

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA

Anner Gustavo GARCIA-BENITEZ,)

Petitioner,)

v.)

TONY NORMAND, *in his official capacity*)

Warden of Folkston Detention Center)

GEORGE STERLING, *Field Office Director ICE*)

Atlanta Field Office and TODD LYONS, *in his*)

official capacity as Acting Director of Immigration)

and Customs Enforcement and KRISTI NOEM)

Secretary of Homeland Security,)

Respondents.)

Case No. 5:25-cv-207

**PETITION FOR WRIT
OF HABEAS CORPUS**

A# 203 587 983

I. INTRODUCTION

1. Petitioner Anner Gustavo GARCIA-BENITEZ (“Petitioner” or “Mr. Garcia-Benitez”) is a noncitizen long-time resident of the United States who is currently detained by the Department of Homeland Security (“DHS”) at the Folkston D Ray ICE Processing Center in Folkston, Georgia. He entered the United States without inspection years ago and was arrested at the border; 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 C(a), with a right to a custody redetermination by an Immigration Judge (“IJ”).

3. DHS and the BIA assert that because Mr. Garcia-Benitez 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 hundreds of court decisions across the country have found this to be legal error. (**Exhibit A, *List of Cases rejecting the reasoning in Matter of Yajure Hurtado***).

4. 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

5. 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.

6. Venue lies in the Southeast Regional Office because Petitioner is confined at the Folkston D Ray ICE Processing Center within this Division and Respondent Streeval is his immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

7. Petitioner Alfonso Garcia-Benitez is a 37-year-old El Salvador national who resides in Charlotte, North Carolina. He is currently detained at the Folkston Detention Center Georgia.

8. Respondent Tony Normand is the Warden of Folkston Detention Center. As such, Respondent is responsible for the operation of the Detention Center where Mr. Garcia-Benitez is detained. Because ICE contracts with private prisons such as Folkston to house immigration detainees such as Mr. Garcia-Benitez, Respondent Normand has immediate physical custody of the Petitioner.

9. Respondent George Sterling 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 Detention Center. Respondent Sterling is being sued in his official capacity.

10. 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.

11. 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

12. 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 Atlanta and Stewart Immigration Courts 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.

V. STATEMENT OF FACTS

13. Mr. Garcia-Benitez is a Salvadoran national born on June 6, 1988. He entered the United States without inspection in April 2019, when he was thirty one years old, and has lived continuously in North Carolina for the past six years. He resides in Charlotte, North Carolina.

14. Mr. Garcia-Benitez has a pending asylum application and

employment authorization.

15. On April 20, 2019, DHS placed Petitioner in removal proceedings under 8 U.S.C. § 1228 (INA § 240) by issuing a Notice to Appear (NTA) (dated and allegedly served on the same date) charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i) (INA § 212(a)(6)(A)(i)). **(Exhibit B, Notice to Appear).**

16. On April 20, 2019, DHS released Petitioner on his own recognizance pursuant to INA section 236.

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

18. 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. If an IJ hearing occurred, the IJ would be bound to deny jurisdiction under *Yajure Hurtado*.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

19. 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).

20. The detainer process is a recognized mechanism for cooperation

between federal and local authorities in immigration enforcement, as outlined in 8 C.F.R. § 287.7. The situation where a subject is arrested by local law enforcement, ICE lodges a detainer, and local law enforcement subsequently transfers custody to ICE is consistent with the scope of Section 236 custody under immigration law.

21. 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).

22. Recently, multiple courts have rejected DHS’s “mandatory detention for anyone not ‘admitted’” theory, holding that § 1225(b)(2) is limited to “aliens seeking admission” and that § 1226(a) governs custody for noncitizens arrested inside the United States who are not actively seeking lawful admission. Reading §§ 1225 and 1226 together, § 1225(b)(2) is a narrow “catchall,” but “it only catches ‘aliens seeking admission,’” whereas § 1226(a) preserves discretionary custody with a bond hearing for those arrested here. They have further found *Yajure Hurtado* unpersuasive and emphasized that

Congress's text and canons of construction control. *See Exhibit A.* On this record the remedy should match: apply § 1226(a) and order a prompt bond hearing under the regulations.

VII. CAUSES OF ACTION
COUNT ONE
STATUTORY CLAIM (Detention Governed by INA § 236(a))

23. Petitioner incorporates paragraphs 1 through 22 as if fully set out herein.

24. 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)

25. Petitioner incorporates paragraphs 1 through 22 as if fully set out herein.

26. 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)

27. Petitioner incorporates paragraphs 1 through 22 as if fully set out herein.

28. 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;
- 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;

Grant such other relief as the Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this _4th day of December, 2025

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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.

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