

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JOSE RAMIREZ ZAVALA,



Petitioner,

v.

JASON STREEVAL, Warden of the
Stewart Detention Center

Respondent.

Case No. 4:26-cv-00068

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 **INTRODUCTION**

2 1. Petitioner Mr. Jose Ramirez Zavala is in the physical custody of
3 Respondents at the Stewart Detention Center. He 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.
7

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 to be released
16 on bond.
17

18 4. Similarly, on September 5, 2025, the Board of Immigration Appeals
19 (BIA or Board) issued a precedent decision, binding on all immigration judges,
20 holding that an immigration judge has no authority to consider bond requests for any
21 person who entered the United States without admission. *See Matter of Yajure*
22 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such
23
24

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 detention on this basis 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 United
6 States. Instead, such individuals are subject to a different statute, § 1226(a), that
7 allows for release on conditional parole or bond.
8

9 6. Respondents’ new legal interpretation is plainly contrary to the
10 statutory framework, contrary to decades of agency practice applying § 1226(a), and
11 contrary 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.
14

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 Stewart Immigration Court continues to refuse to find jurisdiction to
20 conduct bond hearings for individuals like Petitioner—leaving habeas corpus as the
21 only available mechanism for judicial review of Petitioner’s detention.
22
23
24

1 8. Accordingly, Petitioner seeks a habeas writ requiring that he be released
2 unless Respondents provide a bond hearing under § 1226(a) within seven days.

3 **JURISDICTION**

4 9. Petitioner is in the physical custody of Respondents. Petitioner is
5 detained at the Stewart Detention Center located in Lumpkin, 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 United States District Court for the Middle
15 District 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 Middle District of Georgia.

20 **REQUIREMENTS OF 28 U.S.C. § 2243**

1 States years ago, resided here, and was apprehended within the interior, not at a port
2 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).

14
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.
20

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
23
24

1 entered without admission is subject to § 1225(b)(2)(A) and categorically barred
2 from a bond hearing.
3
4

5 **This Court Has Rejected Respondents' Interpretation**

6 27. This Court has already rejected the government's reading of §
7 1225(b)(2). In *J.A.M. v. Streeval*, Case No. 4:25-cv-342 (CDL), 2025 WL 3050094
8 (M.D. Ga. Nov. 1, 2025), the Court held that § 1225(b)(2) applies only to noncitizens
9 who are "seeking admission" in the context of an arrival inspection by an examining
10 immigration officer.
11

12 28. The Court explained that "seeking admission" requires an affirmative
13 act at or near the time of arrival to obtain legal entry, coupled with contemporaneous
14 inspection. The Court rejected DHS's argument that individuals apprehended years
15 after entering the United States may be treated as if they were seeking admission. *Id.*
16 at 3.
17

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

23 **The Bautista Class Action Confirms Petitioner's Eligibility for Bond**
24

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

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

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

18 32. These courts uniformly conclude that Respondents’ interpretation
19 contradicts the statutory text, structure, and decades of agency practice.
20

21 **Stewart Immigration Court’s Continued Refusal to Exercise Jurisdiction**

22 33. Despite this Court’s binding precedent and the *Bautista* class decision,
23 the Stewart Immigration Court continues to decline jurisdiction over custody
24

1 redeterminations for noncitizens like Petitioner, based on the BIA's erroneous
2 decision in *Matter of Yajure Hurtado*.

3 34. Because Petitioner has no administrative avenue to challenge his
4 custody, habeas corpus is the only remedy capable of addressing the ongoing
5 violation of federal law

6
7 **FACTUAL BACKGROUND**

8 35. Petitioner entered the United States in 2004 without inspection. Since
9 that time, he has established a life and family in the United States.

10 36. Petitioner has four United States citizen children in the United States.
11 Petitioner's children are the following ages: 11, 16, 18, and 24.

12 37. Petitioner is the primary financial support to his children. The youngest
13 child attends Middle School and the 16 year-old attends High School.

14 38. Petitioner has no criminal history other than traffic violations for no
15 license. Unfortunately, Petitioner was victim of armed robbery in 2022, which forms
16 the basis for his pending U-Visa application with the Department of Homeland
17 Security.
18

19 39. Petitioner, was a passenger in a vehicle traveling to work in the early
20 morning hours, when the vehicle was stopped by ICE. Petitioner was not the person
21 of interest in the traffic stop but was apprehended as a collateral pickup.
22
23
24

1 40. Petitioner’s ongoing detention imposes severe financial and emotional
2 hardship on his U.S. citizen family.

3 41. Prior to his detention, Petitioner worked full-time in a factory and has
4 a history of steady employment. He is known as a hard-working individual who
5 supports her family and contributes to her community.
6

7 42. Petitioner poses no danger to the community and is not a flight risk. His
8 family ties, employment history, lack of criminal record, and consistent community
9 involvement demonstrate that he is an appropriate candidate for release under §
10 1226(a).

11 43. Petitioner’s continued detention also violates due process because it is
12 based on an unlawful statutory interpretation already rejected by this Court and by a
13 certified nationwide class action. In *J.A.M. v. Streeval*, this Court held that 8 U.S.C.
14 § 1225(b)(2) applies only when a noncitizen is “seeking admission” in the context
15 of an arrival inspection by an examining immigration officer. Petitioner, however,
16 was apprehended inside the United States years after his entry and therefore falls
17 squarely within the detention framework of § 1226(a), which entitles him to a bond
18 hearing.
19

20 44. Likewise, Petitioner is a member of the certified class in *Lazaro*
21 *Maldonado Bautista v. Santacruz*, which likewise held that § 1225(b)(2) mandatory
22 detention cannot apply absent an arrival inspection. Nevertheless, ICE continues to
23
24

1 detain Petitioner under § 1225(b)(2), and the Stewart Immigration Court refuses to
2 exercise jurisdiction to conduct a bond hearing. Because Petitioner is a long-term
3 resident with deep family ties, no criminal history, his prolonged imprisonment
4 without any opportunity for individualized custody review violates the fundamental
5 requirements of due process and reinforces the necessity of habeas relief.
6

7 **CLAIMS FOR RELIEF**

8 **COUNT I**
9 **Violation of the INA**

10 45. Petitioner incorporates by reference the allegations of fact set forth in
11 the preceding paragraphs.

12 46. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
13 apply to all noncitizens residing in the United States who are subject to the grounds
14 of inadmissibility. As relevant here, it does not apply to those who previously
15 entered the country and have been residing in the United States prior to being
16 apprehended and placed in removal proceedings by Respondents. Such noncitizens
17 are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or
18 § 1231.
19

20 47. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
21 continued detention and violates the INA.
22

23 **COUNT II**
24

1
2
3
4
5
6
7
8
9
10
11
12
13
14
15
16
17
18
19
20
21
22
23
24

Violation of the Bond Regulations

48. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

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

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

51. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of Due Process

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

3 53. The government may not deprive a person of life, liberty, or property
4 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—
5 from government custody, detention, or other forms of physical restraint—lies at the
6 heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690
7 (2001).

9 54. Petitioner has a fundamental interest in liberty and being free from
10 official restraint.

11 55. The government’s detention of Petitioner without a bond
12 redetermination hearing to determine whether he is a flight risk or danger to others
13 violates his right to due process.
14

15 **PRAYER FOR RELIEF**

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

- 17 a. Assume jurisdiction over this matter;
- 18 b. Order that Petitioner shall not be transferred outside the Southern
19 District of Georgia while this habeas petition is pending;
- 20 c. Issue an Order to Show Cause ordering Respondents to show cause why
21 this Petition should not be granted within three days;
- 22 d. Issue a Writ of Habeas Corpus requiring that Respondents release
23 Petitioner or, in the alternative, provide Petitioner with a bond hearing
24 pursuant to 8 U.S.C. § 1226(a) within seven days;

- 1 e. Declare that Petitioner's detention is unlawful;
- 2 f. Award Petitioner attorney's fees and costs under the Equal Access to
- 3 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other
- 4 basis justified under law; and
- 5 g. Grant any other and further relief that this Court deems just and proper.

6 DATED this 14th day of January, 2026.

7 /s/ Matthew K. Winchester

8 Matthew K. Winchester
9 Georgia Bar No. 399094
10 Garland Law Building
11 3151 Maple Drive, NE
12 Atlanta, Georgia 30305
13 T: (678) 517-6894
14 E: K.Winchestercb@gmail.com

15 /s/ Uriel N. Delgado

16 Uriel N. Delgado
17 GA BAR 832306
18 Delgado Law Firm LLC
19 6050 Peachtree Pkwy, Suite 240
20 Box 200, Norcross, GA 30092
21 T: (770) 815-7597
22 F: (678) 819-4410
23 E: uriel@delgadolaw.law

24 *Attorneys for Petitioner*

