supra*, and by this Court in J.A.M. v. Streeval, 4:25-cv-00342-CDL-AGH (M.D. Ga. Nov. 1, 2025).

A. Count 1: Unlawful Detention Under 8 U.S.C. § 1225(b)(2)

24. Petitioner’s detention is in violation of law because she is being erroneously subject to mandatory detention as classified as an alien seeking admission under 8 U.S.C. § 1225(b)(2). That provision applies only to an alien seeking admission, 8

U.S.C. § 1225(b)(2)(A), not aliens like Petitioner, who have been present in the United States for several years and are not seeking entry. *See J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), slip op. at 7-10 (M.D. Ga. Nov. 1, 2025).

25. Two statutes primarily govern the detention of aliens in removal proceedings, 8 USC §§ 1225 and 1226. § 1225 addresses when mandatory detention applies, and it covers aliens who, *inter alia*, are “seeking admission” (emphasis added). In the other hand, § 1226 provides discretionary release for aliens who are neither a flight risk nor a danger to the community.

26. Since §§ 1225 and 1226 were enacted in 1996, Respondents have afforded the procedural safeguards of § 1226 to aliens who, like Petitioner, have been apprehended in the interior of the United States and has not classified them as aliens seeking admission.

27. In July of 2025, Respondents changed course abruptly and began alleging that all aliens who entered without being admitted or inspected are to be considered aliens seeking admission. On September 5, 2025, Respondents’ new position was made binding upon Immigration Judges with the issuance of Matter of Yahure Hurtado, 29 I&N Dec. 216 (BIA 2025).

28. This interpretation, which is contrary to decades of precedent, clear statutory text, regulations, and the government's own long-standing practice, has already been rejected by district courts nationwide, including this Honorable Court in J.A.M. v. Streeval, 4:25-cv-00342-CDL-AGH (M.D. Ga. Nov. 1, 2025) and the Court in Maldonado Bautista, which issued certified a national class and issued declaratory relief.

29. Despite being a Bond Denial Class member, the Immigration Judge still found that it had no jurisdiction over Petitioner's bond request.

30. Petitioner is not an alien seeking admission. Under 8 U.S.C. § 1226(a), Petitioner is entitled to a prompt, individualized bond hearing before an Immigration Judge at which the government bears the burden of proving that continued detention is necessary to serve a legitimate purpose such as preventing flight or protecting the community.

31. Petitioner thus merits immediate relief in the form of a bond hearing with the Executive Office of Immigration Review (Immigration Court).

32. By refusing to provide even the minimal safeguards Congress built into § 1226(a), Respondents have acted in a manner that is arbitrary, capricious, and

inconsistent with the basic promise of due process, that the government may not imprison a person first and ask questions later.

33. A *writ of habeas corpus* should issue requiring Respondents to provide Petitioner with a bond hearing in Immigration Court.

WHEREFORE, Petitioner prays this Honorable Court:

- (a) Assume jurisdiction over this matter;
- (b) Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action for *habeas corpus*;
- (c) Issue and order directing Respondents to show cause why a *writ* should not be granted;
- (d) Issue a *writ of habeas corpus* ordering Respondents to release Petitioner unless they provide a bond hearing under § 1226(a) within 5 days;
- (e) grant such other and further relief as this Court deems proper under the circumstances; and
- (f) grant reasonable attorney's fees and costs of Court to Petitioner under the Equal Access to Justice Act.

Respectfully submitted this December 5, 2025.

/s/ Giovanna Andrea Holden

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