

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

Jorge Gomez Aguilar

Petitioner,

v.

Tony Normand, Warden, Folkston ICE
Processing Center

Respondent.

Case No.: CV 526-019

**PETITION FOR WRIT OF HABEAS
CORPUS**

INTRODUCTION

1. Petitioner, Jorge Gomez Aguilar, a national of Mexico, is unlawfully detained in the physical and legal custody of Respondent at the Folkston ICE Processing Center in Folkston, Georgia. Exhibit 1.

2. Petitioner challenges the legality of his prolonged detention and the categorical denial of any meaningful bond hearing. Petitioner is charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) (or INA § 212(a)(6)(A)(i)). Exhibit 2. Although the Department of Homeland Security has characterized him as an applicant for admission, his continued detention without an individualized bond hearing violates the Due Process Clause of the Fifth Amendment and exceeds the authority granted by the Immigration and Nationality Act.

3. An Immigration Judge of the Stewart Immigration Court denied Petitioner's initial bond request after incorrectly concluding that the court lacked jurisdiction because Petitioner was an applicant for admission subject to mandatory detention. A subsequent bond request was filed, supported by multiple district court decisions from Georgia recognizing the constitutional

requirement of individualized custody review for similarly situated individuals, was also denied. As a result, Petitioner remains detained without any opportunity to demonstrate that he is neither a flight risk nor a danger to the community.

4. Any attempt to classify Petitioner as an “arriving alien” subject to mandatory detention under 8 U.S.C. § 1225(b), and to justify his continued confinement without bond on that basis, is legally erroneous. Petitioner’s custody is governed by 8 U.S.C. § 1226(a), which expressly contemplates discretionary detention and individualized determinations regarding release on bond.

5. For the foregoing reasons, Petitioner seeks habeas relief because his prolonged detention without a constitutionally adequate bond hearing is unlawful. Petitioner respectfully requests that this Court: (a) declare that Petitioner’s continued detention without an individualized bond hearing is unlawful; (b) prohibit his transfer from this District while this Petition is pending; and (c) order the Respondent to provide a prompt bond hearing before an immigration judge authorized to order release, or, in the alternative, order Petitioner’s immediate release from custody.

JURISDICTION

7. This action is brought pursuant to the United States Constitution and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*, and challenges the legality of Petitioner’s ongoing detention under federal law.

6. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody in violation of the Constitution and laws of the United States. Jurisdiction is also proper under 28 U.S.C. § 1331 because this action presents federal questions. The Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–706, and the Suspension Clause of Article I, Section 9, Clause 2 of the Constitution further support the Court’s jurisdiction.

7. Sovereign immunity does not bar this action. Congress has waived immunity for non-monetary claims seeking relief from unlawful agency action under 5 U.S.C. § 702, and federal courts may enjoin unconstitutional or ultra vires conduct by federal officers.

VENUE

8. Venue is proper in this District because Petitioner is detained at the Folkston Annex which is part of the Main Folkston ICE Processing Center in Folkston, Georgia, within the territorial jurisdiction of this Court. Venue is also proper because Respondent is a federal officer of the United States and because a substantial part of the events or omissions giving rise to the claims occurred in this District. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

9. Although 28 U.S.C. § 2241 does not impose a statutory exhaustion requirement, courts may consider whether a petitioner has pursued available administrative remedies before seeking habeas relief.

10. Any prudential exhaustion requirement is satisfied or should be excused. Petitioner has repeatedly sought review of his custody status before the immigration court. His initial request for a bond hearing was denied after the Immigration Judge concluded that the court lacked jurisdiction on the ground that Petitioner was an applicant for admission subject to mandatory detention. Based on that conclusion, the Immigration Judge declined to conduct any individualized custody assessment.

11. After several additional months of continued detention, Petitioner renewed his request for bond and submitted authority from federal district courts in Georgia recognizing that similarly situated individuals are entitled to individualized custody review.

12. On December 16, 2025, the Immigration Judge again denied bond relying on *Matter of Yajure Hurtado* and reiterating that the court lacked jurisdiction. At no point was Petitioner afforded a bond hearing on the merits.

13. Further administrative review would be futile. The Board of Immigration Appeals lacks authority to grant habeas relief or to adjudicate the constitutional claims raised in this Petition. Where the Immigration Judge has expressly disclaimed jurisdiction to consider bond, no administrative remedy exists to address the legality of Petitioner's detention.

14. Administrative remedies are also inadequate. Petitioner challenges the legality of his continued detention under the Constitution and the Immigration and Nationality Act, claims that fall squarely within the province of the federal courts.

PARTIES

15. Petitioner, Jorge Gomez Aguilar, is a citizen and national of Mexico who is currently detained at the Folkston Annex at the Folkston Main Detention Center in Folkston, Georgia.

16. Respondent is the Warden of the Folkston Main Detention Center, who has immediate physical custody of Petitioner and is the sole proper respondent in this action. *See Rumsfeld v. Padilla*, 542 U.S. 426 (2004).

STATEMENT OF FACTS

17. Petitioner maintains that he entered the United States on or about October 20, 1997, at or near Phoenix, Arizona, and has resided in United States continuously since that time.

18. On or about May 6, 2024, Petitioner was taken into ICE custody and served him with a Notice a Appear charging him as inadmissible under INA § 212(a)(6)(A)(i). *See Exhibit 2.*

Petitioner remains detained pursuant to those removal proceedings and has been continuously confined since May 6, 2025.

First Bond Request and Jurisdictional Denial

19. Petitioner requested a bond hearing before the Immigration Court seeking release from custody pending the resolution of his case. At that time, Petitioner had been detained for several months without any individualized assessment of whether his continued detention was necessary.

20. The Immigration Judge denied Petitioner's request, concluding that the court lacked jurisdiction to conduct a custody redetermination. The denial was based on the determination that Petitioner was an applicant for admission subject to mandatory detention and therefore categorically ineligible for bond. Relying on agency interpretations of the detention statutes, the Immigration Judge declined to consider whether Petitioner posed a flight risk or a danger to the community. Exhibit 3.

21. This categorical jurisdictional bar foreclosed any meaningful review of Petitioner's detention at an early stage of his confinement and set the stage for prolonged detention without the procedural safeguards ordinarily required in civil immigration custody determinations.

Second Bond Request and Continued Detention

22. Petitioner subsequently filed a renewed request for bond, supported by district court decisions from Georgia holding that similarly situated individuals are entitled to individualized bond proceedings under 8 U.S.C. § 1226(a).

23. On December 26, 2025, the Immigration Judge denied Petitioner's renewed request for bond. In doing so, the Immigration Judge relied on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), to conclude that the court lacked jurisdiction to conduct a bond hearing and that

Petitioner was categorically ineligible for release. Exhibit 4. The Immigration Judge did not evaluate Petitioner's individual circumstances, did not assess whether Petitioner posed a flight risk or danger to the community, and did not address the length of Petitioner's detention.

24. As a result, Petitioner remains detained based solely on a legal interpretation that eliminates access to individualized custody review, notwithstanding the prolonged nature of his detention and the availability of less restrictive alternatives to confinement. The denial of the second bond request reinforced the categorical nature of Petitioner's detention and left him without any administrative avenue to obtain a hearing on the merits of his custody.

CLAIM FOR RELIEF

COUNT ONE

Violation of the Fifth Amendment Due Process Clause

25. The allegations in the above paragraph are realleged and incorporated herein.

26. The Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law. These protections extend to all persons within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

27. Whether detention procedures satisfy due process is evaluated under *Mathews v. Eldridge*, 424 U.S. 319 (1976), which balances the private interest at stake, the risk of erroneous deprivation, and the government's interest.

28. Petitioner has been detained for more than six months without any individualized bond hearing. His liberty interest is substantial, and the risk of erroneous deprivation is extreme where detention is automatic and categorical. The government's interest in detention does not justify the complete denial of a hearing, particularly where less restrictive alternatives such as bond are available. The subsequent categorical denial of a bond hearing eliminated any mechanism to evaluate whether detention is necessary in his particular circumstances.

29. The government's interest does not justify the denial of individualized process. Providing a bond hearing imposes minimal administrative burden and is the procedure Congress contemplated under 8 U.S.C. § 1226(a).

30. Under the balancing framework set forth in *Mathews v. Eldridge*, Petitioner's continued detention without a bond hearing violates the Due Process Clause.

COUNT TWO
Detention Not Authorized by the Immigration and Nationality Act and Agency
Action Not in Accordance with Law
(5 U.S.C § 706(2)(A) and 8 U.S.C. § 1226)

31. The allegations in the above paragraph are realleged and incorporated herein.

32. The Immigration and Nationality Act authorizes discretionary detention and individualized custody determinations under 8 U.S.C. § 1226(a). The categorical denial of bond based solely on an agency interpretation that divests immigration judges of jurisdiction exceeds the authority granted by Congress.

33. Under the Administrative Procedure Act, a reviewing court must set aside agency action that is arbitrary, capricious, or not in accordance with law. 5 U.S.C. § 706(2)(A). An agency acts unlawfully when it fails to consider relevant factors, departs from the evidence before it, or applies a categorical rule that exceeds its statutory authority.

34. Here, Respondent has detained Petitioner without any individualized custody determination and without findings that he poses a risk of flight or danger.

35. Respondent's continued detention of Petitioner is therefore unlawful under the Immigration and Nationality Act and the Administrative Procedure Act. Accordingly, habeas relief is warranted.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this Petition;
- B. Declare that Respondent's continued detention of Petitioner without an individualized bond hearing violates the Constitution and laws of the United States;
- C. Issue a Writ of Habeas Corpus ordering Respondent to release Petitioner immediately, or, in the alternative, to provide a prompt individualized bond hearing before an immigration judge authorized to order release;
- D. Prohibit Respondent from transferring Petitioner from this District without prior approval of the Court; and
- E. Grant any further relief this Court deems just and proper.

Respectfully Submitted,
This 7th day of January, 2026.



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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

This 7th day of January, 2026.

A handwritten signature in black ink, appearing to read "Rachel Effron Sharma", with a long horizontal flourish extending to the right.

Rachel Effron Sharma
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