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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

CIRILO CRISOSTOMO MARTINEZ,

A 

Petitioner,

v.

JASON STREEVAL, Warden of the
Stewart Detention Center

Respondent

Case No. 25-CV-00524

**PETITION FOR WRIT OF
HABEAS CORPUS**

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

3 5. Petitioner’s detention on this basis violates the plain language of the
4 Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to
5 individuals like Petitioner who previously entered and are now residing in the United
6 States. Instead, such individuals are subject to a different statute, § 1226(a), that
7 allows for release on conditional parole or bond.
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9 6. Respondents’ new legal interpretation is plainly contrary to the
10 statutory framework, contrary to decades of agency practice applying § 1226(a), and
11 contrary to recent federal decisions—including decisions of this Court—holding that
12 § 1225(b)(2) applies only to individuals who are “seeking admission” in the context
13 of an arrival inspection by an examining immigration officer.
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15 7. Notably, Petitioner is a member of the certified class in *Lazaro*
16 *Maldonado Bautista v. Santacruz*, No. 5:25-cv-1873-SSS-BFM, 2025 WL 3288403
17 (C.D. Cal. Nov. 25, 2025), which rejected Respondents’ interpretation of §
18 1225(b)(2). Yet despite this class-wide decision, and despite this Court’s own
19 holdings, the Stewart Immigration Court continues to refuse to find jurisdiction to
20 conduct bond hearings for individuals like Petitioner—leaving habeas corpus as the
21 only available mechanism for judicial review of Petitioner’s detention.
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1 8. Thus, Petitioner seeks a writ of habeas corpus requiring he be released
2 unless Respondents provide a bond hearing under § 1226(a) within seven days.

3 **JURISDICTION**

4 9. Petitioner is in the physical custody of Respondents. Petitioner is
5 detained at the Stewart Detention Center located in Lumpkin, Georgia.

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

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

12 **VENUE**

13 12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
14 484, 493- 500 (1973), venue lies in the United States District Court for the Middle
15 District of Georgia, the judicial district in which Petitioner currently is detained.

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

20 **REQUIREMENTS OF 28 U.S.C. § 2243**

1 17. Respondent Jason Streeval is employed by Core Civic Group as
2 Warden of the Stewart Detention Center, where Petitioner is detained. He has
3 immediate physical custody of Petitioner. Streeval is sued in his official capacity.
4

5 **LEGAL FRAMEWORK**

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

8 19. 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

13 20. Second, 8 U.S.C. § 1225(b)(1)–(2) provides for mandatory detention of
14 certain individuals seeking admission who are inspected at the border and
15 determined not “clearly and beyond a doubt entitled to be admitted.” This detention
16 framework is tied to the process of arrival inspection performed by an examining
17 immigration officer.
18

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

21 22. 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
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1 States years ago, resided here, and was apprehended within the interior, not at a port
2 of entry.

3 23. Historically, individuals who entered without inspection and were later
4 placed in § 1229a removal proceedings were treated as detained under § 1226, not §
5 1225. EOIR regulations following IIRIRA confirm that such individuals were not
6 considered “arriving” and therefore were eligible for bond hearings. *See* 62 Fed. Reg.
7 10312, 10323 (Mar. 6, 1997).

9 24. For decades, consistent with this regulatory framework and prior
10 immigration law, noncitizens who entered without inspection and were apprehended
11 inside the United States received custody redeterminations unless subject to §
12 1226(c). *See* former 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229
13 (1996).

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15 **The Government’s Recent Policy Shift**

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

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

3 **This Court Has Rejected Respondents' Interpretation**

4 27. This Court has already rejected the government's reading of §
5 1225(b)(2). In *J.A.M. v. Streeval*, Case No. 4:25-cv-342 (CDL), 2025 WL 3050094
6 (M.D. Ga. Nov. 1, 2025), the Court held that § 1225(b)(2) applies only to noncitizens
7 who are "seeking admission" in the context of an arrival inspection by an examining
8 immigration officer. A subsequent decision in *P.R.S. v. Streeval*, No. 4:25-cv-330-
9 CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025) reached the same result.
10

11 28. The Court explained that "seeking admission" requires an affirmative
12 act at or near the time of arrival to obtain legal entry, coupled with contemporaneous
13 inspection. The Court rejected DHS's argument that individuals apprehended years
14 after entering the United States may be treated as if they were seeking admission.
15 *J.A.M.*, at 3.
16

17 29. Applying that interpretation, the Court concluded that § 1225(b)(2)
18 does not apply to individuals like Petitioner, whose alleged inadmissibility is based
19 on conduct occurring long after entry and not in connection with an arrival inspection.
20

21 **The Bautista Class Action Confirms Petitioner's Eligibility for Bond**

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

4 **Courts Nationwide Have Rejected the Government’s Theory**

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6 31. Federal courts across the country have agreed that § 1226(a)—not §
7 1225(b)—governs detention of individuals apprehended inside the United States,
8 even when they originally entered without inspection. *See, e.g., Rodriguez Vazquez*
9 *v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, 2025 WL
10 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, 2025 WL 2084238 (D.
11 Mass. July 24, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11,
12 2025); *Ramirez Clavijo v. Kaiser*, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025);
13 *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Pizarro*
14 *Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025).

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16 32. These courts uniformly conclude that Respondents’ interpretation
17 contradicts the statutory text, structure, and decades of agency practice.

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

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

1 34. Because Petitioner has no administrative avenue to challenge his
2 custody, habeas corpus is the only remedy capable of addressing the ongoing
3 violation of federal law

4 **FACTUAL BACKGROUND**

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6 35. Petitioner entered the United States in 1999 without inspection. Since
7 that time, he has established a life and family in the United States.

8 36. Petitioner has three adult United States citizen children in the United
9 States. Petitioner is also married and his wife who was also apprehended during the
10 DHS apprehension.

11
12 37. After his sister's tragic death in a 2008 car accident, Petitioner assumed
13 custody of her two United States citizen children. Petitioner continues to be the
14 primary caregiver for one of them, now a 17-year-old with special needs requiring
15 ongoing medical and daily care.

16 38. Petitioner has no felony criminal history. Petitioner's only prior arrest
17 was for driving without a license, misdemeanor.

18
19 39. Petitioner, including his wife, were apprehended at a traffic stop when
20 DHS officers arrived searching for an unrelated individual. Petitioner was taken into
21 custody even though he was not the subject of the enforcement operation.

1 40. Petitioner's adult United States citizen daughter is disabled and the
2 Petitioner is the main caregiver and financial support to his three minor United States
3 citizen grandchildren.

4 41. Petitioner's ongoing detention imposes severe financial and emotional
5 hardship on his U.S. citizen family, including their minor child.
6

7 42. Prior to his detention, Petitioner worked full-time in a factory and has
8 a history of steady employment. He is known as a hard-working individual who
9 supports his family and contributes to his community.

10 43. Petitioner and his family regularly attend church, where he is known as
11 a peaceful, responsible, and respected member of his faith community.
12

13 44. Petitioner poses no danger to the community and is not a flight risk. His
14 family ties, employment history, lack of criminal record, and consistent community
15 involvement demonstrate that he is an appropriate candidate for release under §
16 1226(a).

17 45. Petitioner's continued detention also violates due process because it is
18 based on an unlawful statutory interpretation already rejected by this Court and by a
19 certified nationwide class action. In *J.A.M. v. Streeval*, this Court held that 8 U.S.C.
20 § 1225(b)(2) applies only when a noncitizen is "seeking admission" in the context
21 of an **arrival inspection** by an examining immigration officer. Petitioner, however,
22 was apprehended inside the United States years after his entry and therefore falls
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1 squarely within the detention framework of § 1226(a), which entitles him to a bond
2 hearing.

3 46. Likewise, Petitioner is a member of the certified class in *Lazaro*
4 *Maldonado Bautista v. Santacruz*, which likewise held that § 1225(b)(2) mandatory
5 detention cannot apply absent an arrival inspection. Nevertheless, ICE continues to
6 detain Petitioner under § 1225(b)(2), and the Stewart Immigration Court refuses to
7 exercise jurisdiction to conduct a bond hearing. Because Petitioner is a long-term
8 resident with deep family ties, no criminal history, a disabled U.S. citizen daughter,
9 including the three grandchildren and a young U.S. citizen special needs-child who
10 depend on him, his prolonged imprisonment without any opportunity for
11 individualized custody review violates the fundamental requirements of due process
12 and reinforces the necessity of habeas relief.
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15 CLAIMS FOR RELIEF

16 COUNT I

17 Violation of the INA

18 47. Petitioner incorporates by reference the allegations of fact set forth in
19 the preceding paragraphs.

20 48. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
21 apply to all noncitizens residing in the United States who are subject to the grounds
22 of inadmissibility. As relevant here, it does not apply to those who previously
23 entered the country and have been residing in the United States prior to being
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1 apprehended and placed in removal proceedings by Respondents. Such noncitizens
2 are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or
3 § 1231.

4 49. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
5 continued detention and violates the INA.
6

7 COUNT II

8 **Violation of the Bond Regulations**

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

11 51. In 1997, after Congress amended the INA through IIRIRA, EOIR and
12 the then-Immigration and Naturalization Service issued an interim rule to interpret
13 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and
14 Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants
15 for admission, [noncitizens] who are present without having been admitted or
16 paroled (formerly referred to as [noncitizens] who entered without inspection) will
17 be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis
18 added). The agencies thus made clear that individuals who had entered without
19 inspection were eligible for consideration for bond and bond hearings before IJs
20 under 8 U.S.C. § 1226 and its implementing regulations.
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1 52. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy
2 and practice of applying § 1225(b)(2) to individual like Petitioner.

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

5
6 **COUNT III**
7 **Violation of Due Process**

8 54. Petitioner repeats, re-alleges, and incorporates by reference each and
9 every allegation in the preceding paragraphs as if fully set forth herein.

10 55. The government may not deprive a person of life, liberty, or property
11 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—
12 from government custody, detention, or other forms of physical restraint—lies at the
13 heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690
14 (2001).

15
16 56. Petitioner has a fundamental interest in liberty and being free from
17 official restraint.

18 57. The government’s detention of Petitioner without a bond
19 redetermination hearing to determine whether he is a flight risk or danger to others
20 violates his right to due process.

21 **PRAYER FOR RELIEF**

22 WHEREFORE, Petitioner prays that this Court grant the following relief:
23

24 a. Assume jurisdiction over this matter;

- 1
- 2 b. Order that Petitioner shall not be transferred outside the Southern
- 3 District of Georgia while this habeas petition is pending;
- 4 c. Issue an Order to Show Cause ordering Respondents to show cause why
- 5 this Petition should not be granted within three days;
- 6 d. Issue a Writ of Habeas Corpus requiring that Respondents release
- 7 Petitioner or, in the alternative, provide Petitioner with a bond hearing
- 8 pursuant to 8 U.S.C. § 1226(a) within seven days;
- 9 e. Declare that Petitioner's detention is unlawful;
- 10 f. Award Petitioner attorney's fees and costs under the Equal Access to
- 11 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other
- 12 basis justified under law; and
- 13 g. Grant any other and further relief that this Court deems just and proper.

14 DATED this 29th day of December, 2025.

15

16 /s/ Matthew K. Winchester

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