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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

STANISLAV DAGAEV,



Petitioner,

v.

TONY NORMAND, WARDEN,
Folkston ICE Processing Center

Respondent.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner Stanislav Dagaev is in the physical custody of Respondent at
3 the Folkston ICE Processing Center. Petitioner now faces unlawful detention
4 because the Department of Homeland Security (DHS) and the Executive Office of
5 Immigration Review (EOIR) have concluded Petitioner is subject to mandatory
6 detention.
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8 2. Petitioner is charged with, inter alia, having entered the United States
9 without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

10 3. Based on this allegation in Petitioner’s removal proceedings, DHS
11 denied Petitioner release from immigration custody, consistent with a new DHS
12 policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement
13 (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e.,
14 those who entered the United States without admission or inspection—to be subject
15 to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for bond.
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17 4. Similarly, on September 5, 2025, the Board of Immigration Appeals
18 (BIA or Board) issued a precedent decision, binding on all immigration judges,
19 holding that an immigration judge has no authority to consider bond requests for any
20 person who entered the United States without admission. *See Matter of Yajure*
21 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such
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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 mandatory detention 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
6 United States. Instead, such individuals (and Petitioner) are subject to a different
7 statute, § 1226(a), that allows for release on conditional parole or bond.
8

9 6. Respondent’s new legal interpretation is contrary to the statutory
10 framework, contrary to decades of agency practice applying § 1226(a), and contrary
11 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 Folkston ICE Processing Center continues to refuse to find jurisdiction
20 to conduct bond hearings for individuals like Petitioner—leaving federal habeas
21 corpus as the only available mechanism for judicial review of Petitioner’s detention.
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1 8. Accordingly, Petitioner seeks a writ of habeas corpus that he be
2 released unless Respondents provide a § 1226(a) bond hearing within seven days.

3 **JURISDICTION**

4 9. Petitioner is in the physical custody of Respondents. Petitioner is
5 detained at the Folkston ICE Processing Center located in Folkston, 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 U.S. District Court for the Southern District
15 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 Southern District of Georgia.
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1 States in January 2024, resided here, and was apprehended within the interior, not at
2 a port 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.
7 Reg. 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).

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
5 27. This district has decided this issue in several cases. *See e.g., Mora v.*
6 *Normand*, 5:25-cv-190-LGW-BWC. Other district courts in this Circuit have
7 rejected the government's reading of § 1225(b)(2). In *J.A.M. v. Streeval*, Case No.
8 4:25-cv-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025), the Middle District
9 held that § 1225(b)(2) applies only to noncitizens who are "seeking admission" in
10 the context of an arrival inspection by an examining immigration officer. This
11 decision was affirmed in *P.R.S. v. Streeval*, No. 4:25-cv-330 2025 WL 3269947
12 (Nov. 24, 2025).

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14 28. *J.A.M.* and *P.R.S.* explained that "seeking admission" requires an
15 affirmative act at or near the time of arrival to obtain legal entry, coupled with
16 contemporaneous inspection. *J.A.M.* and *P.R.S.* rejected DHS's argument that
17 individuals apprehended years after entering may be treated as if they were seeking
18 admission. *Id.* at 3.

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

1 **The Bautista Class Action Confirms Petitioner’s Eligibility for Bond**

2 30. Petitioner is also a member of the certified class in *Lazaro Maldonado*
3 *Bautista v. Santacruz*, No. 5:25-cv-1873-SSS-BFM, 2025 WL 3288403 (C.D. Cal.
4 Nov. 25, 2025), which likewise held that § 1225(b)(2) mandatory detention does not
5 apply absent an arrival inspection. *See* [Doc. 1-3 at 3] (noting the *Bautista* class
6 certification). DHS has acknowledged in other litigation that it is still “developing
7 its decision” concerning the application of *Bautista*.
8

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

10 31. Federal courts across the country have agreed that § 1226(a)—not §
11 1225(b)—governs detention of individuals apprehended inside the United States,
12 even when they originally entered without inspection. *See, e.g., Rodriguez Vazquez*
13 *v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, 2025 WL
14 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, 2025 WL 2084238 (D.
15 Mass. July 24, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11,
16 2025); *Ramirez Clavijo v. Kaiser*, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025);
17 *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Pizarro*
18 *Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025).
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21 32. These courts uniformly conclude that Respondent’s interpretation
22 contradicts the statutory text, structure, and decades of agency practice.

23 **The Folkston ICE Processing Center’s Refusal to Exercise Jurisdiction**

1 33. Despite precedent and the *Bautista* class decision, the Folkston ICE
2 Processing Center continues to decline jurisdiction over custody redeterminations
3 for noncitizens like Petitioner, based on the BIA's erroneous decision in *Matter of*
4 *Yajure Hurtado*.

5
6 34. Because Petitioner has no administrative avenue to challenge his
7 custody, habeas corpus is the only remedy to redress the violation of federal law.

8 **FACTUAL BACKGROUND**

9 35. Petitioner entered the United States in 2024 at the Calexico Port of
10 Entry. Since his entry, he has established a professional life and a host family in the
11 United States.

12
13 36. Petitioner was gainfully employed as a software engineer for Space IQ.
14 Petitioner's employer, Bates Jernigan, was a host family for Petitioner and has
15 invested in Petitioner's defense.

16 37. Petitioner has no criminal history.

17 38. Petitioner was detained after appearing to a "check-in," as directed.

18
19 39. Prior to his detention, Petitioner took steps to make a home in the
20 United States, leasing an apartment in Huntersville, NC, purchased multiple
21 vehicles, and a boat for recreation.

22 40. Petitioner poses no danger to the community and is not a flight risk.
23 His ties, gainful employment, lack of criminal record, and consistent community
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1 involvement demonstrate that he is an appropriate candidate for release under §
2 1226(a).

3 41. Petitioner's continued detention also violates due process because it is
4 based on an unlawful statutory interpretation already rejected by this Court and by a
5 certified nationwide class action. In *J.A.M. v. Streeval*, this Court held that 8 U.S.C.
6 § 1225(b)(2) applies only when a noncitizen is "seeking admission" in the context
7 of an **arrival inspection** by an examining immigration officer. Petitioner, however,
8 was apprehended inside the United States years after his entry and thus falls squarely
9 within the detention framework of § 1226(a), which entitles him to a bond hearing.
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11 42. Likewise, Petitioner is a member of the certified class in *Lazaro*
12 *Maldonado Bautista v. Santacruz*, which likewise held that § 1225(b)(2) mandatory
13 detention cannot apply absent an arrival inspection. Nevertheless, ICE continues to
14 detain Petitioner under § 1225(b)(2), and the Folkston ICE Processing Center refuses
15 to exercise jurisdiction to conduct a bond hearing.
16

17 **CLAIMS FOR RELIEF**

18 **COUNT I** 19 **Violation of the INA**

20 43. Petitioner incorporates by reference the allegations of fact set forth in
21 the preceding paragraphs.

22 44. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
23 apply to all noncitizens residing in the United States who are subject to the grounds
24

1 of inadmissibility. As relevant here, it does not apply to those who previously
2 entered the country and have been residing in the United States prior to being
3 apprehended and placed in removal proceedings by Respondent. Such noncitizens
4 are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or
5 § 1231.
6

7 45. The application of § 1225(b)(2) to Petitioner unlawfully mandates him
8 continued detention and violates the INA.

9 **COUNT II**

10 **Violation of the Bond Regulations**

11 46. Petitioner incorporates by reference the allegations of fact set forth in
12 preceding paragraphs.
13

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

3 48. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy
4 and practice of applying § 1225(b)(2) to individual like Petitioner.

5 49. The application of § 1225(b)(2) to Petitioner unlawfully mandates her
6 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
7

8 **COUNT III**
9 **Violation of Due Process**

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

12 51. The government may not deprive a person of life, liberty, or property
13 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—
14 from government custody, detention, or other forms of physical restraint—lies at the
15 heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690
16 (2001).
17

18 52. Petitioner has a fundamental interest in liberty and being free from
19 official restraint.

20 53. The government’s detention of Petitioner without a bond
21 redetermination hearing to determine whether she is a flight risk or danger to others
22 violates her right to due process.
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24 **(Continued on the next page with signatures)**

PRAYER FOR RELIEF

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

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

DATED this 13th day of January, 2026.

/s/ Matthew K. Winchester
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Attorney for Petitioner

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

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

5 DATED this 13th day of January, 2026.

6
7
8 */s/ Matthew K. Winchester*

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