

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

MIXCEL ANDERSON TORRES,
Petitioner,

vs.

JASON STREEVAL in his official capacity as Warden of Stewart County Detention Center; 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;
Defendants.

Civil Action No.:

HEARING REQUESTED

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

To the Honorable Judges of this Court:

Petitioner, Mixcel Anderson Torres, respectfully brings this Petition for *Writ of Habeas Corpus* seeking relief to remedy his unlawful detention.

I. FACTUAL BACKGROUND

1. Petitioner, a Nicaraguan national, entered the United States in January of 2024 seeking asylum and has resided continuously here since then. He was

detained by Defendants for about 3 months before being released on his own recognizance pending removal proceedings.

2. On December 4, 2025, U.S. Immigration and Customs Enforcement (ICE) arrested Petitioner in Charlotte, North Carolina, at a mandatory appointment. He was transported to the Stewart County Detention Center (SCDC), where he remains.

3. At the time of his arrest by ICE, Petitioner was not seeking lawful admission to the United States and, therefore, could not, as a matter of law, be classified as an applicant for admission under § 1225(b)(2).

4. On September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a precedential decision in Matter of Yahure Hurtado, 29 I&N Dec. 216 (BIA 2025), reclassifying noncitizens present in the United States without lawful admission as “applicants for admission” under 8 U.S.C. § 1225(b)(2), thereby subjecting them to mandatory detention without bond hearings rather than classification under 8 U.S.C. § 1226(a), which affords the opportunity to seek bond. This marked a departure from decades of agency practice and settled judicial interpretation.

5. Petitioner is being denied the opportunity to seek bond despite the Declaratory Judgment in 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), which held that members of the certified Bond Denial Class are held pursuant to 8 U.S.C. § 1226(a), and not 8 U.S.C. § 1225(b)(2), and are thereby entitled to a bond hearing. Defendants have ordered the Executive Office of Immigration Review to deny relief under the Declaratory Judgment to Bond Denial Class members.

6. 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.

7. Due to irreparable harm of being detained without due process, 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).

8. 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 5 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 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. J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 3-4.

12. Similarly, 8 U.S.C. § 1252(g) does not bar review because Petitioner is not challenging the commencement, adjudication, or execution of his removal proceedings, but the lawfulness of his civil detention separate from those proceedings.

13. Petitioner is detained at the Stewart Detention Center 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, Mixcel Anderson Torres, is a Nicaraguan citizen currently detained by Defendants at the SCDC. His alien registration number is 241182085.

15. Defendant 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. 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.

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

18. 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.

19. 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*

20. 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 it is the case here, where Petitioner is being detained based on an incorrect application of federal law and in violation of his due process rights.

21. The Court should grant the petition right away, as the legal issues presented by this Petition have already been resolved for class members 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)

22. Petitioner’s detention violates the law because Respondents have improperly classified him as an alien “seeking admission” and subjected him to

mandatory detention under 8 U.S.C. § 1225(b)(2), a provision that applies only to aliens seeking admission and not to individuals like Petitioner who have long been present in the United States. J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 7-10 (M.D. Ga. Nov. 1, 2025).

23. Two statutes primarily govern the detention of noncitizens in removal proceedings: 8 U.S.C. §§ 1225 and 1226. Section 1225 governs mandatory detention and applies to aliens who, inter alia, are “seeking admission” (emphasis added). Section 1226, by contrast, governs the detention of aliens already present in the United States and permits discretionary release on bond for those who are neither a flight risk nor a danger to the community.

24. At the time of his arrest on December 4, 2025, Petitioner was apprehended in the interior of the United States, was not arriving at the border, and was not seeking admission. His detention therefore falls within the scope of § 1226, not § 1225.

25. As a matter of statutory law, Respondents therefore lack authority to detain Petitioner under 8 U.S.C. § 1225(b)(2) and must provide him the procedural protections of § 1226(a), including a bond hearing.

26. Since the enactment of §§ 1225 and 1226 in 1996, Respondents have consistently applied the procedural safeguards of § 1226 to aliens who, like Petitioner, were apprehended in the interior of the United States.

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 Class Action Court in Maldonado Bautista, *supra*.

29. In Maldonado Bautista, the Court issue a declaratory judgment that all individuals who are members of the Bond Denial Class fall within § 1226(a). The class is defined as:

All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to

detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado Bautista, 2025 WL 3288403, at 9.

30. At the time of his arrest on or about December 4, 2025, Petitioner met all the requirements for membership in the Bond Denial Class. Specifically, Petitioner had entered unlawfully, was apprehended in the interior, and is not subject to detention under §§ 1226(c), 1225(b)(1), or 1231.

31. Even if not a member of the Bond Denial Class, Petitioner is still not an alien seeking admission subject to mandatory detention and must be afforded the protections of § 1226(a).

32. 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.

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

B. Count 2: Unlawful Detention in Violation of Petitioner's Due Process Rights

34. Petitioner's detention violates his substantial due process rights under the Fifth Amendment of the U.S. Constitution, which guarantees that no person shall be deprived of liberty without due process of law. Arbitrary, unreviewable civil detention is categorically unconstitutional. The Due Process Clause requires that any deprivation of Petitioner's liberty serve, at minimum, a legitimate purpose. *See Reno v. Flores*, 507 U.S. 292, 302-306 (1993)(explaining that infringements on fundamental liberty rights violate due process unless they are "narrowly tailored to serve a compelling state interest").

35. Civil detention is permissible only in narrow, non-punitive circumstances where the government demonstrates a legitimate and non-punitive governmental purpose supported by individualized findings that outweighs an individual's liberty interest. Here, Respondents have no special justification. Petitioner has no criminal record, poses no danger, and is not a flight risk. Continued incarceration under these circumstances bears no reasonable relation to any legitimate governmental goal and therefore violates the substantive component of the Fifth Amendment's Due Process Clause.

36. Petitioner's detention also violates the procedural due process guarantees of the Fifth Amendment. The government has deprived him of liberty, the most fundamental of all interests, without providing any meaningful opportunity to contest that deprivation. He has received no hearing before a neutral decision-maker, no notice of the factual basis for his detention, and no chance to present evidence in his favor. Under Mathews v. Eldridge, 424 U.S. 319 (1976), such an absolute denial of process fails every prong of the balancing test: the private interest at stake is immense; the risk of erroneous deprivation is high where no procedure exists; and the government's burden in providing a bond hearing is minimal.

37. 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.

38. A *writ of habeas corpus* should issue requiring Defendants 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 immediately 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 12, 2025.

/s/ Giovanna Andrea Holden
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