

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

FERMAN GARCIA-CABRERA,

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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

**MOTION FOR ORDER TO
SHOW CAUSE**

MOTION FOR ORDER TO SHOW CAUSE

Petitioner, through undersigned counsel, respectfully moves this Honorable Court for an Order to Show Cause pursuant to 28 U.S.C. § 2243. In support thereof, Petitioner states as follows:

1. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that this Court “forthwith” issue an order directing Respondents to show cause why the petition for a writ of habeas corpus filed by Petitioner pursuant to 28 U.S.C. § 2241 should not be granted.

2. Petitioner challenges his ongoing immigration detention as unlawful and contrary to statute. Petitioner is being held at the Folkston ICE Processing Center after DHS and EOIR determined he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A)—a statute that applies to individuals seeking admission at the border. DHS recently issued a policy (July 8, 2025) and the BIA followed with a binding precedent (*Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025)) extending § 1225(b)(2)(A) to anyone who entered without inspection, thereby denying them bond eligibility.

3. The habeas petition argues this interpretation is legally erroneous because § 1225(b)(2)(A) governs arriving aliens—not individuals like Petitioner who have long been living inside the United States. Instead, Petitioner falls under § 1226(a), which authorizes release on bond or parole. The new DHS and BIA

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2 interpretations contradict the statutory framework and decades of established
3 practice. See Petition for Writ of Habeas Corpus, Dkt. No. 1.

4 4. The federal habeas corpus statute provides that “[a] court, justice or
5 judge entering a writ of habeas corpus shall forthwith award the writ or issue an
6 order directing the respondent to show cause why the writ should not be granted,
7 unless it appears from the application that the applicant or person detained is not
8 entitled thereto.” 28 U.S.C. § 2243.
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10 5. Section 2243 further provides that the writ or show-cause order “shall
11 be returned within three days unless for good cause additional time, not exceeding
12 twenty days, is allowed.”

13 6. Section 2243 further provides that the court shall hold a hearing on the
14 writ or order to show cause “not more than five days after the return unless for good
15 cause additional time is allowed.”
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17 7. Additionally, Section 2243 instructs that the court “shall summarily
18 hear and determine the facts and dispose of the matter as law and justice require.”

19 8. Pursuant to Section 2243, Petitioner respectfully requests that the Court
20 immediately issue an Order to Show Cause directing Respondent(s) to file a return
21 within three (3) days of the Court’s order, showing cause, if any, why the writ of
22 habeas corpus should not be granted, and to provide Petitioner an opportunity to file
23 a reply within seven (7) days after Respondent(s) file the return.
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2 9. Granting Respondent(s) additional time to respond is inappropriate in
3 this case because Petitioner faces irreparable harm due to the continued deprivation
4 of his physical liberty. Each additional day of unlawful detention inflicts harm that
5 cannot be remedied by later judicial review. Petitioner remains confined under
6 conditions of restraint without any lawful basis or opportunity for a bond hearing,
7 violating fundamental due process protections.
8

9 WHEREFORE, Petitioner respectfully requests that the Court:

- 10 a) Issue an Order to Show Cause forthwith, directing Respondents to file
11 a return within three days;
12 b) Permit Petitioner to file a reply within seven days of Respondents'
13 return;
14 c) Schedule a hearing consistent with 28 U.S.C. § 2243; and
15 d) Grant such other and further relief as law and justice require.

16 DATED this 15th day of December, 2025.

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18 ZAMBRANO LAW,

19 /s/ Shirley C. Zambrano

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