

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF GEORGIA  
WAYCROSS DIVISION

**DIEGO OTTONIEL CAAL-YAT,**

Petitioner,

v.

**WARDEN TONY NORMAND,**

Respondents.

Case No: CV 526-001

VERIFIED PETITION FOR WRIT OF  
HABEAS CORPUS

**INTRODUCTION**

1. Petitioner, Diego Ottoniel Caal-Yat (A#  ("Petitioner" or "Mr. Caal-Yat"), is a native and citizen of Guatemala who entered the United States for the first and only time on February 5, 2024, and has been residing in the United States continuously since that date.

2. On the day of his entry, the U.S. Department of Homeland Security ("DHS") provided Petitioner with a statutorily non-compliant Notice to Appear ("NTA") that has not been filed with the Executive Office for Immigration Review ("EOIR"), and therefore no removal proceedings have been initiated against him under 8 U.S.C. § 1229a.

3. When the DHS inspected Petitioner at the border, it correctly identified him as an "Undocumented [Noncitizen] Child" ("UC"), as defined in the Homeland Security Act of 2002 ("HSA") and the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). *See* 6 U.S.C. § 279(g)(2); 8 U.S.C. § 1232(g).

4. Pursuant to the HSA and TVPRA, the DHS transferred custody of Petitioner to the Department of Health and Human Services ("HHS"), Office of Refugee Resettlement ("ORR"),

to whom Congress has authorized custody determinations over UCs. *See* 6 U.S.C. §§ 279(b)(1), (1)(C); 8 U.S.C. § 1232(b)(3).

5. After considering the “[g]eneral principles that apply to the care and placement of” Petitioner, which includes whether he was a danger to the community or a flight risk, the ORR released him to the care of his brother. *See* 8 U.S.C. § 1232(c)(2)(a); 45 CFR § 410.1003(f).

6. There has been no change in Petitioner’s circumstances, such as accruing a criminal history in the United States, that disturbs the ORR’s determination.

7. On July 21, 2025, U.S. Citizenship and Immigration Services (“USCIS”) granted petitioner Special Immigrant Juvenile Status (“SIJS”). *See* 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11. Once a visa becomes available, Petitioner may acquire lawful permanent residence. *See* 8 U.S.C. §§ 1255(h), 1153(b)(4), 101(a)(27)(J).

8. On December 16, 2025, the Immigration and Customs Enforcement (“ICE”) arrested Petitioner and detained him at South Florida Reception Center for two weeks before transferring him to the Folkston D Ray Processing Center. Petitioner remains detained at Folkston to this day.

9. As a noncitizen who has been present in the country, his custody is governed by 8 U.S.C. § 1226(a), which provides for discretionary detention and bond eligibility. However, under the Board of Immigration Appeals’ (“BIA”) decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), individuals like Petitioner who entered without inspection are treated as “arriving aliens” and subject to mandatory detention under 8 U.S.C. § 1225(b). This classification forecloses a bond hearing because the immigration judge is deemed without jurisdiction to grant bond, despite Petitioner’s presence in the interior.

10. Because of this precedent, pursuing a bond hearing before an immigration judge

would be futile. Under *Matter of Yajure-Hurtado*, an immigration judge must treat Petitioner as subject to mandatory detention under § 1225(b) and decline jurisdiction to grant bond. Accordingly, Petitioner brings this petition directly to this Court.

11. The government's recent policy shift—culminating in agency guidance and the BIA's decision in *Yajure Hurtado*, 29 I. & N. Dec. 216—categorically denies bond eligibility to individuals like Petitioner based solely on manner of entry. Applied here, that approach forecloses a neutral, individualized assessment despite Petitioner's ability to show that he continues to pose no danger to the community and no flight risk.

12. This Court has rejected the BIA's reasoning in *Matter of Yajure Hurtado* and declined to follow it in granting habeas relief to petitioner in the Southern District of Georgia. *See, e.g., Antonio Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 LX 442534, at \*20 (S.D. Ga. Nov. 4, 2025). In doing so, the Court explained that the interpretation adopted in *Matter of Yajure Hurtado* conflicts with the statutory text and structure of 8 U.S.C. §§ 1225 and 1226, departs from prior BIA precedent, and would render the recent Laken Riley Act amendments to § 1226(c) superfluous. *Id.* at 19–21.

13. Petitioner therefore seeks habeas relief to hold that § 1226(a) governs his custody and to order Respondents to release Petitioner or at least provide him the individualized custody redetermination hearing before an immigration judge to which he is statutorily and constitutionally entitled.

### **JURISDICTION AND VENUE**

14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal question); and 28 U.S.C.

§ 2201 (declaratory relief).

15. Venue is proper in the Southern District of Georgia pursuant to 28 U.S.C. § 2241 because Petitioner is detained at the Folkston D Ray Processing Center, in Folkston, Georgia under the jurisdiction of the ICE Atlanta Field Office.

### EXHAUSTION

16. Administrative exhaustion, which is a prudential doctrine in habeas cases, does not apply in this case due to futility. *See Puga v. Ass't Field Office Dir.*, No. 25-24535-CIV, 2025 LX 462379, at \*2 (S.D. Fla. Oct. 15, 2025) (“Since the result of Petitioner’s custody redetermination and any subsequent bond appeal to the BIA is nearly a foregone conclusion under *Matter of Yajure Hurtado*, any prudential exhaustion requirements are excused for futility.”).

### REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

18. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

### PARTIES

19. Petitioner, **DIEGO OTTONIEL CAAL-YAT**, is a native and citizen of

Guatemala who last entered the United States on February 5, 2024, and has status in the United States as the beneficiary of an approved SIJS petition. He is currently detained in ICE custody at the Folkston D Ray Processing Center, in Folkston, Georgia.

20. Respondent, **WARDEN TONY NORMAND**, is sued in his official capacity as the official responsible for overseeing Folkston D Ray Processing Center, the facility where Petitioner is currently detained. This Respondent is a legal custodian of Petitioner and is sued in his official capacity.

### **LEGAL FRAMEWORK FOR IMMIGRATION DETENTION**

21. The Immigration and Nationality Act (“INA”) prescribes two statutory sections that govern a noncitizen’s detention prior to a final order of removal: 8 U.S.C. §§ 1225 and 1226.

22. The detention provisions at 8 U.S.C. § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585.

23. 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals detained under the authority of § 1226(a) are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d).

24. 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).

25. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal

of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite 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 . . . The effect of this change is that inadmissible [noncitizens], except for arriving [noncitizens], have available to them bond redetermination hearings before an immigration judge, while arriving [noncitizens] do not. This procedure maintains the *status quo* . . .”).

26. Thus, in the decades that followed, most people who entered without inspection—unless they were subject to some other detention authority—received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

27. Respondents’ new policy turns this well-established understanding on its head and violates the statutory scheme.

28. Indeed, this legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings was already rejected by a District Court in the Western District of Washington, finding that such individuals are entitled to bond redetermination hearings before immigration judges, and rejecting the application of § 1225(b)(2) to such cases. *Rodriguez v. Bostock*, No. 3:25-CV-05240 TMC, 2025 WL 1193850, at \*12 (W.D. Wash. Apr. 24, 2025).

29. Despite this finding from a federal court, on July 8, 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency

housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without documents.

30. On September 5, 2025, the BIA issued an opinion adopting this approach to the detention statutes, *see Matter of Yajure Hurtado*, 29 I. & N. Dec. at 220, further entrenching the government's interpretation of the governing detention statutes. Because this decision is precedential, it is binding on immigration judges (absent contrary instructions from a federal court sitting in habeas).

31. This interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

32. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

33. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

34. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).

35. The government's interpretation subjects all inadmissible noncitizens to 8 U.S.C. § 1225 and its mandatory detention provisions. But such a reading renders superfluous significant

portions of 8 U.S.C. § 1226(c) that reference inadmissible noncitizens, including 8 U.S.C. § 1226(c)(1)(E) that Congress enacted just months ago by passing the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

36. The new subsection makes a noncitizen subject to mandatory detention if he (i) is inadmissible under 8 U.S.C. §§ 1182(a)(6)(A), (6)(C), or (7) (the “inadmissibility criterion”); “and” (ii) is charged with, arrested for, convicted of, or admits to committing certain crimes (the “criminal conduct criterion”). 8 U.S.C. § 1226(c)(1)(E) (emphasis added). By using the conjunction “and,” the provision mandates detention only where the inadmissibility criterion and the criminal conduct criterion are both satisfied.

37. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole.

#### **FACTUAL ALLEGATIONS AND RELEVANT BACKGROUND**

38. Upon arrival to the United States in February 2024, the DHS identified Mr. Caal-Yat as a UC from Guatemala.

39. Shortly thereafter, the DHS transferred Petitioner to the ORR, who determined that Petitioner was not a flight risk or danger to the community, and released him from federal custody. There have been no changes to Mr. Caal-Yat’s circumstances, such as accrued criminal history, undermining this determination.

40. On July 21, 2025, USCIS granted Mr. Caal-Yat’ SIJS Petition. He is *prima facie* eligible to adjust his status to lawful permanent residency once a visa becomes available.

41. Despite the ORR’s prior determination that Mr. Caal-Yat need not be detained, the DHS’s classification of Mr. Caal-Yat as a UC, and Mr. Caal-Yat’s status as an SIJ beneficiary,

ICE arrested and detained him on December 16, 2025, when he was encountered riding in the passenger seat of a vehicle operated by a licensed driver.

42. ICE detained Mr. Caal-Yat at South Florida Reception Center for two weeks before transferring him to Folkston D Ray Processing Center, where he remains detained.

43. As of December 31, 2025, Mr. Caal-Yat has not been provided any written explanation of the basis for his detention, nor any other documents from ICE regarding his detention or immigration proceedings.

44. As of December 31, 2025, ICE has not lodged an NTA with the EOIR to commence removal proceedings against Mr. Caal-Yat.

45. Mr. Caal-Yat has not received a bond hearing before an immigration judge. Nevertheless, seeking such a hearing would be futile because *Matter of Yajure-Hurtado*, binds immigration judges from concluding anything except that Mr. Caal-Yat is subject to mandatory detention based on the manner of his entry and would therefore find that the court lacks jurisdiction to grant bond.

## CAUSES OF ACTION

### COUNT ONE

#### Violation of 8 U.S.C. § 1226(a)

#### Unlawful Denial of Bond Hearing

46. Petitioner incorporates paragraphs 1 to 45 as if fully stated herein.

47. ICE's continued detention of Mr. Caal-Yat without the opportunity for him to obtain a bond hearing on the theory that he is subject to mandatory detention under 8 U.S.C. § 1225 contravenes the INA and Due Process.

48. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled.

49. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231. The application of § 1225(b)(2) to bar Petitioner from receiving a custody redetermination hearing before an immigration judge violates the INA.

50. Rather, § 1225 applies to noncitizens actively “seeking admission” at the border or its immediate functional equivalent. By contrast, § 1226 governs the arrest and detention of those “already in the country” pursuant to a warrant issued by the Attorney General. The two provisions are mutually exclusive. *See Jennings v. Rodriguez*, 583 U.S. 281, 288-89 (2018).

51. Even if Petitioner were to seek a bond hearing before an immigration judge, DHS would continue to detain him pending adjudication. Considering the BIA’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 220, an immigration judge would likely determine that Petitioner is subject to mandatory detention based on the manner of his entry and decline jurisdiction to consider bond.

52. In *Matter of Yajure Hurtado*, the BIA held that all noncitizens who entered the United States without admission or parole, like Petitioner, are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and are ineligible for bond hearings. It constitutes the BIA’s affirmation of Respondents’ faulty reimagining of the governing detention statutes.

53. This Court has rejected the BIA’s reasoning in *Matter of Yajure Hurtado* and declined to follow it in granting habeas relief in the Southern District of Georgia. *See Aguirre Villa v. Normand*, 2025 LEXIS 442534, at \*35–36 (S.D. Ga. Nov. 4, 2025). (“I conclude Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2) . . . Thus, Petitioner’s detention based on 8 U.S.C. § 1225(b)(2) is unlawful. Any immigration court order which has relied on this

misinterpretation to continue to detain Petitioner is contrary to the INA, and therefore, § 2241 relief is proper.”).

54. Numerous other federal courts have ruled that the BIA’s decision is not entitled to any deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), and have overwhelmingly rejected the BIA’s decision in *Yajure Hurtado*, concluding it is contrary to law. *See, e.g., J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115, at \*14-16 (M.D. Ga. Nov. 1, 2025) (rejecting the government’s arguments, which largely parrot the rationale in *Yajure Hurtado* . . . [to] conclude[] that § 1226(a), not § 1225(b)(2), applies” to immigrants like Petitioner, and ordering the immigration court to grant a bond hearing); *Garcia v. Noem*, No. 2:25-cv-00879-SPC-NPM, 2025 LX 400655, at \*11 (M.D. Fla. Oct. 31, 2025) (“Since DHS’s change in policy, courts in this District and around the country have rejected its new interpretation of the INA. This Court agrees with the growing consensus.”).<sup>1</sup>

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<sup>1</sup> The overwhelming majority of United States Federal District Courts outside of the Eleventh Circuit have drawn the same conclusion. *See, e.g., Hernandez Lopez v. Hardin*, No. 2:25-cv-830-KCD-NPM, 2025 U.S. Dist. LEXIS 212865, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025); *Aguilar Guerra v. Joyce*, 2:25-cv-534-SDN, 2025 U.S. Dist. LEXIS 208608, 2025 WL 2986316 (D. Maine Oct. 23, 2025); *Contreras Maldonado v. Cabezas*, No. 25-cv-13004, 2025 U.S. Dist. LEXIS 208752, 2025 WL 2985256 (D. N.J. Oct. 23, 2025); *Gomez Garcia v. Noem*, No. 5:25-cv-02771-ODW (PDx), 2025 U.S. Dist. LEXIS 209286, 2025 WL 2986672 (C.D. Cal. Oct. 22, 2025); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 U.S. Dist. LEXIS 208290, 2025 WL 2977650 (D.Colo. Oct. 22, 2025); *Ochoa Ochoa v. Noem*, No. 25-CV-10865, 2025 U.S. Dist. LEXIS 204142, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *N.A. v. Larose*, No. 25-cv-2384-RSH-BLM, 2025 U.S. Dist. LEXIS 198688, 2025 WL 2841989 (S.D. Cal. Oct. 7, 2025); *Lopez-Arevalo v. Ripa*, No. EP-25-CV-337-KC, 2025 U.S. Dist. LEXIS 188232, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 U.S. Dist. LEXIS 175513, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 U.S. Dist. LEXIS 175767, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 U.S. Dist. LEXIS 174828, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 U.S. Dist. LEXIS 171714, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 U.S. Dist. LEXIS 167280, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 U.S. Dist. LEXIS 165015, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 U.S. Dist. LEXIS 163056, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Samb v. Joyce*, No. 25 Civ. 6373 (DEH), 2025 U.S. Dist. LEXIS 161109, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 U.S. Dist. LEXIS 160622,

55. Notably, none of the Federal District Courts within the Eleventh Circuit that have reviewed *Matter of Yajure-Hurtado* have agreed with its rationale. *See e.g., J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115 (M.D. Ga. Nov. 1, 2025); *Gonzalez v. Sterling*, No. 1:25-CV-6080-MHC, 2025 LX 501591 (N.D. Ga. Nov. 3, 2025); *Patel v. Hardin*, No. 2:25-cv-870-JES-NPM, 2025 LX 544378, at \*10 (M.D. Fla. Dec. 1, 2025) (“Since DHS’s change in policy, courts in this District and around the country have rejected its new interpretation of the INA. This Court now joins the consensus, concluding that the interpretation is flawed for several reasons.”)

56. Because *Matter of Yajure-Hurtado* is binding agency precedent, seeking a bond hearing before an immigration judge would be futile. Under that decision, an immigration judge would conclude that Petitioner is subject to mandatory detention based on the manner of his entry and would therefore lack jurisdiction to grant bond, to which he is entitled as an individual subject to detention under 8 U.S.C. § 1226(a).

57. Petitioner was not “seeking admission” within the meaning of § 1225(b) but was “already in the country” within the meaning of *Jennings*, 583 U.S. at 288–89. His custody is governed by § 1226(a), under which detention is discretionary and subject to individualized bond hearings.

58. The Court should, at a minimum, order Respondents to grant an individualized bond hearing consistent with long-standing practice.

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2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 U.S. Dist. LEXIS 158808, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Maldonado v. Olson*, No. 25-cv-03142-SRN-SGE, 2025 U.S. Dist. LEXIS 158321, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. 25-CV-02157-PHX-DLR (CDB), 2025 U.S. Dist. LEXIS 156344, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. 25-CV-02157-PHX-DLR (CDB), 2025 U.S. Dist. LEXIS 156336, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Diaz Martinez v. Hyde*, No. 25-CV-11613-BEM, 2025 U.S. Dist. LEXIS 141724, 2025 WL 2084238 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299 (D. Mass. July 7, 2025).

## COUNT TWO

### Due Process Violation

59. Petitioner incorporates paragraphs 1 to 58 as if fully stated herein.

60. ICE's continued detention of Petitioner without the opportunity for him to obtain a bond hearing on the theory that he is subject to mandatory detention under 8 U.S.C. § 1225 contravenes Due Process.

61. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); accord *Trump v. J. G. G.*, 604 U.S. 670, 673 (2025) (" 'It is well established that the Fifth Amendment entitles aliens to due process of law' in the context of removal proceedings.") (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993))).

62. The Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker.

63. To determine whether civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the three-part test articulated in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under that test, courts must weigh (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

64. Applying the *Mathews* test, Petitioner's liberty interest is paramount, and the risk of erroneous deprivation is extreme considering that Petitioner, who has no criminal history in the

United States, and whom the ORR has already determined is not a flight risk or danger to the community, is not subject to mandatory detention under 8 U.S.C. § 1226(c). Likewise, the risk of erroneous deprivation of liberty is great due to the lack of a non-independent adjudicator. *Marcello v. Bonds*, 349 U.S. 302, 305-06 (1955).

**PRAYER FOR RELIEF**

**WHEREFORE**, Petitioner respectfully requests that this Court:

- (a) Assume jurisdiction over this matter;
- (b) Grant the writ of habeas corpus and order that Respondents release Petitioner from immigration detention, or at minimum order a custody redetermination hearing consistent with 8 U.S.C. § 1226(a);
- (c) Enjoin the Respondents from transferring Petitioner outside the jurisdiction of the U.S. District Court for the Southern District of Georgia;
- (d) Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and
- (e) Grant any additional relief that this Court deems just and proper.

Dated: January 1, 2026

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Respectfully submitted,

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\*Applications for Admission  
*Pro Hac Vice* Forthcoming

*Counsel for Petitioner*

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Dated: January 1, 2026

**s/ Thomas Evans**  
GA Bar No. 305649