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UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
WAYCROSS DIVISION

FERMAN GARCIA-CABRERA,



Petitioner,

v.

WARDEN, FOLKSTON ICE  
PROCESSING CENTER; LADEON  
FRANCIS, Field Office Director of  
Enforcement and Removal Operations,  
Atlanta Field Office, Immigration and  
Customs Enforcement; TODD LYONS,  
Acting Director, U.S. Immigration  
Customs Enforcement; KRISTI NOEM,  
Secretary, U.S. Department of Homeland  
Security; DAREN K. MARGOLIN,  
Director, Executive Office for  
Immigration Review (EOIR),

Respondents.

Case No. CV 525-299

**PETITION FOR WRIT OF  
HABEAS CORPUS**

1  
2 **INTRODUCTION**

3 1. Petitioner, Mr. Ferman Garcia-Cabrera is in the physical custody of  
4 Respondents at the Folkston ICE Processing Center. Exhibit A, ICE Detainee  
5 Locator Print Out. He now faces unlawful detention because the Department of  
6 Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR)  
7 have concluded Petitioner is subject to mandatory detention.  
8

9 2. Petitioner is charged with, inter alia, having entered the United States  
10 without admission or inspection. See 8 U.S.C. § 1182(a)(6)(A)(i).

11 3. Based on this allegation in Petitioner’s removal proceedings, DHS  
12 denied Petitioner release from immigration custody, consistent with a new DHS  
13 policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement  
14 (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e.,  
15 those who entered the United States without admission or inspection—to be subject  
16 to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released  
17 on bond.  
18

19 4. Similarly, on September 5, 2025, the Board of Immigration Appeals  
20 (BIA or Board) issued a precedent decision, binding on all immigration judges,  
21 holding that an immigration judge has no authority to consider bond requests for any  
22 person who entered the United States without admission. *See Matter of Yajure*  
23 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such  
24

1  
2 individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore  
3 ineligible to be released on bond.

4         5.       Petitioner’s detention on this basis violates the plain language of the  
5 Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to  
6 individuals like Petitioner who previously entered and are now residing in the United  
7 States. Instead, such individuals are subject to a different statute, § 1226(a), that  
8 allows for release on conditional parole or bond.  
9

10       6.       Respondents’ new legal interpretation is plainly contrary to the  
11 statutory framework, contrary to decades of agency practice applying § 1226(a), and  
12 contrary to recent federal decisions—including decisions of this Court—holding that  
13 § 1225(b)(2) applies only to individuals who are “seeking admission” in the context  
14 of an arrival inspection by an examining immigration officer.  
15

16       7.       Notably, Petitioner is a member of the certified class in *Lazaro*  
17 *Maldonado Bautista v. Santacruz*, No. 5:25-cv-1873-SSS-BFM, 2025 WL 3288403  
18 (C.D. Cal. Nov. 25, 2025), which rejected Respondents’ interpretation of §  
19 1225(b)(2). Yet despite this class-wide decision, and despite this Court’s own  
20 holdings, the Stewart Immigration Court continues to refuse to find jurisdiction to  
21 conduct bond hearings for individuals like Petitioner—leaving habeas corpus as the  
22 only available mechanism for judicial review of Petitioner’s detention.  
23  
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2 8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he  
3 be released unless Respondents provide a bond hearing under § 1226(a) within seven  
4 days.

### 5 JURISDICTION

6 9. Petitioner is in the physical custody of Respondents. Petitioner is  
7 detained at the Folkston ICE Processing Center located in Lumpkin, Georgia.

8  
9 10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas  
10 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the  
11 United States Constitution (the Suspension Clause).

12 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the  
13 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.  
14 § 1651.  
15

### 16 VENUE

17 12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.  
18 484, 493- 500 (1973), venue lies in the United States District Court for the Southern  
19 District of Georgia, the judicial district in which Petitioner currently is detained.

20 13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)  
21 because Respondents are employees, officers, and agencies of the United States, and  
22 because a substantial part of the events or omissions giving rise to the claims  
23 occurred in the Southern District of Georgia.  
24

1  
2 **REQUIREMENTS OF 28 U.S.C. § 2243**

3 14. The Court must grant the petition for writ of habeas corpus or order  
4 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief.  
5 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return  
6 “within three days unless for good cause additional time, not exceeding twenty days,  
7 is allowed.” *Id.*

8  
9 15. Habeas corpus is “perhaps the most important writ known to the  
10 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases  
11 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis  
12 added). “The application for the writ usurps the attention and displaces the calendar  
13 of the judge or justice who entertains it and receives prompt action from him within  
14 the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir.  
15 2000) (citation omitted).  
16

17 **PARTIES**

18 16. Petitioner, Mr. Ferman Garcia-Cebrera is native and citizen of Mexico  
19 who has been in immigration detention since June 2025. After arresting Petitioner,  
20 ICE did not set bond and Petitioner is unable to obtain review of his custody by an  
21 IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec.  
22 216 (BIA 2025).  
23  
24

1  
2 17. Respondent, the Warden of the Folkston ICE Processing Center, is  
3 employed by GEO Group. He has immediate physical custody of Petitioner. He is  
4 sued in his official capacity.

5 18. Respondent Ladeon Francis is the Director of the Atlanta Field Office  
6 of ICE's Enforcement and Removal Operations division. As such, Mr. Francis is  
7 Petitioner's immediate custodian and is responsible for Petitioner's detention and  
8 removal. He is named in his official capacity.

9  
10 19. Respondent Kristi Noem is the Secretary of the Department of  
11 Homeland Security. She is responsible for the implementation and enforcement of  
12 the Immigration and Nationality Act (INA), and oversees ICE, which is responsible  
13 for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner  
14 and is sued in her official capacity.

15  
16 20. Respondent Todd Lyons is the Acting Director of U.S. Immigration and  
17 Customs Enforcement. The Acting Director of ICE is responsible for the  
18 administration, oversight, and enforcement of immigration detention and removal  
19 operations nationwide, including the policies and practices challenged in this  
20 petition.

21  
22 21. Respondent, Daren Margolin, is the director of the Executive Office for  
23 Immigration Review (EOIR). EOIR is the federal agency responsible for  
24

1  
2 implementing and enforcing the INA in removal proceedings, including for custody  
3 redeterminations in bond hearings.

#### 4 **LEGAL FRAMEWORK**

5 22. The Immigration and Nationality Act (“INA”) establishes several  
6 detention schemes for noncitizens in removal proceedings.

7  
8 23. First, 8 U.S.C. § 1226 governs the detention of individuals placed in  
9 standard removal proceedings under § 1229a. Noncitizens detained under § 1226(a)  
10 are generally entitled to a custody redetermination before an Immigration Judge  
11 unless they fall into the narrow mandatory-detention categories of § 1226(c).

12 24. Second, 8 U.S.C. § 1225(b)(1)–(2) provides for mandatory detention of  
13 certain individuals seeking admission who are inspected at the border and  
14 determined not “clearly and beyond a doubt entitled to be admitted.” This detention  
15 framework is tied to the process of arrival inspection performed by an examining  
16 immigration officer.

17  
18 25. Third, 8 U.S.C. § 1231 governs detention of individuals who are subject  
19 to final orders of removal.

20  
21 26. This case turns on the proper application of § 1226(a) versus §  
22 1225(b)(2) for a noncitizen like Petitioner—an individual who entered the United  
23 States years ago, resided here, and was apprehended within the interior, not at a port  
24 of entry.

1  
2 27. Historically, individuals who entered without inspection and were later  
3 placed in § 1229a removal proceedings were treated as detained under § 1226, not §  
4 1225. EOIR regulations following IIRIRA confirm that such individuals were not  
5 considered “arriving” and therefore were eligible for bond hearings. *See* 62 Fed. Reg.  
6 10312, 10323 (Mar. 6, 1997).

7  
8 28. For decades, consistent with this regulatory framework and prior  
9 immigration law, noncitizens who entered without inspection and were apprehended  
10 inside the United States received custody redeterminations unless subject to §  
11 1226(c). *See* former 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229  
12 (1996).

13  
14 **The Government’s Recent Policy Shift**

15 29. On July 8, 2025, ICE—“in coordination with” DOJ—issued guidance  
16 declaring that all individuals who entered without inspection must now be detained  
17 under § 1225(b)(2)(A), regardless of when they entered the United States or whether  
18 they were ever inspected by an immigration officer.

19 30. On September 5, 2025, the BIA adopted this new position in *Matter of*  
20 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), holding that any noncitizen who  
21 entered without admission is subject to § 1225(b)(2)(A) and categorically barred  
22 from a bond hearing.  
23  
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1  
2 **This Court Has Rejected Respondents’ Interpretation**

3 31. This Court has already rejected the government’s reading of §  
4 1225(b)(2). In *Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 \*(S.D. Ga. Nov.  
5 4, 2025), the Court held that § 1225(b)(2) applies only to noncitizens who are  
6 “seeking admission” in the context of an arrival inspection by an examining  
7 immigration officer.  
8

9 32. The Court explained that “seeking admission” requires an affirmative  
10 act at or near the time of arrival to obtain legal entry, coupled with contemporaneous  
11 inspection. The Court rejected DHS’s argument that individuals apprehended years  
12 after entering the United States may be treated as if they were seeking admission. *Id.*  
13 at 3.  
14

15 33. Applying that interpretation, the Court concluded that § 1225(b)(2)  
16 does not apply to individuals like Petitioner, whose alleged inadmissibility is based  
17 on conduct occurring long after entry and not in connection with an arrival inspection.

18 **The Bautista Class Action Confirms Petitioner’s Eligibility for Bond**

19 34. Petitioner is also a member of the certified class in *Lazaro Maldonado*  
20 *Bautista v. Santacruz*, No. 5:25-cv-1873-SSS-BFM, 2025 WL 3288403 (C.D. Cal.  
21 Nov. 25, 2025), which likewise held that § 1225(b)(2) mandatory detention does not  
22 apply absent an arrival inspection. DHS has acknowledged in other litigation that it  
23 is still “developing its decision” concerning the application of that ruling.  
24

1  
2 **Courts Nationwide Have Rejected the Government’s Theory**

3 35. Federal courts across the country have agreed that § 1226(a)—not §  
4 1225(b)—governs detention of individuals apprehended inside the United States,  
5 even when they originally entered without inspection. *See, e.g., Rodriguez Vazquez*  
6 *v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, 2025 WL  
7 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, 2025 WL 2084238 (D.  
8 Mass. July 24, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11,  
9 2025); *Ramirez Clavijo v. Kaiser*, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025);  
10 *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Pizarro*  
11 *Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025).

12  
13 36. These courts uniformly conclude that Respondents’ interpretation  
14 contradicts the statutory text, structure, and decades of agency practice.  
15

16 **Stewart Immigration Court’s Continued Refusal to Exercise Jurisdiction**

17 37. Despite this Court’s binding precedent and the Bautista class decision,  
18 the Stewart Immigration Court continues to decline jurisdiction over custody  
19 redeterminations for noncitizens like Petitioner, based on the BIA’s erroneous  
20 decision in *Matter of Yajure Hurtado*.  
21

22 38. Because Petitioner has no administrative avenue to challenge his  
23 custody, habeas corpus is the only remedy capable of addressing the ongoing  
24 violation of federal law

1  
2 **FACTUAL BACKGROUND**

3 39. Petitioner is a native and citizen of Mexico who entered the United  
4 States in or about 2002 without inspection. Since that time, he has resided  
5 continuously in the United States for over two decades and has established deep  
6 family, business, and community ties.

7  
8 40. Petitioner is married to a United States citizen. Throughout their  
9 marriage, Petitioner has been the primary financial provider for his household and  
10 has built a stable and successful life centered in the United States.

11 41. Petitioner is a long-time entrepreneur and business owner. For the past  
12 seven years, he has owned and operated his own construction company, through  
13 which he employs more than twenty individuals. He also owns and operates a real-  
14 estate rental business and is the lawful owner of multiple rental properties located in  
15 the State of Georgia.

16  
17 42. Petitioner has consistently paid taxes and has complied with all  
18 applicable financial and business obligations. His businesses not only support his  
19 immediate family, but also provide livelihoods for numerous employees and their  
20 families, who are now directly impacted by his continued detention.

21  
22 43. Petitioner has no criminal history whatsoever aside from minor, traffic-  
23 related offenses. He has never been convicted of any violent crime, drug offense, or  
24 offense involving moral turpitude, and he poses no danger to the community.

1  
2 44. Petitioner's wife suffers from lupus, a serious autoimmune disease that  
3 requires ongoing medical monitoring, stability, and access to specialized care. Since  
4 Petitioner's detention, her health has deteriorated significantly, both physically and  
5 emotionally, as she struggles to manage her condition without her husband's support.

6 45. Because of Petitioner's detention, his wife's medical condition has  
7 worsened, and his businesses have suffered substantial harm. His prolonged  
8 confinement jeopardizes the continued operation of his construction company and  
9 real-estate enterprise, placing his employees and tenants at risk of severe financial  
10 instability.  
11

12 46. Petitioner was apprehended by Immigration and Customs Enforcement  
13 ("ICE") following a traffic stop. He was not apprehended at or near the border, nor  
14 was he seeking admission to the United States at the time of his arrest.  
15

16 47. On August 12, 2025, Petitioner appeared before the Stewart  
17 Immigration Court for a bond hearing. The Immigration Judge concluded that the  
18 court lacked jurisdiction, finding that Petitioner was subject to detention under INA  
19 § 235(a)(1), despite the fact that Petitioner was apprehended inside the United States  
20 more than twenty years after his entry. Exhibit B, IJ's Order Denying Bond Request.  
21

22 48. On September 9, 2025, Petitioner filed an application for cancellation  
23 of removal under INA § 240A(b). On October 17, 2025, the Immigration Judge  
24 denied the application, erroneously concluding that Petitioner failed to establish the

1  
2 requisite hardship, despite uncontroverted evidence that Petitioner’s U.S. citizen  
3 wife suffers from lupus, that her health is deteriorating, and that she would be unable  
4 to obtain adequate medical care if forced to relocate to Mexico.

5       49. On November 5, 2025, Petitioner timely filed an appeal of the  
6 Immigration Judge’s decision with the Board of Immigration Appeals. That appeal  
7 remains pending. Because the appeal is pending, Petitioner’s removal order is not  
8 final, and he remains eligible for custody redetermination and bond. Exhibit C,  
9 Board of Immigration Appeal Receipt Notice.  
10

11       50. Petitioner poses no flight risk and no danger to the community. His  
12 twenty-plus years of residence in the United States, marriage to a U.S. citizen,  
13 ownership of multiple businesses and properties in Georgia, consistent tax  
14 compliance, and lack of criminal history overwhelmingly demonstrate that he is an  
15 appropriate candidate for release on bond under INA § 236(a).  
16

17       51. Petitioner’s continued detention violates due process because it is based  
18 on an unlawful application of INA § 235 to an individual who was apprehended  
19 inside the United States long after entry and who is not seeking admission. Petitioner  
20 therefore falls squarely within the discretionary detention framework of INA §  
21 236(a), which entitles him to an individualized bond hearing.  
22

23       52. By continuing to detain Petitioner without bond while his appeal  
24 remains pending—despite his extensive equities, serious family hardship, and lack

1  
2 of any disqualifying factors—Respondents are subjecting him to prolonged and  
3 arbitrary imprisonment in violation of the Fifth Amendment’s Due Process Clause,  
4 thereby necessitating habeas relief.

5         53. Petitioner’s continued detention also violates due process because it is  
6 based on an unlawful statutory interpretation already rejected by this Court and by a  
7 certified nationwide class action. In *Villa v. Normand*, this Court held that 8 U.S.C.  
8 § 1225(b)(2) applies only when a noncitizen is “seeking admission” in the context  
9 of an arrival inspection by an examining immigration officer. Petitioner, however,  
10 was apprehended inside the United States years after his entry and therefore falls  
11 squarely within the detention framework of § 1226(a), which entitles him to a bond  
12 hearing.  
13

14         54. Likewise, Petitioner is a member of the certified class in *Lazaro*  
15 *Maldonado Bautista v. Santacruz*, which likewise held that § 1225(b)(2) mandatory  
16 detention cannot apply absent an arrival inspection. Nevertheless, ICE continues to  
17 detain Petitioner under § 1225(b)(2), and the Stewart Immigration Court refuses to  
18 exercise jurisdiction to conduct a bond hearing.  
19

20         55. Because Petitioner is a long-term resident of the United States with  
21 more than two decades of continuous presence, deep family and community ties, a  
22 United States citizen spouse suffering from a serious autoimmune illness, extensive  
23 business and property interests in Georgia, and no criminal history beyond minor  
24

1  
2 traffic offenses, his continued and prolonged detention without any opportunity for  
3 individualized custody review violates the fundamental requirements of due process  
4 and underscores the urgent necessity of habeas relief.

5  
6 **CLAIMS FOR RELIEF**

7 **COUNT I**  
8 **Violation of the INA**

9 56. Petitioner incorporates by reference the allegations of fact set forth in  
10 the preceding paragraphs.

11 57. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not  
12 apply to all noncitizens residing in the United States who are subject to the grounds  
13 of inadmissibility. As relevant here, it does not apply to those who previously  
14 entered the country and have been residing in the United States prior to being  
15 apprehended and placed in removal proceedings by Respondents. Such noncitizens  
16 are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or  
17 § 1231.

18 58. The application of § 1225(b)(2) to Petitioner unlawfully mandates his  
19 continued detention and violates the INA.  
20

21 **COUNT II**  
22 **Violation of the Bond Regulations**

23 59. Petitioner incorporates by reference the allegations of fact set forth in  
24 preceding paragraphs.

1  
2 60. In 1997, after Congress amended the INA through IIRIRA, EOIR and  
3 the then-Immigration and Naturalization Service issued an interim rule to interpret  
4 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and  
5 Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants  
6 for admission, [noncitizens] who are present without having been admitted or  
7 paroled (formerly referred to as [noncitizens] who entered without inspection) will  
8 be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis  
9 added). The agencies thus made clear that individuals who had entered without  
10 inspection were eligible for consideration for bond and bond hearings before IJs  
11 under 8 U.S.C. § 1226 and its implementing regulations.  
12

13 61. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy  
14 and practice of applying § 1225(b)(2) to individual like Petitioner.  
15

16 62. The application of § 1225(b)(2) to Petitioner unlawfully mandates his  
17 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.  
18

19 **COUNT III**  
**Violation of Due Process**

20 63. Petitioner repeats, re-alleges, and incorporates by reference each and  
21 every allegation in the preceding paragraphs as if fully set forth herein.  
22

23 64. The government may not deprive a person of life, liberty, or property  
24 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—  
from government custody, detention, or other forms of physical restraint—lies at the

1  
2 heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690  
3 (2001).

4 65. Petitioner has a fundamental interest in liberty and being free from  
5 official restraint.

6 66. The government’s detention of Petitioner without a bond  
7 redetermination hearing to determine whether he is a flight risk or danger to others  
8 violates his right to due process.  
9

10 **PRAYER FOR RELIEF**

11 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 12 a. Assume jurisdiction over this matter;
- 13 b. Order that Petitioner shall not be transferred outside the Southern  
14 District of Georgia while this habeas petition is pending;
- 15 c. Issue an Order to Show Cause ordering Respondents to show cause why  
16 this Petition should not be granted within three days;
- 17 d. Issue a Writ of Habeas Corpus requiring that Respondents release  
18 Petitioner or, in the alternative, provide Petitioner with a bond hearing  
19 pursuant to 8 U.S.C. § 1226(a) within seven days;
- 20 e. Declare that Petitioner’s detention is b
- 21 f. Award Petitioner attorney’s fees and costs under the Equal Access to  
22 Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other  
23 basis justified under law; and
- 24 g. Grant any other and further relief that this Court deems just and proper.

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DATED this 15th day of December, 2025.

ZAMBRANO LAW,

/s/ Shirley C. Zambrano  
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*Counsel for Petitioner*

1  
2 **VERIFICATION PURSUANT TO 28 U.S.C. 2242**

3 I represent Petitioner, Mr. Ferman Garcia Cabrera, and submit this verification  
4 on his behalf. I hereby verify that the factual statements made in the foregoing  
5 Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

6 DATED this 15th day of December, 2025.

7 ZAMBRANO LAW,

8 /s/ Shirley C. Zambrano

9 Shirley C. Zambrano

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*Counsel for Petitioner*