

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

JORGE FIDEL CANACA  
MELENDEZ and  
RAFAEL MURCIA DUBON,  
Petitioners,

vs.

JASON STREEVAL in his official  
capacity as Warden of Stewart County  
Detention Center; KRISTI NOEM, in  
her official capacity as U.S. Secretary  
of Homeland Security; PAMELA  
BONDI, in her official capacity as the  
U.S. Attorney General; U.S.  
IMMIGRATION AND CUSTOMS  
ENFORCEMENT; and U.S.  
DEPARTMENT OF HOMELAND  
SECURITY;  
Defendants.

Civil Action No.:

**HEARING REQUESTED**

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

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

Petitioners, Jorge Fidel Canaca Melendez and Rafael Murcia Dubon,  
respectfully bring this Petition for *Writ of Habeas Corpus* seeking relief to remedy  
their unlawful detention.

## I. FACTUAL BACKGROUND

1. Petitioner Jorge Fidel Canaca Melendez, a Honduran national, entered the United States on or about 2013 and has resided here since then.

2. On January 6, 2026, U.S. Immigration and Customs Enforcement (ICE) arrested Petitioner Canaca in Charlotte, North Carolina, while on his way to work. He was transported to the Stewart County Detention Center (SCDC), in Lumpkin, Georgia, where he remains.

3. Petitioner Rafael Murcia Dubon, a Honduran national, last entered the United States on or about 2016 and has resided here since then.

4. On January 2, 2026, ICE arrested Petitioner Murcia in Charlotte, North Carolina, while on his way home. He was transported to the Stewart County Detention Center (SCDC), in Lumpkin, Georgia, where he remains.

5. On September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a precedential decision in Matter of Yajure 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 classifying them 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.

6. Petitioners are erroneously and unconstitutionally being denied the opportunity to seek bond based on Matter of Yajure Hurtado. At the time of their arrest by ICE, neither Petitioner was seeking 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).

7. Petitioners are seeking an order declaring § 1225(b)(2) inapplicable to them and mandating a § 1226(a) bond hearing.

8. Due to the irreparable harm of continued detention without due process, they request an order to show cause within three days under 28 U.S.C. § 2243 and reserve the right to seek a temporary restraining order under Fed. R. Civ. P. 65(b).

9. The Court should expeditiously grant this petition. Because Defendants are detaining Petitioners in violation of law, the Court should accordingly order that Defendants provide them with a bond hearing within 7 days or release them.

## II. JURISDICTION AND VENUE

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

11. 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 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.

12. Petitioners challenge 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. J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 3-4.

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

14. Petitioners are detained at the Stewart County 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**

15. Petitioner Jorge Fidel Canaca Melendez is a Honduran citizen currently detained by Defendants at the SCDC. His alien registration number is 200 958 533.

16. Petitioner Rafael Murcia Dubon is Honduran citizen currently detained by Defendants at the SCDC. His alien registration number is 254 054 424.

17. Defendant 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 Petitioners as their immediate custodian.

18. Defendant 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 Petitioners.

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

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

21. U.S. Department of Homeland Security (“DHS”) is a governmental agency of the United States. It is a legal custodian of Petitioners.

#### **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* shall issue if the person is in custody in violation of the Constitution or federal law. 28 U.S.C. § 2241(c)(3) as it is the case here, where Petitioners are being detained based on an incorrect application of federal law and in violation of their due process rights.

23. The Court should grant the petition right away, as the legal issues presented by this Petition have already been resolved 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. Petitioners' detention violates the law because Defendants have improperly classified them as an alien "seeking admission" and subjected them 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 Petitioners who have long been present in the United States. 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 their arrests, years after their arrival to the United States, Petitioners were in the interior of the United States, not arriving at the border, and were not seeking admission. Their detention therefore falls within the scope of § 1226, not § 1225.

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

28. Since the enactment of §§ 1225 and 1226 in 1996, Defendants had consistently applied the procedural safeguards of § 1226 to aliens who, like Petitioners, were apprehended in the interior of the United States.

29. In July of 2025, Defendants 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, Defendants' new position was made binding upon Immigration Judges with the issuance of Matter of Yajure 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).

31. Petitioners are 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.

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

**B. Count 2: Unlawful Detention in Violation of Petitioners' Due Process Rights**

33. Petitioners' detention violates their substantial due process rights under the Fifth Amendment of the U.S. Constitution, which guarantees that no person shall be deprived of liberty without due process of law. Arbitrary, unreviewable civil detention is categorically unconstitutional. The Due Process Clause requires that any deprivation of Petitioners' liberty serve, at minimum, a legitimate purpose. *See Reno v. Flores*, 507 U.S. 292, 302-306 (1993)(explaining that infringements on fundamental liberty rights violate due process unless they are "narrowly tailored to serve a compelling state interest").

34. Civil detention is permissible only in narrow, non-punitive circumstances where the government demonstrates a legitimate and non-punitive governmental purpose supported by individualized findings that outweigh an individual's liberty interest. Here, Defendants have no special justification. Petitioners have no criminal record, pose no danger, and are not a flight risk. Continued incarceration

under these circumstances bears no reasonable relation to any legitimate governmental goal and therefore violates the substantive component of the Fifth Amendment's Due Process Clause.

35. Petitioners' detention also violates the procedural due process guarantees of the Fifth Amendment. The government has deprived them of liberty, the most fundamental of all interests, without providing any meaningful opportunity to contest that deprivation. They have received no hearing before a neutral decision-maker, no notice of the factual basis for their detention, and no chance to present evidence in their favor. Under Mathews v. Eldridge, 424 U.S. 319 (1976), such an absolute denial of process fails every prong of the balancing test: the private interest at stake is immense; the risk of erroneous deprivation is high where no procedure exists; and the government's burden in providing a bond hearing is minimal.

36. By refusing to provide even the minimal safeguards Congress built into § 1226(a), Defendants have acted in a manner that is arbitrary, capricious, and inconsistent with the basic promise of due process, that is, that the government may not imprison a person first and ask questions later.

37. A *writ of habeas corpus* should issue requiring Defendants to provide Petitioners with a bond hearing in Immigration Court or their release from detention.

WHEREFORE, Petitioners pray 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 Defendants to show cause why a *writ* should not be granted;
- (d) Issue a *writ of habeas corpus* ordering Defendants to release Petitioners immediately unless they provide a bond hearing under § 1226(a) within 7 days;
- (e) grant such other and further relief as this Court deems proper under the circumstances; and
- (f) grant reasonable attorney's fees and costs of Court to Petitioners under the Equal Access to Justice Act.

Respectfully submitted this January 16, 2026.

/s/ Giovanna Andrea Holden  
Giovanna Andrea Holden  
Attorney for Petitioners  
Georgia Bar No. 514691  
Holden Law Firm  
311 Green Street, NW  
Gainesville, GA 30501  
678-865-4444/[gio@holdenfirm.com](mailto:gio@holdenfirm.com)