

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

LUIS CARLOS ROMERO  
BAUTISTA,  
Petitioner,

vs.

WARDEN of Folkston D. Ray ICE  
Processing Center, in his official  
capacity; 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 his  
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;  
Defendants.

Civil Action No.:

**HEARING REQUESTED**

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

**To the Honorable Judges of this Court:**

Petitioner, Luis Carlos Romero Bautista, respectfully brings this Petition for *Writ of Habeas Corpus* seeking relief to remedy his unlawful detention.

### **I. FACTUAL BACKGROUND**

1. Petitioner, a 28-year-old Colombian national, entered the United States on February 12, 2023. He was released by the U.S. Customs and Border Patrol arm of Defendant DHS on his own recognizance and was pursuing relief from removal in Immigration Court. He is married to a United States citizen who is suffering significantly because of his unlawful detention.

2. Defendant U.S. Immigration and Customs Enforcement (ICE) arrested Petitioner on or about November 26, 2025, at a mandatory reporting appointment with Defendant ICE in Atlanta, Georgia. He was transported to Folkston D. Ray ICE Processing Center in Folkston, Georgia, where he remains detained.

3. At the time of his arrest by ICE, Petitioner was not applying for 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 who did not enter with a visa as “applicants for admission” under 8 U.S.C. §

1225(b)(2), subjecting them to mandatory detention without bond hearings, thereby depriving Petitioner of the ability to request a bond hearing. Several courts have rejected this interpretation, including this Court in

5. Petitioner seeks an order enforcing his rights as a member of the Bond Denial Class certified in Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at \*9 (C.D. Cal. Nov. 25, 2025), and/or an order declaring § 1225(b)(2) inapplicable to him and mandating a § 1226(a) bond hearing.

6. Defendants have refused to abide by the declaratory judgment issued on behalf of the certified class in Maldonado Bautista, which held that Bond Denial Class members are detained under § 1226(a) and may not be denied consideration for bond.

7. Due to irreparable harm to his U.S.-citizen spouse from prolonged separation, he requests the Court issue 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).

8. The Court should expeditiously grant this petition and order Petitioner to be released if a bond hearing under 8 U.S.C. § 1226(a) is not conducted within seven days.

## II. JURISDICTION AND VENUE


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

10. 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.

11. 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. Aguirre Villa v. Warden, 5:25-cv-00089-LGW-BWC, 4-7 (S.D. Ga. Nov. 4, 2025).

12. Petitioner is detained at the Folkston D. Ray ICE Processing Center in Folkston, Georgia, which lies within the Southern District of Georgia, Waycross Division. Venue is therefore proper pursuant to 28 U.S.C. § 1391(b)–(e).

### III. PARTIES

13. Petitioner, Luis Carlos Romero Bautista, is a Colombian citizen currently detained by Defendants at the Folkston D. Ray ICE Processing Center. His alien registration number is  He has resided in the United States since 2023 and is married to a US citizen. He has not committed any crimes or failed with any of his requirements with his immigration process.

14. Defendant Warden of the Folkston D. Ray ICE Processing Center is being sued in his official capacity. He is responsible for the operations of the detention center and has control over Petitioner as his immediate custodian.

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

16. Defendant Todd Lyons is the Acting Director of Defendant 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.

17. Defendant 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.

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

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

20. 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***

21. 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.

22. The legal issues presented by this Petition have already been resolved by the declaratory judgment in Maldonado Bautista, *supra*, and by this Court in Villa Aguirre v. Warden, 5:25-cv-00089-LGW-BWC (S.D. Ga. Nov. 4, 2025).

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

23. Petitioner's detention is in violation of law because he is being erroneously classified as an alien seeking admission under 8 U.S.C. § 1225(b)(2), and there by being subjected to mandatory detention. The provision applies only to an alien seeking admission, 8 U.S.C. § 1225(b)(2)(A), not to aliens like Petitioner who are already present in the United States and are not seeking entry or admission at the time of their arrest.

24. Since Petitioner is not an applicant for admission, the correct statute that governs his detention is 8 U.S.C. § 1226, which provides release for aliens who are neither a flight risk nor a danger to the community.

25. The interpretation that 8 U.S.C. § 1226, and not § 1225, applies to individuals who are apprehended inside the United States has been generally

accepted until July of 2025, when Defendants 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, Defendants' new position was made binding upon Immigration Judges with the issuance of Matter of Yahure Hurtado, 29 I&N Dec. 216 (BIA 2025).

26. 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 Villa Aguirre v. Warden, *supra*.

27. Since Petitioner is not an applicant for admission, under 8 U.S.C. § 1226(a), he 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.

28. Petitioner merits immediate relief in the form of a bond hearing with the Executive Office of Immigration Review (Immigration Court) or release from custody.

29. By refusing to provide even the minimal safeguards Congress built into § 1226(a), and by refusing to follow the declaratory judgment in Maldonado Bautista, *supra*, Defendants 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.

30. A *writ of habeas corpus* should issue requiring Defendants to provide Petitioner with a bond hearing in Immigration Court within 7 days or release him.

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 Defendants to show cause why a *writ* should not be granted;
- (d) Issue a *writ of habeas corpus* ordering Defendants to provide Petitioner with a bond hearing pursuant to § 1226(a) within 7 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 10, 2025.

/s/ Giovanna Andrea Holden  
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