

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

MEJIA MENJIVAR,
Guillermo Alexander
Petitioner,

v.

Todd LYONS, in his official capacity as
Acting Director of U.S. Immigration and
Customs Enforcement; and Ladeon
FRANCIS, in his official capacity as Field
Office Director ICE Atlanta Field Office; and
Kristi NOEM, in her official capacity as Secretary
of the U.S. Department of Homeland Security;
and Pamela BONDI, in her official capacity as
Attorney General of the United States;
EXECUTIVE OFFICE FOR IMMIGRATION
REVIEW; and Michael BRECKON, in his official
capacity as Warden, Folkston ICE Processing
Center, D. Ray James Correctional Facility Annex,

Respondents.

Case No. CV 525-243

**PETITION FOR WRIT OF
HABEAS CORPUS**

A#: 

I. INTRODUCTION

1. Petitioner, Mr. Mejia-Menjivar, is a 23-year-old native and citizen of El Salvador who entered the United States without inspection on September 25, 2019, at or near El Paso, Texas.

2. Upon his arrival, Petitioner presented himself to immigration authorities. He has resided in the United States for the past six years and has complied with all immigration requirements.

3. Petitioner was detained on or about October 8th, 2025, by the Respondents.

4. Petitioner now seeks a writ of habeas corpus directing the Respondents to provide Petitioner with a bond hearing to determine if he may be released on bond under § 1226(a)(2) and the applicable regulations. See 8 C.F.R. §§ 236.1 & 1236.1.

II. VENUE AND JURISDICTION

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

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

III. PARTIES

7. Petitioner, Mr. Mejia-Menjivar is a 23-year-old Salvadoran national who resides in Gretna, Florida. He is currently detained at the Folkston ICE Processing Center in Folkston, Georgia.

8. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (hereinafter "ICE"). As such, Respondent Lyons is being sued in his official capacity.

9. Respondent Ladeon Francis is a senior official within U.S. Immigration and Customs

Enforcement (“ICE”) who holds supervisory responsibilities within Enforcement and Removal Operations. Because ICE’s national leadership structure influences detention and custody decisions affecting individuals held at the Folkston ICE Processing Center, Respondent Francis is included as a respondent in this action. He is sued in his official capacity.

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

11. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

12. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

13. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

14. Respondent Michael Breckon is employed by The GEO Group, Inc. as the Warden of the Folkston ICE Processing Center (D. Ray James Correctional Facility Annex) in Folkston, Georgia, where Petitioner is currently detained. Respondent Breckon has immediate physical custody of Petitioner and therefore is the Petitioner’s primary custodian for purposes of this habeas action. He is sued in his official capacity.

IV. EXHAUSTION OF REMEDIES

15. Petitioner has exhausted his administrative remedies to the extent required by law, and his only remedy is by way of this judicial action.

V. STATEMENT OF FACTS

16. Petitioner, Mr. Mejia-Menjivar, is a 23-year-old native and citizen of El Salvador who entered the United States without inspection on or about September 25, 2019, and promptly presented himself to immigration authorities. He was briefly detained and subsequently designated as an Unaccompanied Alien Child (UAC) before being released into the care of his sister. Since his release, Petitioner has complied with all immigration requirements and continuously resided in the United States for the past six years. See **Exhibit 1**, *Copy of Petitioner's Notice to Appear and Office of Refugee Resettlement verification of release*.

17. On February 24th, 2025, Petitioner filed Form I-589, Application for Asylum and for Withholding of Removal, as an Unaccompanied Alien Child (UAC), which remains pending with U.S. Citizenship and Immigration Services. Based on this filing, Petitioner was issued an Employment Authorization Document (EAD) allowing him to lawfully work and contribute to the community while his asylum case is adjudicated. Petitioner has complied with all requirements imposed by immigration authorities since his release from initial custody. See **Exhibit 2**, *Petitioner's Form I-589, Receipt Notice*.

18. On October 27, 2025, Petitioner filed Form I-130, Petition for Alien Relative through his U.S. Citizen spouse which remains pending with U.S. Citizenship and Immigration Services. Upon approval of the petition, an immigrant visa will be immediately available to Petitioner.

See **Exhibit 3**, *Petitioner's Form I-130 USCIS receipt notice*.

19. On or about October 8, 2025, Petitioner was detained by U.S. Immigration and Customs Enforcement ("ICE") while en route to work. He is currently held at Folkston ICE Processing Center in Folkston, Georgia.

20. On September 5, 2025, the Board of Immigration Appeals ("BIA") issued a decision which held that, "[b]ased on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission." *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

21. In light of the BIA's decision in *Matter of Yajure Hurtado*, Petitioner has been deprived of any opportunity to seek release on bond and as of October 8, 2025, he has been detained for seventy-one days without an individualized custody determination or review before an IJ.

22. Petitioner's continued detention is causing irreparable harm, as Petitioner continues to be traumatized by this unlawful restraint on his liberty.

VI. LEGAL FRAMEWORK

23. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings.

24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. See 8 U.S.C. § 1229a. This provision applies to "applicants for admission," defined as those "present in the United States who has not been admitted." § 1225(a)(1). Individuals in §1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been

arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c).

25. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals “seeking admission” referred to under § 1225(b)(2).

26. Third, the INA provides for detention of noncitizens who have received a final order of removal from the United States, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231 (a)-(b).

27. This case concerns the detention provisions at § 1226(a) and § 1225(b)(2).

VII. CAUSES OF ACTION

COUNT I

Violation of 8 U.S.C. 1226(a) Unlawful Denial of Release on Bond

28. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

29. At the time of his arrest, Petitioner was a noncitizen physically present in the United States who had already filed Form I-589, Application for Asylum and for Withholding of Removal. Having been served with a Notice to Appear and placed in removal proceedings, his detention is therefore governed by § 1226(a)(2).

30. Petitioner is therefore eligible for an individualized custody determination before an IJ and his ongoing detention without such a hearing is unlawful.

31. The BIA have wrongfully construed § 1225(b)(2) as applying to all noncitizens who

are found in the United States unlawfully, such as the Petitioner. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

32. The unlawful application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention without a discretionary bond hearing and violates the INA.

COUNT II
Violation of the Bond Regulations, 8 C.F.R. §§ 236.1 and 1003.19
Unlawful Denial of Release on Bond

33. Petitioner incorporates by reference the allegations and facts set forth in paragraphs 1-28 as if fully set forth herein.

34. In 1997, after Congress amended the INA through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the headings of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) *will be eligible for bond and bond redetermination.*” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

35. Nonetheless, the IJ and the BIA have asserted that, instead, § 1225(b)(2) should apply to those noncitizens “present without having been admitted or paroled.”

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

COUNT III
Violation of Fifth Amendment Due Process Clause

37. Petitioner incorporates by reference the allegations and facts set forth in paragraphs 1-28 as if fully set forth herein.

38. The Fifth Amendment provides that “[n]o person” shall “be deprived of life, liberty, or property, without due process of law.”

39. “Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

40. Moreover, “[t]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 693.

41. Respondents’ detention of Petitioner without consideration for release on bond or access to a bond hearing violates his due process rights.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Grant Petitioner a writ of habeas corpus directing Respondents to immediately provide Petitioner with a bond hearing to determine if he may be released on bond under § 1226(a)(2) and the applicable regulations. See 8 C.F.R. §§ 236.1, 1236.1.
- 3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents’ custody;

- 4) Order Respondents to file a response within 3 days of the filing of this petition;
- 5) Award attorneys' fees to Petitioner; and
- 6) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this 22nd day of December 2025.

/s/ Matthew O. Boles
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Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Matthew O. Boles

Date: December 22, 2025