

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

ELIEZER ANDRES ROBLES FIGUEROA,)

Petitioner,)

v.)

WARDEN of Stewart Detention Center;)
KRISTIN SULLIVAN, Acting Director,)
Immigration and Customs Enforcement)
and Removal Operations (“ICE/ERO”))
Field Office, Atlanta;)
KRISTI NOEM, Secretary of the)
Department of Homeland Security (“DHS”);)
and PAMELA BONDI, Attorney General)
of the United States,)
in their official capacities,)

Respondents.)
_____)

Case No. 4:25-cv-470

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Eliezer Andres Robles Figueroa has been residing in the United States since November 1, 2021, and was apprehended by immigration authorities on July 8, 2025, in a widescale immigration enforcement action.

2. He is currently detained at the Stewart Detention Center, located at 146 CCA Road, Lumpkin, GA 31815, and is the subject of a pending removal proceeding.
3. Petitioner is charged as removable under § 212(a)(6)(A)(i) of the Immigration and Nationality Act (“INA”), which states: “[Y]ou are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.” INA § 212(a)(6)(A)(i); 8 U.S.C. § 1182(a)(6)(A)(i). (*See Ex. A, Notice to Appear.*)
4. Petitioner was denied release by the Respondents and sought a bond redetermination hearing before an immigration judge (“IJ”). (*See Ex. B, First Motion for Bond.*)
5. On November 25, 2025, the IJ presiding over the Stewart Immigration Court, issued an order denying Petitioner’s request for change in custody status, concluding that Petitioner is not eligible for release on bond pursuant to *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). (*See Ex. C, IJ Order Denying Bond.*) The IJ ruled this way despite the fact that Respondents previously released Petitioner from custody under INA § 236 and subsequently detained him under the same statutory authority.

6. On November 26, 2025, Petitioner filed a Motion for a new bond hearing, pursuant to *Maldonado Bautista*.¹ (See Ex. D, Second Motion for Bond).
7. The Immigration Judge again denied Petitioner's motion on December 2, 2025. (See Ex. E, Second IJ Order Denying Bond). In her denial, the judge noted that there was "no material change in circumstances" and that the Court still lacked jurisdiction under *Matter of Yajure Hurtado*. See *id.*
8. Section 1225(b)(2)(A) states that an applicant for admission seeking admission shall be detained for a removal proceeding. It is the position of the Executive Office for Immigration Review ("EOIR"), which houses both the BIA and immigration judges, that 8 U.S.C. § 1225(b)(2)(A) applies to all individuals who arrived in the United States without documents, regardless of how long they have lived in the United States and regardless of how far they were apprehended from the border.

¹ On November 25, 2025, the U.S. District Court for Central District of California issued an order certifying a nationwide class consisting of noncitizens who have entered the United States without inspection and who were not apprehended upon arrival and who are not otherwise subject to detention under INA §§ 236(c), 235(b)(1), or 241. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.) (Order Granting Plaintiff-Petitioners' Motion for Class Certification).

On November 20, 2025, the Court issued an order granting declaratory relief concluding that the detention of class members is governed by INA § 236(a) and that class members are not subject to mandatory detention pursuant to INA § 235(b)(2). *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 20, 2025 C.D. Cal.) (Order Granting Petitioners' Motion for Partial Summary Judgement). *Maldonado Bautista* rejected the Board's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

9. However, § 1225(b)(2)(A) does not apply to individuals, like Petitioner, who are present in the United States. Instead, such individuals are subject to detention under a different statute, § 1226(a), and eligible for release on bond.
10. Nevertheless, earlier in July 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without documents.
11. EOIR has already applied this reasoning in a May 22, 2025 BIA decision, finding that a noncitizen who had been residing in the United States for almost ten years and had entered into the United States without documents was ineligible for bond.
12. Further, despite this Court's recent rulings in *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-343-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025), rejecting the Respondents' position, Respondents continue to maintain that noncitizens who entered the United States without inspection are not eligible for bond redetermination hearings, because they are applicants for admission within the meaning of 8 U.S.C. § 1225(b)(2)(A).
13. This reading is a violation of the statute and due process.

14. As such, Petitioner seeks an order of declaratory and injunctive relief and set aside relief under the Administrative Procedure Act requiring that he be provided a bond redetermination hearing before the immigration judge.
15. Alternatively, Petitioner seeks immediate release from detention to remedy his initial illegal detention.

JURISDICTION AND VENUE

16. This action arises under the Constitution of the United States and the INA, 8 U.S.C. § 1101 *et seq.*
17. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
18. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
19. “A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, may, . . . be brought in any judicial district in which a defendant in the action resides . . . *See* 28 U.S.C. § 1391(e).

20. The Supreme Court articulated in *Rumsfeld v. Padilla* the standard for determining if a court has jurisdiction to consider a habeas corpus petition, which breaks down into two subquestions— (1) who is the proper respondent to the petition, and (2) does the Court have jurisdiction over that respondent. *Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004).
21. Under *Padilla*, the “immediate custodian” of the detained petitioner is the proper respondent in such habeas actions, which is typically the warden of the facility in which the petitioner is being housed. *See id.* at 443 (“The plain language of the habeas statute thus confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement.”)
22. Here, under *Padilla*, the immediate custodian of the Petitioner, and thus the proper Respondent, is the Warden of the Stewart Detention Center in Lumpkin, Georgia. *See id.* Because this Court has jurisdiction over actions arising in Lumpkin, the venue is proper in this case.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

23. Petitioner has exhausted his administrative remedies to the extent required by law. There is no statutory exhaustion requirement in 28 U.S.C. § 2241. However, “that does not mean that courts may disregard a failure to exhaust

and grant relief on the merits if the respondent properly asserts the defense.” *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015). “To properly exhaust administrative remedies, a petitioner must comply with an agency’s deadlines and procedural rules.” *Straughter v. Warden, FCC Coleman - Low*, 699 F. Supp. 3d 1304, 1306 (M.D. Fla. 2023) (citing *Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006) (discussing the Prison Litigation Reform Act’s (PLRA) exhaustion requirement)). It is the Respondent’s burden to prove that the Petitioner has “failed to exhaust all available administrative remedies.” *Id.* at 1307.

24. However, in detention cases such as the Petitioner’s, appeals to the Board of Immigration Appeals (“BIA”) take several months or years. Thus, here, requiring the Petitioner to appeal his bond denial to the BIA to prudentially exhaust is not efficient, would cause irreparable harm by continuing to deprive him of his liberty, and would be futile so long as *Matter of Hurtado* remains in effect. See *McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992) *superseded by statute on other grounds as stated in Booth v. Churner*, 532 U.S. 731 (2001) (noting that traditional exceptions include where exhaustion would cause “undue prejudice to subsequent assertion of a court action” or “irreparable harm” to the petitioner, where there is “some doubt as to whether the agency was empowered to grant effective relief,” or where it

would be futile because “the administrative body is shown to be biased or has otherwise predetermined the issue before it”) (internal quotation marks omitted).

25. Additionally, the BIA cannot adjudicate constitutional issues, as it lacks the authority to rule that Respondents’ actions violate the Constitution. Instead, constitutional claims are a matter for federal courts.

REQUIREMENTS OF 28 U.S.C. § 2243

26. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (“OSC”) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

27. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, 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).

PARTIES

28. Petitioner is a noncitizen who is currently detained at the Stewart Detention Center. He is in the custody, and under the direct control, of Respondents and their agents.
29. Respondent Warden of the Stewart Detention Center is sued in their official capacity. Respondent Warden is the immediate custodian of the Petitioner.
30. Respondent Kristin Sullivan is sued in her official capacity as the Acting Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations, Atlanta Field Office. Respondent Sullivan is a legal custodian of Petitioner and has authority to release him.
31. Respondent Kristi Noem is sued in her official capacity as the Secretary of the DHS. In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention. Respondent Noem is a legal custodian of Petitioner.
32. Respondent Pam Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice ("DOJ"). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review

(“EOIR”), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

33. Petitioner is a 28-year-old citizen of Venezuela. He entered the United States on November 1, 2021, at or near La Joya, Texas. (*See* Ex. A, Notice to Appear).
34. Following his entry, Respondents issued Petitioner a Form I-286, Notice of Custody Determination, pursuant to § 236 of the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1226. (*See* Ex. F, Form I-286). The Department of Homeland Security (“DHS”) released Petitioner from custody on his own recognizance and issued him with a Form I-220A, Order of Release on Recognizance. (*See* Ex. G, Form I-220A).
35. The Form I-220A states, in relevant part: “You have been arrested and placed in removal proceedings. In accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance” *See id.*

36. Petitioner filed a Form I-589, Application for Asylum and for Withholding of Removal with U.S. Citizenship and Immigration Services (“USCIS”) on August 14, 2022. (*See* Ex. H, Form I-589 Receipt Notice).
37. On February 25, 2023, the DHS created Petitioner’s NTA, and docketed it with the Executive Office for Immigration Review (“EOIR”) on April 4, 2023. (*See* Ex. A, Notice to Appear). The DHS charged Petitioner as removable under § 212(a)(6)(A)(i) of the Immigration and Nationality Act (“INA”), which states: “[Y]ou are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General.” INA § 212(a)(6)(A)(i); 8 U.S.C. § 1182(a)(6)(A)(i). (*See* Ex. A, Notice to Appear.) DHS failed to serve the NTA on the Petitioner.
38. On July 7, 2023, Petitioner filed Form I-589, Application for Asylum and for Withholding of Removal, with EOIR, asserting claims based on his actual and imputed political opinion. (*See* Ex. I, Defensive Form I-589 Application to EOIR).
39. On August 12, 2023, Petitioner was arrested in North Carolina for Driving While Impaired (“DWI”). (*See* Ex. J, Respondent’s Notice of Intent to Offer Evidence in Support of Bond and Custody Redetermination, at 65). The offense was classified as a Level 5 DWI, the lowest level under North

Carolina law, as no aggravating factors were present. Petitioner pled guilty, and the case was disposed of on March 25, 2024. (*See id.*). As part of his sentence, Petitioner was required to complete community service, surrender his driver's license, and submit to an assessment and any recommended treatment, all of which Petitioner successfully completed. (*See id.*) The court expressly found as a mitigating factor that, after being charged, Petitioner voluntarily submitted himself for assessment at a mental health facility and voluntarily participated in any recommended treatment. (*See id.* at 65(f)).

40. On information and belief, Petitioner regularly complied with and appeared for all ICE check-ins.

41. On July 8, 2025, ICE issued interim guidance regarding detention authority for applicants for admission. (*See Ex. K, July 8, 2025 ICE Interim Guidance Memorandum*). The Memorandum states as follows:

Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286.

42. On or about October 7, 2025, U.S. Immigration and Customs Enforcement (“ICE”) detained Petitioner. Petitioner had appeared for a routine check-in with the Intensive Supervision Appearance Program (“ISAP”), including compliance with electronic monitoring requirements. After completing the appointment and departing the facility, ICE contacted Petitioner that same day and instructed him to return. Petitioner voluntarily complied and returned to the ISAP office. ICE immediately took him into custody.

43. Petitioner is currently detained at Stewart Detention Center, located at 146 CCA Road, Lumpkin, GA 31815.

44. On November 20, 2025, Petitioner filed a Motion for Bond and Custody Redetermination with EOIR, and a few days later filed a plethora of evidence in support. (*See* Ex. J, Respondent’s Notice of Intent to Offer Evidence in Support of Bond and Custody Redetermination.) Such evidence included: (1) Form I-286, Notice of Custody Determination, issued pursuant to INA § 236; (2) Form I-220A, Order of Release on Recognizance, issued pursuant to INA § 236; (3) a bond sponsor statement with accompanying proof of lawful status and the bond sponsor’s 2023 and 2024 federal income tax returns; (4) Petitioner’s Social Security card, Employment Authorization Document (“EAD”), 2024 federal income tax return, and Wake Tech Workforce Continuing Education Auto Dealers Pre-License Certificate; (5)

Petitioner's previously filed Form I-589, Application for Asylum, Withholding of Removal, and protection under CAT; (6) documentation relating to Petitioner's resolved North Carolina criminal case; and (7) four letters attesting to Petitioner's good moral character. (*See id.*).

45. On November 25, 2025, Immigration Judge Bianca Brown, presiding over the Stewart Immigration Court, issued an order denying Petitioner's request for change in custody status, concluding that Petitioner was not eligible for release on bond pursuant to *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), despite the fact that the DHS had previously released Petitioner from custody under INA § 236 and subsequently detained him under the same statutory authority. (*See Ex. C, IJ Order Denying Bond*).

46. On November 25, 2025, the U.S. District Court for Central District of California issued an order certifying a nationwide class consisting of noncitizens who have entered the United States without inspection and who were not apprehended upon arrival and who are not otherwise subject to detention under INA §§ 236(c), 235(b)(1), or 241. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.) (Order Granting Plaintiff-Petitioners' Motion for Class Certification).

47. On November 20, 2025, the Court issued an order granting declaratory relief concluding that the detention of class members is governed by INA §

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236(a) and that class members are not subject to mandatory detention pursuant to INA § 235(b)(2). *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 20, 2025 C.D. Cal.) (Order Granting Petitioners' Motion for Partial Summary Judgment). *Maldonado Bautista* rejected the Board's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

48. On November 26, 2025, Petitioner filed a Motion for a new bond hearing, pursuant to *Maldonado Bautista*. (See Ex. D, Second Motion for Bond). Petitioner argued that he was a member of the class as he is alleged to have entered the United States without inspection in the Notice to Appear and was not otherwise subject to mandatory detention. He asserted he was therefore eligible for bond under INA § 236(a) and requested that a bond hearing be scheduled.

49. The Immigration Judge again denied Petitioner's motion on December 2, 2025. (See Ex. E, Second IJ Order Denying Bond). In her denial, the judge noted that there was "no material change in circumstances" and that the Court still lacked jurisdiction under *Matter of Yajure Hurtado*. See *id.*

50. This Action follows.

LEGAL FRAMEWORK

51. U.S.C. § 2241(c)(3) authorizes federal courts to grant habeas relief to prisoners or detainees who are “in custody in violation of the Constitution or laws or treaties of the United States.” Federal courts retain jurisdiction under § 2241 to review purely legal statutory and constitutional claims regarding the government's detention authority, but jurisdiction does not extend to “discretionary judgment,” “action,” or “decision” by the Attorney General with respect to either detention or removal. *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) (citing, *inter alia*, *Demore v. Kim*, 538 U.S. 510, 516-17 (2003)).

52. Petitioner asserts that (1) his Fifth Amendment right to due process of law was violated when the Respondents subjected him to mandatory detention with no individualized hearing despite his prior detention under 8 U.S.C. § 1226(a) and years living in the interior of the country; (2) the Respondents' actions violated both the INA and the APA when they detained him under 8 U.S.C. § 1225(b)(2)(A), rather than 8 U.S.C. § 1226(a); and (3) the Respondents' actions in denying Petitioner an individualized bond hearing violated the nationwide injunction in *Maldonado Bautista*.

1. Due Process

53. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding his detention. As the Supreme Court has explained, “[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint— lies at the heart of the liberty” that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

54. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. *See id.* § 1226(c).

55. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose immigration cases are completed, *id.* § 1231(a)(6). *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-13 (W.D. Wash. 2019) (providing overview of INA’s detention authorities).

56. To guarantee against arbitrary detention and to guarantee the right to liberty, due process requires “adequate procedural protections” that ensure the

government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

57. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. 510, 522, 528 (2003). The government may not detain a noncitizen based on any other justification.

58. To justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

59. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

60. First, incarceration deprives noncitizens of a "profound" liberty interest—one that always requires some form of procedural protections. *Diouf*, 634 F.3d at 1091- 92; *see also Foucha*, 504 U.S. at 80 ("It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." (citation omitted)).

61. Second, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982) (requiring clear and convincing evidence at parental termination proceedings because “numerous factors combine to magnify the risk of erroneous factfinding” including that “parents subject to termination proceedings are often poor, uneducated, or members of minority groups” and “[t]he State’s attorney usually will be expert on the issues contested”). Moreover, Respondents detain noncitizens in prison-like conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.

62. Third, placing the burden on the government imposes minimal cost or inconvenience, as the government has access to the noncitizen’s immigration records and other information that it can use to make its case for continued detention.

63. In light of these considerations, “[t]he overwhelming majority of courts to consider the question . . . have concluded that imposing a clear and convincing standard would be most consistent with due process.” *Martinez v. Decker*, No. 18-CV-6527 (JMF), 2018 WL 5023946, at *5 (S.D.N.Y. Oct. 17, 2018) (internal quotation marks omitted).

64. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP “resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings”). It follows that alternatives to detention must be considered in determining whether further incarceration is warranted.

65. Immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: “the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez-Alvarez v. U.S. Att’y Gen.*, 783 F.3d 478 (3d Cir. 2015); *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199,

1218, 1221 (11th Cir. 2016). “And in some cases[,] the conditions of their confinement are inappropriately poor.” *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

66. These conditions and obstacles only further underscore the serious due process concerns that immigration detention poses for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding further detention.

2. *INA*

67. The Petitioner is not properly detained under 8 U.S.C. § 1225(b)(2)(A), as Respondents assert, but under 8 U.S.C. § 1226(a). Pursuant to 8 U.S.C. § 1225(b)(2)(A):

in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title [i.e., removal proceedings].

68. Petitioner maintains that he is detained under 8 U.S.C. § 1226(a), which provides that:

On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) [mandating the detention of certain criminal aliens] and pending such decision, the Attorney General -

(1) may continue to detain the arrested alien; and

(2) may release the alien on -

(A) bond of at least \$1,500 with security approved by, and containing conditions described by, the Attorney General;

or (B) conditional parole; but

(3) may not provide the alien with work authorization ... unless the alien is lawfully admitted for permanent residence or otherwise would ... be provided such authorization.

69. “Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose.” *Park 'N Fly, Inc. v. Dollar Park & Fly, Inc.*, 469 U.S. 189, 194 (1985). Thus, the Court's “first step in interpreting a statute is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the

case.” *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). “The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole.” *Id.* (citing, *inter alia*, *Estate of Cowart v. Nicklos Drilling Co.*, 505 U.S. 469, 477 (1992)).

70. Notably, the issue presented in this action is nearly identical to those this Court has recently decided, finding that those petitioners’ detention was governed by 8 U.S.C. § 1226(a). *See J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-343-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

3. *Maldonado Bautista Injunction*

71. Under *Maldonado Bautista v. Santacruz*, the district court’s injunction extends to noncitizens who entered the United States without inspection but were not apprehended upon arrival—a class that the court defined to include individuals like the Petitioner whose initial border encounter did not result in enduring custody and who were later re-arrested in the interior. *See Bautista v. Santacruz*, --- F.Supp.3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025); *Bautista v. Santacruz*, --- F.R.D. ----, 2025 WL 3289861, at *9 (C.D. Cal. Nov. 25, 2025).

72. In granting partial summary judgment and defining the class, the district court adopted a class definition that turns on the *circumstance of apprehension at arrival*, not the original physical entry alone. The certified Bond Eligible Class includes “[a]ll noncitizens in the United States without lawful status who (1) have entered ... without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not ... subject to detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time ... DHS makes an initial custody determination.” *Bautista v. Santacruz*, --- F.R.D. ----, 2025 WL 3289861, at *9 (C.D. Cal. Nov. 25, 2025). This class definition encompasses two groups: (i) those who entered without inspection and were later detained after residing in the United States for some time, and (ii) those who were apprehended upon arrival, released on recognizance, and then later re-detained after living in the United States.

73. This language used by the court shows that the court’s inquiry into whether an individual was “apprehended upon arrival” looks to the actual circumstances of apprehension in relation to entry (i.e., whether the person was taken into custody at or near the border and in close temporal proximity to entry) and not simply to the fact of having been arrested at some point in the past. By recognizing that individuals released after an initial apprehension and subsequently re-detained in the interior qualify as class

members, *Bautista* supports looking to the most recent relevant detention context to determine whether the apprehension was “upon arrival.”

74. Petitioner is thus a member of the Bond Eligible Class under *Bautista*, as he:

- a. does not have lawful status in the United States and is currently detained at the Stewart Detention Center;
- b. was initially apprehended at or near the border and close in time to his entry in 2021, then immediately released on recognizance; and
- c. was then re-detained on October 7, 2025, by immigration authorities after residing in the United States for years.

75. Thus, by virtue of the final declaratory judgment issued in that case, Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a).

CLAIMS FOR RELIEF

COUNT ONE

Respondents Violated Petitioner’s Fifth Amendment Right to Due Process

Procedural Due Process

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

77. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty,

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or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

78. Due process requires that government action be rational and non-arbitrary.

See U.S. v. Trimble, 487 F.3d 752, 757 (9th Cir. 2007).

79. Here, Petitioner is entitled to due process protections under the Fifth Amendment of the U.S. Constitution. Respondents’ refusal to provide Petitioner with an individualized bond hearing—and the IJ’s reliance on *Matter of Yauri Hurtado* to conclude that no jurisdiction exists—violated Petitioner’s rights under the Due Process Clause.

80. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly favors Petitioner. His interest in liberty and family unity is paramount; the Government’s blanket detention policy under *Yajure Hurtado* creates an extreme risk of erroneous deprivation by denying him any opportunity to demonstrate eligibility for release; and the Government’s interest in ensuring appearance can be served by far less restrictive means. Notably, Petitioner was actively in an ISAP program, under which he was in full compliance, when ICE arrested him without explanation. Accordingly, due process requires he be afforded an individualized bond hearing under § 1226(a).

81. The Respondents have shown neither that the continued detention of petitioner following his initial detention is reasonably related to the original purpose nor that the *Mathews* tests are satisfied. And importantly, no procedural safeguards were provided to the Petitioner as the IJ found he had no right to a bond hearing under *Matter of Hurtado*.

82. Petitioner is a years-long resident of the United States arrested in the interior, yet DHS asserts mandatory detention under INA § 235 without initiating expedited removal or processing him as an actual applicant for admission. The government's reclassification of Petitioner as an "applicant for admission," without statutory basis and without meaningful opportunity to contest that designation, deprives him of liberty without due process. Civil detention without an individualized determination of danger or flight risk is unconstitutional. *See Zadvydas*, 533 U.S. 678; *Demore*, 538 U.S. 510 (as limited by subsequent authority); U.S. Const. amend. V.

COUNT TWO

Statutory Violation: Petitioner is Detained Under INA § 236, Not § 235

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

84. Here, the Petitioner is clearly not an “applicant for admission. His NTA charged him as an “alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General,” and thus, he should be treated by law as someone who had already entered the U.S. Accordingly, his detention is governed exclusively by INA § 236(a). This is further evidenced by the fact that Petitioner’s initial detention and release was “[i]n accordance with section 236 of the Immigration and Nationality Act.” (*See* Ex. G, Form I-220A, Order of Release on Recognizance).
85. Respondents did not process the Petitioner as an arriving alien, did not initiate expedited removal, and did not issue or reinstate a removal order. The IJ’s reliance on *Hurtado* was thus contrary to the statutory framework, which mandates bond jurisdiction in § 236(a) cases.
86. Further, contrary to the language of § 1225(b), § 1226(a) does not specify a class or classes of aliens who should be detained under the provision, but governs more generally the “apprehension and detention of aliens.” As opposed to the inspection regime for aliens entering the United States set forth in § 1225, the Supreme Court has characterized § 1226(a) as “authoriz[ing] the government to detain certain aliens already in the country

pending the outcome of removal proceedings[.]” *Jennings*, 583 U.S. at 289 (emphasis added).

87. Petitioner was detained the same day that he appeared for a routine check-in with the ISAP, for which he was in full compliance. He had been living in the interior of the U.S. since 2021.

88. Because Respondents did not issue, reinstate, or execute any expedited removal order, detention is governed by 8 U.S.C. § 1226(a). The IJ’s refusal to exercise bond jurisdiction contradicts the plain text of §§ 1225 and 1226, longstanding agency practice, and federal case law holding that DHS’s charging decision determines the statutory detention authority. By treating Petitioner as subject to § 1225(b) detention without statutory authorization, Respondents acted *ultra vires* and contrary to law.

89. Noncitizens processed under § 236 retain a statutory right to a bond hearing, and DHS may not defeat that right through post-hoc jurisdictional assertions. The IJ’s conclusion that *Hurtado* removes all bond jurisdiction whenever DHS claims § 235 authority grants the agency unfettered power to eliminate bond hearings for any noncitizen arrested in the interior, simply by re-labeling them as an “applicant for admission” without following statutory procedures for expedited removal. Such a reading raises grave Due Process concerns and cannot reflect congressional intent.

90. Because Petitioner is detained under § 236(a), he is entitled to an individualized custody hearing, and the IJ's refusal to consider bond violated the INA.
91. Thus, Petitioner was entitled to a bond hearing "at the outset of detention" as established by existing federal regulations. *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)).
92. This Court came to the same conclusion in recent habeas decisions regarding the applicability of INA § 236 and § 235 to detained immigrants who had lived in the interior of the country for years before being arrested. *See J.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *P.R.S. v. Streeval*, No. 4:25-cv-343-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025). Petitioner is therefore entitled to an immediate bond hearing.

COUNT THREE

Respondents Violated of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Not in Accordance with Law and in Excess of Statutory Authority Unlawful Detention

93. Petitioner restates and realleges all paragraphs as if fully set forth here.

94. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).
95. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).
96. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).
97. Here, by detaining the Petitioner without any consideration of his individualized facts and circumstances, particularly where he was already in full compliance with his ISAP, Respondents have violated the APA.
98. Respondents have made no finding that Petitioner is a danger to the community.
99. Respondents have made no finding that Petitioner is a flight risk.

100. The IJ's refusal to conduct a bond hearing based on *Matter of Yauri Hurtado* constitutes final agency action that is contrary to statutory text, unsupported by facts, and irrational. Petitioner is a years-long U.S. resident apprehended after an ISAP check-in, with no prior removal order. Applying *Hurtado* to Petitioner's facts is arbitrary, capricious, and legally erroneous. The resulting deprivation of bond eligibility is therefore unlawful under the APA.

COUNT FOUR

Respondents Violated Federal Judgment

Petitioner is a Valid Class Member under Maldonado Bautista

101. Petitioner restates and realleges all paragraphs as if fully set forth here.
102. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his entitlement to consideration for release on bond as a Bond Eligible Class member.

103. As discussed above, this Court should look to the Petitioner's most recent arrest to determine whether he was apprehended "upon arrival." *See Maldonado Bautista*, 2025 WL 3289861, at *9-11. The *Maldonado Bautista* court's reasoning and language indicate that the relevant inquiry for determining class membership should be a person's most recent arrest. *See id.* at *9-11.

104. Petitioner was initially apprehended at or near the border and close in time to his initial entry to the U.S., then was immediately released on recognizance. (*See* Ex. G, Form I-220A). He was re-arrested years later after living in the interior. Thus, he is a Bond Eligible Class Member.

105. Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

106. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista*, the Court should accordingly order that Respondents must immediately provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a).

107. Alternatively, the Court should order Petitioner's immediate release.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

1. Assume jurisdiction over this matter;
2. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment;
3. Declare that the Petitioner's detention violates the INA;
4. Declare that the Petitioner's detention violates the APA;
5. Declare that Petitioner is entitled to a bond hearing under *Maldonado Bautista*;
6. Issue a Writ of Habeas Corpus ordering Respondents to conduct a bond hearing immediately, or in the alternative, immediately release Petitioner from custody;
7. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
8. Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Brittany S. Pierce

Attorney Bar Number: 613909

Attorney for Eliezer Andres Robles Figueroa, Lively Law Firm

2221 Edge Lake Drive, Suite 175

Charlotte, NC 28217

Telephone: (980)-202-7991

E-Mail: brittany@livelylawfirm.com

Counsel for Petitioner

Dated: 11 December, 2025

EXHIBITS

- EXHIBIT A - Notice to Appear**
- EXHIBIT B - First Motion for Bond**
- EXHIBIT C - IJ Order Denying Bond**
- EXHIBIT D - Second Motion for Bond**
- EXHIBIT E - Second IJ Order Denying Bond**
- EXHIBIT F - Form I-286**
- EXHIBIT G - Form I-220A**
- EXHIBIT H - Form I-589 Receipt Notice**
- EXHIBIT I - Defensive Form I-589 Application to EOIR**
- EXHIBIT J - Respondent's Notice of Intent to Offer Evidence in Support of Bond and Custody Redetermination**
- EXHIBIT K - July 8, 2025 ICE Interim Guidance Memorandum**

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Eliezer Andres Robles Figueroa, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 11th day of December, 2025.

s/Brittany S. Pierce

Brittany S. Pierce