

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Edwin Joel BANEGAS-CRUZ,)
)
Petitioner,)
)
v.)
)
JASON STREEVAL, *in his official capacity*)
as Warden of Stewart Detention Center, and)
GEORGE STERLING, *Field Office Director ICE*)
Atlanta Field Office and TODD LYONS, in his)
official capacity as Acting Director of Immigration)
and Customs Enforcement and KRISTI NOEM)
Secretary of Homeland Security,)
)
Respondents.)

Case No. 4:26-CV- 44

**PETITION FOR WRIT
OF HABEAS CORPUS**
A# 

I. INTRODUCTION

1. Petitioner Edwin Banegas-Cruz (“Petitioner” or “Mr. Banegas-Cruz”) is a noncitizen long-resident of the United States who is currently detained by the Department of Homeland Security (“DHS”) at the Stewart Detention Center in Lumpkin, Georgia. He entered the United States without inspection years ago and was arrested in the interior; he is not and has never been placed in expedited-removal proceedings.

2. Under the Immigration and Nationality Act (“INA”), individuals arrested in the interior and placed in § 240 removal proceedings are detained, if at all, under 8 U.S.C. § 1226(a), with a right to a custody redetermination by an Immigration Judge (“IJ”).

3. DHS and the BIA assert that because Mr. Banegas-Cruz was never formally admitted, he is an “applicant for admission” subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and ineligible for bond. That position contravenes the statute, the implementing regulations, decades of pattern & practice, and a judge of this Court rejected the same theory in ordering a § 1226(a) bond hearing for another Stewart detainee. *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115 (M.D. Ga. Nov. 1, 2025).

4. Courts have also rejected the Government’s position on a classwide basis as well. In *Maldonado Bautista v. Santacruz*, the Central District of California granted partial summary judgment declaring that 8 U.S.C. § 1226(a)—not § 1225(b)(2)—governs detention for long-present interior arrestees placed directly into § 240 proceedings, and days later certified a nationwide Bond-Eligible Class and ordered access to § 236(a) bond hearings for class members. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (partial summary judgment); *id.* (Nov. 25, 2025) (class certification and injunctive relief). On December 18, 2025, the *Maldonado Bautista* court issued a clarifying order that reaffirmed the nationwide Bond Eligible Class definition and clarified that its summary-judgment ruling declared DHS’s policy denying bond hearings unlawful and vacated that policy under the APA. Despite the federal court orders, DHS counsel and immigration judges at Stewart Immigration Court continue to follow *Yajure*.

5. Petitioner seeks a writ of habeas corpus directing Respondents to provide him a prompt, individualized bond hearing before a neutral adjudicator under § 1226(a)

(within 7 days), at which the Government bears the burden to show by clear and convincing evidence that he is a danger or flight risk, or, in the alternative, an order for his immediate release under reasonable conditions. He also seeks an order prohibiting transfer outside this District during the pendency of these proceedings.

II. VENUE AND JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. §§ 2241 and 1331 and Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause). Habeas relief is available to challenge the legality of civil immigration detention and to compel a bond hearing or release.

7. Venue lies in the Columbus Division because Petitioner is confined at the Stewart Detention Center within this Division and Respondent Streeval is his immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

8. Petitioner Edwin Banegas-Cruz is a 35-year-old Honduran national who resides in Pineville, North Carolina. He is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

9. Respondent Jason Streeval is the Warden of Stewart Detention Center. As such, Respondent is responsible for the operation of the Detention Center where Mr. Banegas-Cruz is detained. Because ICE contracts with private prisons such as Stewart to house immigration detainees such as Mr. Banegas-Cruz, Respondent Streeval has immediate physical custody of the Petitioner.

10. Respondent George Sterling is the Atlanta Field Office Director (“FOD”)

for ICE Enforcement and Removal Operations (“ERO”). As such, Respondent Sterling is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Sterling is being sued in his official capacity.


11. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (“ICE”). As such, Respondent Lyons is responsible for the oversight of ICE operations. Respondent Lyons is being sued in his official capacity.

12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (hereinafter “DHS”). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.

IV. EXHAUSTION AND FUTILITY

13. No statute imposes an exhaustion requirement for habeas petitions under 28 U.S.C. § 2241 in this context. In this case, Petitioner has sought a bond redetermination hearing twice. See Exhibits B & C. The question presented is purely legal and urgent, and Petitioner faces ongoing deprivation of physical liberty absent judicial intervention. Futility is further underscored by *Maldonado Bautista v. Santacruz*, which has already required § 236(a) bond access for similarly situated interior arrestees nationwide, reinforcing that the Government’s § 1225(b)(2) position is unlawful and is currently being ignored by DHS counsel and immigration judges at Stewart Immigration Court. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20 & 25, 2025; Dec. 18, 2025).

V. STATEMENT OF FACTS

14. Mr. Banegas-Cruz is a Honduran national born on . He entered the United States without inspection in 2008, when he was 17 years old, and has lived continuously in North Carolina for the past 17 years. He resides in Pineville, North Carolina.

15. Mr. Banegas-Cruz has one minor United-States-citizen child. Mr. Banegas-Cruz financially supports his child.

16. On September 24, 2025, Mr. Banegas-Cruz was on his way to pick up a coworker. When he pulled up at the coworker's home, an ICE official was already there. They were followed by ICE for five minutes before being pulled over. His coworker had a deportation order and ICE took both of them into custody. Mr. Banegas-Cruz was taken to a holding facility in Charlotte, NC and was transferred to Dorchester County Holding Detention Center.

17. On or about September 29, 2025, ICE transported him to Stewart, where he remains confined.

18. On September 26, 2025, DHS placed Petitioner in removal proceedings under 8 U.S.C. § 1228 (INA § 240) by filing a Notice to Appear (NTA) (dated and allegedly served on September 26, 2025) charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i) (INA § 212(a)(6)(A)(i)) and under 8 U.S.C. § 1182(a)(7)(A)(i)(I) (INA § 212(a)(7)(A)(i)(I)), as an applicant for admission. **(Exhibit A, Notice to Appear).**

19. DHS has never processed Petitioner for § 235 admission or expedited removal under § 235(b)(1).

20. On December 8, 2025, a Stewart immigration judge denied Petitioner's motion for a bond redetermination hearing, citing a lack of jurisdiction. (**Exhibit B, IJ 12/08/2025 denial order**). After the December 18, 2025 *Maldonado Bautista* court's issuance of a "clarifying order," Petitioner again sought a bond hearing. On December 29, 2025, a Stewart immigration judge again denied Petitioner's motion for a bond redetermination hearing, citing a lack of jurisdiction. (**Exhibit C, IJ 12/29/2025 denial order**).

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

21. Section 236(a) of the INA, 8 U.S.C. § 1226(a), governs discretionary civil immigration detention for "any alien" arrested and detained pending a decision on removal, unless § 236(c) applies. It authorizes release on bond and gives immigration judges custody-redetermination authority by regulation. *See* 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a).

22. Section 235(b)(2) of the INA, 8 U.S.C. § 1225(b)(2), governs detention in the inspection context and the classes designated for expedited removal—settings that occur at or near the border and, by regulation, only for individuals described in published Federal Register notices. *See* 8 C.F.R. § 235.3(b)(1)–(2). Interior expedited removal is limited to certain encounters and, at most, to those who cannot show two years' continuous presence. 84 Fed. Reg. 35,409 (July 23, 2019). Individuals—like Petitioner—who were arrested in the interior long after entry and placed in § 240 proceedings are detained, if at all, under § 1226(a).

23. This Court rejected DHS's "mandatory detention for anyone not

‘admitted’” theory, holding that § 1225(b)(2) is limited to “aliens seeking admission” and that § 1226(a) governs custody for noncitizens arrested inside the United States who are not actively seeking lawful admission. The Court explained that reading §§ 1225 and 1226 together, § 1225(b)(2) is a narrow “catchall,” but “it only catches ‘aliens seeking admission,’” whereas § 1226(a) preserves discretionary custody with a bond hearing for those arrested here. It further found *Yajure Hurtado* unpersuasive and emphasized that Congress’s text and canons of construction control. On this record—identical legal question, same facility, same court—the remedy should match: apply § 1226(a) and order a prompt bond hearing under the regulations.

24. The same statutory reading has now been adopted in classwide relief. In *Maldonado Bautista v. Santacruz*, the court held that detention for interior arrests charged into § 240 is governed by § 1226(a) and not § 1225(b)(2), and it directed that class members be afforded individualized bond hearings before an immigration judge under § 236(a) on a prompt timeline. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (partial summary judgment); *id.* (Nov. 25, 2025) (class certification). That class relief confirms the statute’s two-track structure: § 235 governs the inspection/expedited-removal track; § 236(a) governs detention during § 240 removal proceedings for long-present interior arrestees.

VII. CAUSES OF ACTION
COUNT ONE
STATUTORY CLAIM (Detention Governed by INA § 236(a))

25. Petitioner incorporates paragraphs 1 through 24 as if fully set out herein.

26. Section 235(b)(2)(A) does not govern Petitioner's detention because he was not encountered during inspection and is not within any class designated for expedited removal by published notice. Reading § 1225(b)(2)(A) to govern all never-admitted noncitizens regardless of when and where they were arrested would nullify Congress's express two-year limit on interior expedited removal and collapse the statute's two-track scheme. Under § 1226(a) and its implementing regulations, Petitioner is entitled to a prompt bond hearing before a neutral adjudicator.

COUNT TWO
PROCEDURAL DUE PROCESS (U.S. Const. amend. V)

27. Petitioner incorporates paragraphs 1 through 26 as if fully set out herein.

28. Prolonged civil detention without a neutral bond hearing violates procedural due process. If Respondents' position categorically forecloses any IJ bond review for interior arrestees like Petitioner, it denies a meaningful opportunity to be heard and invites arbitrary confinement. At minimum, due process requires a prompt bond hearing at which the Government bears the burden to justify detention by clear and convincing evidence.

COUNT THREE
SUBSTANTIVE DUE PROCESS (U.S. Const. amend. V)

29. Petitioner incorporates paragraphs 1 through 28 as if fully set out herein.

30. Civil detention must remain reasonably related to its purposes of ensuring appearance and protecting the community. Detaining Petitioner without

any individualized assessment, solely on a theory rejected by this Court, bears no reasonable relation to any legitimate aim and is excessive in relation to its purposes.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Issue a writ of habeas corpus directing Respondents to provide Petitioner a bond hearing under 8 U.S.C. § 1226(a) before an Immigration Judge within 7 days of the Court's order, with the Government bearing the burden to establish by clear and convincing evidence that Petitioner is a danger to the community or a flight risk, and to consider alternatives to detention;
- 3) Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of these proceedings;
- 4) Order Respondents to answer the petition within 3 business days;

Grant such other relief as the Court deems just and proper.

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

Respectfully submitted this 9th day of January, 2026.

Helen L. Parsonage
Elliot Morgan Parsonage, PLLC
328 N Spring St.
Winston-Salem, NC 27101
hparsonage@emplawfirm.com
NC Bar # 35492
GA Bar # 435330
Attorney for Petitioner

Jeremy Layne McKinney McKinney
Immigration Law 910 N. Elm St.
(POB 1800) Greensboro, NC 27401
(27402) NC Bar # 23318
jeremy@mckinneyimmigration.com
Motion to Appear Pro Hac Vice
Forthcoming

CERTIFICATE OF COMPLIANCE

I hereby certify that the document to which this certificate is attached has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1 for documents prepared by computer.

Date: January 9, 2026

/s/ Helen L Parsonage

Elliot Morgan Parsonage, PLLC

328 N Spring St.

Winston-Salem, NC 27101

NC Bar # 35492

GA Bar # 435330

Attorney for Petitioner