

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

CARLOS IDALBERTO ALONSO CALERO,)

Petitioner, Plaintiff)

v.)

Case No. _____

GEORGE STERLING, in his official capacity)

As Director of the Atlanta Field Office,)

Immigration and Customs Enforcement;)

WARDEN OF FOLKSTON ICE)

PROCESSING CENTER; TODD LYONS, in)

his official capacity as Acting Director, U.S.)

Immigration and Customs Enforcement; and)

PAMELA BONDI, in her official capacity as)

Attorney General, United States Department of)

Justice,)

Respondents-Defendants.)

PETITION FOR WRIT OF HABEAS CORPUS

1. The U.S. Department of Homeland Security ("DHS") and the U.S. Department of Justice ("DOJ") have abruptly and unlawfully reversed decades of settled immigration practice to deny immigration bond hearings to immigrants in the Southern District of Georgia, including Petitioner, Mr. Alonso Calero.
2. Specifically, DHS and DOJ are systemically misclassifying people arrested inside the United States. These people are generally subject to the detention

provisions of 8 U.S.C. § 1226, which usually allow for release on bond and conditions during the pendency of immigration proceedings. It has been this way for decades. DHS and DOJ are now misclassifying these people as being subject to 8 U.S.C. § 1225, which does not allow for release on bond. This misclassification is contrary to almost 30 years of settled law and practice.

3. As a result, DHS is arresting people across the country, including within the Southern District of Georgia, and unlawfully detaining them in jails without any possibility of release and without any due process protections even though they are legally required to receive a bond hearing and are eligible for release on bond.

JURISDICTION, VENUE, AND PARTIES

4. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question).

5. Venue is proper because Petitioner is being held in the Folkston Georgia ICE Detention Center, which is located in the Southern District of Georgia. Venue is also proper under 28 U.S.C. §§ 1391(b)(2), (e).

6. Petitioner **Carlos Idalberto Alonso Calero** is a noncitizen being held in immigration custody within this district.

7. Respondent, the **Warden of the Folkston ICE Processing Center** is Mr. Alonso Calero's immediate custodian.

8. Respondent **George Sterling** is the Director of the Atlanta Field Office of Immigration and Customs Enforcement.
9. Respondent **Todd Lyons** is the Acting Director of the Department of Homeland Security, Immigration and Customs Enforcement.
10. Respondent **Pamela Bondi** is the Attorney General of the United States and administers the Department of Justice, including EOIR, the BIA, and the Immigration Courts.
11. All respondents are named in their official capacities. One or more of the respondents is Petitioner's immediate custodian.

REQUIREMENTS OF 28 U.S.C. § 2243

12. Under 28 U.S.C. § 2243, a court "entertaining an application for a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant . . . is not entitled thereto," 28 U.S.C. § 2243. If the Court issues an order to show cause, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed."

Id.

13. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

14. Mr. Alonso Calero, who has resided in the United States since 2021, has been unlawfully detained without the opportunity to challenge his continued detention since October 2025. DHS’s application of the mandatory detention provision at 8 U.S.C. § 1225(b)(2) to any individual who has entered the United States without inspection, including Mr. Alonso Calero, has been almost universally rejected by district courts across the country, including this Court. Allowing Respondents to continue detaining Mr. Alonso Calero without the opportunity to seek release on bond based on a strained reading of the INA that courts have overwhelmingly rejected only compounds the due process concerns in this case.

15. Mr. Alonso Calero requests that the Court issue an Order to Show Cause, and direct Respondents to file a response within three days, given the significant and unlawful restraint on his liberty.

FACTUAL BACKGROUND

16. Mr. Alonso Calero is a citizen of Cuba. He entered the United States at the U.S./Mexico border in Yuma, Arizona in August of 2021. Removal proceedings before an immigration judge were initiated pursuant to 8 U.S.C. § 1229a, and Mr. Alonso Calero was charged with removability under 8 U.S.C. § 1182(a)(6)(A)(i) on the grounds that he entered the United States without admission or parole.

17. Mr. Alonso Calero was released on his own recognizance, and lives with his wife and daughter, both lawful permanent residents. Mr. Alfonso Calero has no criminal record and has resided peacefully in the United States since his arrival.

18. In October of 2025, ICE detained Mr. Alonso Calero with no explanation. He is currently being held in ICE's custody at the Folkston ICE Processing Center. He has received no hearings or due process since his arrest. ICE's position is that he is ineligible for bond.

EXHAUSTION

19. The failure to exhaust administrative remedies does not bar these claims unless "Congress specifically mandates" exhaustion. *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). "But where Congress has not clearly required exhaustion, sound judicial discretion governs." *Id.*

20. The Court should not require exhaustion here where further administrative review of ICE's initial custody determination would be futile. *See Carr v. Saul*, 593 U.S. 83, 93 (2021) (“[T]his Court has consistently recognized a futility exception to exhaustion requirements.”).

21. Critically, the BIA recently issued a precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), adopting the new interpretation of 8 U.S.C. § 1225(b)(2) that DHS announced in its recent July 8, 2025 policy memorandum. *Matter of Yajure Hurtado* holds that noncitizens who entered the United States without inspection at any point are subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Although this decision is legally erroneous, all immigration judges—including those at the BIA—are obligated to apply the BIA's published precedent and deny any administrative appeal filed by Mr. Alonso Calero. 8 C.F.R. § 103.10(b). And indeed, immigration courts have continued to apply this precedent notwithstanding recent orders from the U.S. District Court for the Central District of California certifying a nationwide class and granting summary judgment in an action for declaratory judgment challenging DHS's and EOIR's erroneous interpretation of the INA. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-

Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners' Motion for Partial Summary Judgment); *Maldonado Bautista v. Noem*, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025) (entering final judgment).

22. For this reason, Mr. Alonso Calero need not go through the futile exercise of seeking a bond hearing before an immigration judge. *See Dale v. Holder*, 610 F.3d 294, 301 (5th Cir. 2010) ("Federal jurisdiction is not conditioned upon the petitioner affording the BIA a second bite at the apple to rid its opinion of any legal error; administrative exhaustion requires only that federal courts refrain from "address[ing] an immigration issue until the appropriate administrative authority has had the opportunity to apply its specialized knowledge and experience to the matter.") (quoting *Toledo-Hernandez v. Mukasey*, 521 F.3d 332, 334 (5th Cir. 2008)).

23. Finally, because Mr. Alonso Calero "raise[s] substantial constitutional question[s]," administrative exhaustion is excused. *See Postels v. Peters*, No. 99-cv-2369, 2000 U.S. Dist. LEXIS 3356, at *17 (E.D. La. Mar. 15, 2000) (citing *Von Hoffburg v. Alexander*, 615 F.2d 633, 638 (5th Cir. 1980).

LEGAL BACKGROUND

24. “In our society liberty is the norm, and detention prior to trial or without trial is the carefully limited exception.” *United States v. Salerno*, 481 U.S. 739, 755 (1987). This fundamental principle of our free society is enshrined in the Fifth Amendment’s Due Process Clause, which specifically forbids the Government from depriving any person of liberty without due process of law. U.S. Const. amend. V. The Due Process Clause applies to everyone in the United States, whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)(“[A]liens who have once passed through our gates, even illegally, may be expelled only after proceedings conforming to traditional standards of fairness encompassed in due process of law”).

25. The Supreme Court has repeatedly recognized that civil commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection, including an individualized detention hearing. *Addington v. Texas*, 441 U.S. 418, 425 (1979) (collecting cases); *see also Salerno*, 481 U.S. at 755 (requiring individualized hearing and strong procedural protections for detention of people charged with federal crimes).

26. For decades, the immigration system has implemented this balance through a network of three mutually exclusive detention statutes. **First**, at or near the border, individuals encountered while entering or attempting to enter the United States can be placed into expedited removal proceedings under 8 U.S.C. § 1225(b) and are subject to detention without a bond hearing. *See Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018) (describing § 1225 as relating to “borders and ports of entry”). These individuals may request release through humanitarian parole under 8 U.S.C. § 1182(d)(5)(A). **Second**, individuals arrested inside the United States are generally placed into removal proceedings under 8 U.S.C. § 1229a, during which an Immigration Judge (an “IJ”)—and later potentially the Board of Immigration Appeals (the “BIA”) and a U.S. Court of Appeals—will decide whether or not the person should be ordered removed. During these proceedings, a noncitizen may apply for various forms of relief from removal, such as asylum, withholding of removal, cancellation of removal, and adjustment of status. The IJ usually holds a series of hearings to determine if the person is eligible for deportation and, even if so, whether to grant some form of relief from deportation. This process can take months or even years. While this process is ongoing, the individuals are generally subject to the detention authority of 8 U.S.C. § 1226. *See Jennings*, 583 U.S. at 288-89 (describing § 1226 detention as relating to people “inside the United States”

and “present in the country”). Most of these individuals are eligible for release on bond and conditions under §1226(a), and they are consequently entitled to a custody redetermination (colloquially called a “bond hearing”) before an IJ to decide whether they should be detained or released. *See* 8 C.F.R. §§ 1003.19(a), 1236.1(d). A bond hearing with strong procedural protections is not mere regulatory grace; it is the baseline Due Process requirement for §1226 detainees. *Demore v. Kim*, 538 U.S. 510, 513 (2003). **Third**, if an individual completes their removal proceedings and all appeals, and is ordered removed, the person is subject to detention under 8 U.S.C. § 1231 while the government attempts to remove them. That statute provides for 90 days of mandatory detention called the “removal period,” followed by discretionary detention within certain limits.

27. This system—in which people arrested inside the United States are generally eligible for a bond hearing and release during immigration proceedings—has existed essentially in its current form since Congress passed the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104-208, Div. C, § 3003, 110 Stat. 3009-546, 3009-585 to 3009-587 (codified at 8 U.S.C. § 1226). According to IIRIRA’s legislative history, § 1226(a) was intended to “restate[] the [then-]current provisions in [Immigration and Nationality Act] section 242(a)(1) regarding the authority of the Attorney General to arrest,

detain, and release on bond an alien who is not lawfully in the United States.” *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1260 (W.D. Wash. 2025) (quoting H.R. Rep. No. 104-469, at 229 (1996)). It also reflected nearly a century of law in the United States of allowing people inside the country to seek release while the government decided whether to deport them. *See* 34 Stat. 904-05, § 20 (1907) (providing for release on bond for noncitizens alleged to have entered the United States unlawfully); 39 Stat. 874, 890-91, §§ 19, 20 (1917) (similar); 66 Stat. 163, §§ 241(a)(2), 242(a) (1952) (last codified at 8 U.S.C. § 1252(a)(1) (1994)) (providing for release on bond, including for noncitizens alleged to have entered the United States without inspection).

28. This eligibility for a bond hearing and potential release has applied to people arrested in the United States, regardless of whether they initially entered the country with permission. Indeed, shortly after IIRIRA’s enactment, the former Immigration and Naturalization Service and the Executive Office for Immigration Review (“EOIR,” which houses the Immigration Courts and BIA) issued an interim rule to implement the statute that expressly stated: “Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. 10312, 10323 (Mar. 6,

1997). Thus, for almost 30 years, all participants in the immigration system have understood that people arrested inside the United States generally fall within §1226 for detention purposes and are therefore required to receive a bond hearing upon request—even if they initially entered the country without permission.

29. Recently, IJs began misclassifying §1226 detainees arrested inside the United States as mandatory detainees under §1225(b)(2), solely because they initially entered the country without permission. *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1244 (W.D. Wash. April 24, 2025). The U.S. District Court for the Western District of Washington ruled that this practice was likely illegal in April 2025 and ordered a bond hearing for a wrongfully detained litigant. *Id.* at 1263.

30. Nevertheless, three months later, on July 8, 2025, DHS, “in coordination” with DOJ, adopted the IJs’ unlawful practice nationwide. Pursuant to the July 2025 Policy, DHS’s representatives in the Immigration Courts began to request that Immigration Judges nationwide misclassify bond-eligible §1226 detainees as mandatory §1225(b)(2) detainees and refuse to conduct bond hearings on that basis. Some Immigration Judges agreed. As a result, numerous detainees have been illegally denied bond hearings.

31. As previously noted, the BIA and the Immigration Courts are entities within EOIR, which is part of DOJ. On September 5, 2025, in *Matter of Yajure Hurtado*,

29 I. & N. Dec. 216 (B.I.A. 2025) (“*Matter of Hurtado*”), the BIA issued a precedential decision that purports to require all Immigration Judges to misclassify people in this manner. DHS and DOJ are continuing to systemically misclassify Mr. Alonso Calero and deny him access to a bond hearing, relying on *Matter of Hurtado*.

COUNT ONE

Violation of 8 U.S.C. § 1226(a) and Associated Regulations

32. Mr. Alonso Calero repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.
33. The only possible basis to detain Mr. Alonso Calero is 8 U.S.C. § 1226(a).
34. Under § 1226(a) and its associated regulations, Mr. Alonso Calero is entitled to a bond hearing. *See* 8 C.F.R. §§ 236.1(d), 1236.1, 1003.19(a)-(f).
35. Mr. Alonso Calero has not been provided a bond hearing and will not be given a bond hearing without assistance from this Court.
36. Mr. Alonso Calero’s continued detention is therefore unlawful.

COUNT TWO

**Violation of Fifth Amendment Right to Procedural Due Process
Failure to Provide a Bond Hearing Pursuant to 8 U.S.C. §1226(a)**

37. Mr. Alonso Calero repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.

38. Because Mr. Alonso Calero can only be subject to detention pursuant to 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment requires a bond hearing with strong procedural protections.

39. Mr. Alonso Calero has not and will not be provided with a bond hearing as required by law.

40. Mr. Alonso Calero's continued detention is therefore unlawful.

COUNT THREE
Violation of Fifth Amendment Right to Due Process
(Substantive Due Process)

41. Mr. Alonso Calero repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.

42. Because Mr. Alonso Calero is not being provided a bond hearing, the government is not taking any steps to effectuate its substantive obligation to ensure immigration detention bears a "reasonable relation" to the purposes of immigration detention (i.e., the prevention of flight and danger to the community during the pendency of removal proceedings) and is not impermissibly punitive. *See Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 532-33 (Kennedy, J., concurring).

43. Mr. Alonso Calero's detention is punitive as it bears no "reasonable relation" to any legitimate government purpose. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690 (finding immigration detention is civil and

thus ostensibly “nonpunitive in purpose and effect”). Here, there is every indication that his “detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons,” *Demore v. Kim*, 538 U.S. 510, 532–33 (2003) (Kennedy J., concurring).

44. Mr. Alonso Calero’s detention is therefore unlawful, regardless of what statute might apply to purportedly authorize such detention.

COUNT FOUR

Violation of the Immigration and Nationality Act Request for Relief Pursuant to *Maldonado Bautista*

45. Mr. Alonso Calero repeats and re-alleges the allegations contained in the preceding paragraphs of this Complaint-Petition as if fully set forth herein.

46. As a member of the Bond Eligible Class, Mr. Alfonso Calero is entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

47. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA in applying the mandatory detention statute at § 1225(b)(2) to class members.

48. The order granting class certification in *Maldonado Bautista* further orders that “[w]hen considering this determination with the MSJ Order, the Court extends the same declaratory relief granted to Petitioners to the Bond Eligible Class as a whole.”

49. Respondents are parties to *Maldonado Bautista* and bound by the Court's declaratory judgment, which has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

50. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Mr. Alfonso Calero's statutory rights under the INA and the Court's judgment in *Maldonado Bautista*.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Declare that Petitioner's detention is not governed by 8 U.S.C. § 1225(b)(2) and order his release, or, alternatively a bond hearing conducted under 8 U.S.C. § 1226(a) within seven days of this order;
- (3) Grant attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412(d) and 5 U.S.C. § 504 et seq. if applicable; and
- (4) Grant any further relief this Court deems just and proper.

This 5th day of January, 2026.

Respectfully Submitted,
Thomas C. Wooldridge
Thomas C. Wooldridge

Ga. Bar. No. 384108
Attorney For Mr. Alonso Calero

Wooldridge Federal Defense Firm
101 Glen Lennox Dr.
Suite 300
Chapel Hill, NC 27517
Tel. 919.885.1452