

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION**

VICTOR LORENZO MONTES,  
Petitioner,

vs.

JASON STREEVAL in his official capacity as Warden of Stewart County Detention Center; MARCOS CHARLES, Acting Executive Director of Enforcement and Removal Operations for U.S. Immigration and Customs Enforcement; TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement; KRISTI NOEM, U.S. Secretary of Homeland Security; PAMELA BONDI, U.S. Attorney General; U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT; and U.S. DEPARTMENT OF HOMELAND SECURITY;

Respondents.

Civil Action No.:

**HEARING REQUESTED**

**PETITION FOR *WRIT OF HABEAS CORPUS* BY AN ALIEN DETAINEE**

**To the Honorable Judges of this Court:**

Petitioner, Victor Lorenzo Montes, respectfully brings this Petition for *Writ of Habeas Corpus* seeking relief to remedy his unlawful detention.

## I. FACTUAL BACKGROUND

1. Petitioner, a citizen and national of Mexico, entered the United States in the year 2010 at the age of 4. He did not enter the United States through a port of entry or official border crossing, and he has never been legally admitted to the United States. He has resided continuously in the United States since the 2010 entry. He is currently 20 years old, has graduated from high school in the United States, and has a US citizen stepmother.

2. On November 26, 2025, U.S. Immigration and Customs Enforcement (ICE) arrested Petitioner in Rome, Georgia, while he was being detained in the Floyd County Detention Center on a traffic violation. He was transported to the Stewart County Detention Center (SCDC), where he remains.

3. At the time of his arrest by ICE, Petitioner was not seeking lawful admission to the United States and, therefore, could not, as a matter of law, be classified as an applicant for admission under § 1225(b)(2).

4. On September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a precedential decision in Matter of Yahure Hurtado, 29 I&N Dec. 216 (BIA 2025), reclassifying noncitizens present in the United States without lawful admission as “applicants for admission” under 8 U.S.C. § 1225(b)(2), thereby subjecting them to

mandatory detention without bond hearings rather than classification under 8 U.S.C. § 1226(a), which affords the opportunity to seek bond. This marked a departure from decades of agency practice and settled judicial interpretation.

5. Petitioner is being denied the opportunity to seek bond despite the Declaratory Judgment in 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), which held that members of the certified Bond Denial Class are held pursuant to 8 U.S.C. § 1226(a), and not 8 U.S.C. § 1225(b)(2), and are thereby entitled to a bond hearing. The Executive Office of Immigration Review has been asked to deny relief under the Declaratory Judgment to Bond Denial Class members.

6. Petitioner seeks to enforce his rights as a member of the bond denial class in Maldonado Bautista and an order declaring § 1225(b)(2) inapplicable to him and mandating a § 1226(a) bond hearing.

7. Due to irreparable harm of being detained without being afforded the opportunity to seek bond, he requests an order to show cause within five days under 28 U.S.C. § 2243 and reserves the right to seek a temporary restraining order under Fed. R. Civ. P. 65(b).

8. The Court should expeditiously grant this petition. Because Respondents are detaining Petitioner in violation of the declaratory judgment and in violation of the law, the Court should accordingly order that Respondents release Petitioner within one day, or, alternatively, provide him with a bond hearing under 8 USC § 1226(a) within 3 days.

## II. JURISDICTION AND VENUE

9. This action arises under the United States Constitution and the Immigration and Nationality Act of 1952 (INA), 8 U.S.C. § 1101 *et seq.*


10. This Court has jurisdiction to grant a *writ of habeas corpus* under 28 U.S.C. § 2241, Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), and the Fifth Amendment's Due Process Clause. The Court also has a federal question jurisdiction under 28 U.S.C. § 1331 and authority to issue declaratory and injunctive relief under 28 U.S.C. §§ 2201–2202 and the All Writs Act, 28 U.S.C. § 1651.

11. Petitioner challenges only the statutory applicability of § 1225(b)(2), not its implementation or regulations. Thus, 8 U.S.C. § 1252(e)(3), which limits review of such implementation to the District of Columbia, does not apply. This Court has already rejected Respondent's jurisdictional arguments in materially identical circumstances. J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 3-4.

12. Similarly, 8 U.S.C. § 1252(g) does not bar review because Petitioner is not challenging the commencement, adjudication, or execution of his removal proceedings, but the lawfulness of his civil detention separate from those proceedings.

13. Petitioner is detained at the Stewart Detention Center in Lumpkin, Georgia, which lies within the Middle District of Georgia, Columbus Division. Venue is therefore proper pursuant to 28 U.S.C. § 1391(b)–(e).

### III. PARTIES

14. Petitioner, Victor Lorenzo Montes, is a Mexican citizen currently detained by Respondents at the SCDC. His alien registration number is . He entered the United States in the year 2010 at the age of 4. He did not enter the United States through a port of entry or official border crossing, and he has never been legally admitted to the United States.

15. Respondent Jason Streeval is the Warden of the Stewart County Detention Center and is being sued in his official capacity. He is responsible for the operations of the SCDC and has control over Petitioner as his immediate custodian.

16. Respondent Marcos Charles is the Acting Executive Associate Director of Enforcement and Removal Operations for Respondent ICE and is being sued in his

official capacity. He is responsible for Respondent ICE's operations in the arrest, detention, and removal of aliens. He is a legal custodian of the Petitioner.

17. Respondent Todd Lyons is the Acting Director of Respondent ICE and is being sued in his official capacity. He is responsible for the administration of ICE and for implementing and enforcing immigration laws, including detention. He is a legal custodian of the Petitioner.

18. Respondent Kristi Noem is the U.S. Secretary of Homeland Security and is responsible for the administration of DHS. She is being sued in her official capacity. She is a legal custodian of the Petitioner.

19. Respondent Pamela Bondi is the U.S. Attorney General and is being sued in her official capacity.

20. U.S. Department of Immigration and Customs Enforcement (ICE) is a governmental agency of the United States, and part of Respondent DHS, charged with the enforcement of immigration laws. It is a legal custodian of the Petitioner.

21. U.S. Department of Homeland Security ("DHS") is a governmental agency of the United States charged, *inter alia*, with the adjudication of applications and petitions related to immigration and citizenship. It is a legal custodian of the Petitioner.

#### IV. CLAIM FOR RELIEF – *WRIT OF HABEAS CORPUS*

22. The Constitution guarantees the right of *writ of habeas corpus* to every individual detained within the United States, including immigration-related detention. Zadvydas v. Davis, 533 U.S. 678, 687 (2001). A *writ of habeas corpus* must be granted if the person is in custody in violation of the Constitution or federal law. That is the case here, where Petitioner is being detained based on an incorrect application of federal law and in violation of his due process rights.

23. The Court should grant the petition right away, as the legal issues presented by this Petition have already been resolved for class members by the declaratory judgment in Maldonado Bautista, *supra*, and by this Court in J.A.M. v. Streeval, 4:25-cv-00342-CDL-AGH (M.D. Ga. Nov. 1, 2025).

##### A. Count 1: Unlawful Detention Under 8 U.S.C. § 1225(b)(2)

24. Petitioner's detention violates the law because Respondents have improperly classified him as an alien "seeking admission" and subjected him to mandatory detention under 8 U.S.C. § 1225(b)(2), a provision that applies only to aliens seeking admission and not to individuals like Petitioner who have long been present in the United States for several years and are not seeking entry. J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 7-10 (M.D. Ga. Nov. 1, 2025).

25. Two statutes primarily govern the detention of noncitizens in removal proceedings: 8 U.S.C. §§1225 and 1226. Section 1225 governs mandatory detention and applies to aliens who, *inter alia*, are “seeking admission” (emphasis added). Section 1226, by contrast, governs the detention of aliens already present in the United States and permits discretionary release on bond for those who are neither a flight risk nor a danger to the community.

26. At the time of his arrest on or about November 26, 2025, Petitioner was apprehended in the interior of the United States, was not arriving at the border, and was not seeking admission. His detention, therefore, falls within the scope of §1226, not §1225.

27. As a matter of statutory law, Respondent therefore lacks authority to detain Petitioner under 8 U.S.C. §1225(b)(2) and must provide him the procedural protections of §1226(a), including a bond hearing.

28. Since the enactment of §1225 and §1226 in 1996, the Executive Branch has consistently applied the procedural safeguards of §1226 to aliens who, like Petitioner, were apprehended in the interior of the United States.

29. In July of 2025, the Executive Branch changed course abruptly and began alleging that all aliens who entered without being admitted or inspected are to be

considered aliens seeking admission. On September 5, 2025, the Executive Branch's new position was made binding upon Immigration Judges with the issuance of Matter of Yahure Hurtado, 29 I&N Dec. 216 (BIA 2025).

30. This interpretation, which is contrary to decades of precedent, clear statutory text, regulations, and the government's own long-standing practice, has already been rejected by district courts nationwide, including this Honorable Court in J.A.M. v. Streeval, 4:25-cv-00342-CDL-AGH (M.D. Ga. Nov. 1, 2025), and the Class Action Court in Maldonado Bautista, *supra*.

31. In Maldonado Bautista, the Court issued a declaratory judgment that all individuals who are members of the Bond Denial Class fall within § 1226(a). The class is defined as:

All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado Bautista, 2025 WL 3288403, at 9.

32. At the time of his arrest on or about November 26, 2025, Petitioner met all the requirements for membership in the Bond Denial Class. Specifically, Petitioner had entered unlawfully, was apprehended in the interior, and is not subject to

detention under §§ 1226(c), 1225(b)(1), or 1231.

33. Even if not a member of the Bond Denial Class, Petitioner is still not an alien seeking admission subject to mandatory detention and must be afforded the protections of § 1226(a).

34. Petitioner is entitled to a prompt, individualized bond hearing before an Immigration Judge at which the government bears the burden of proving that continued detention is necessary to serve a legitimate purpose such as preventing flight or protecting the community.

35. Petitioner thus merits immediate relief in the form of release or a bond hearing with the Executive Office of Immigration Review (Immigration Court).

36. A *writ of habeas corpus* should issue requiring the Respondent to provide the Petitioner with a bond hearing in Immigration Court.

WHEREFORE, Petitioner prays this Honorable Court:

- (a) Assume jurisdiction over this matter;
- (b) Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action for *habeas corpus*;
- (c) Issue and order directing Respondents to show cause why a *writ* should not be granted;

- (d) Issue a *writ of habeas corpus* ordering Respondents to release Petitioner unless they provide a bond hearing under § 1226(a) within 3 days;
- (e) Enjoin Respondents from transferring Petitioner outside of this judicial district pending litigation of this matter or his removal proceedings;
- (f) grant such other and further relief as this Court deems proper under the circumstances; and
- (g) grant reasonable attorney's fees and costs of Court to Petitioner under the Equal Access to Justice Act.

Respectfully submitted this January 12, 2026.

/s/ Brennan T. Bair  
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