UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

CRISTIAN ALEXIS LAZO CHAPA, Petitioner, v. TONY NORMAND, WARDEN, FOLKSTON ICE PROCESSING CENTER, Respondent.	Civil Action No.: CV 526-067 **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner Cristian Alexis Lazo Chapa is a citizen of Ecuador. He is 35 years old. He entered the United States in May of 2008 at the age of 18, and his entry was without inspection. Petitioner has resided in the United States since that time. On November 28, 2025, while buying coffee at a 7-11 convenience store Petitioner was arrested and detained by U.S. Immigration and Customs Enforcement ("ICE").

2. Petitioner is in the physical custody of Respondent Tony Normand at the Folkston ICE Processing Center in Folkston, Georgia. He faces unlawful detention because the Department of Homeland Security ("DHS") and the Executive Office for Immigration Review ("EOIR") have concluded that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

3. On January 06, 2026, an Immigration Judge ("IJ") denied Petitioner's release on bond finding that the Immigration Court lacks jurisdiction over bond hearings based on *Matter of Yajure Hurtado*, 29 I.&N. Dec. 216 (BIA 2025), which holds that any individual who entered the United States without admission is subject to detention under Section 1225(b)(2)(A) and ineligible for

bond hearings. Thus, Petitioner remains improperly detained under Section 1225(b)(2)(A) without eligibility for release on bond.

4. By applying the incorrect detention statute to Petitioner, the government violates the plain language of the Immigration and Nationality Act ("INA") and applicable regulations. As this Court has already concluded, Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered without inspection and are now residing in the United States. *Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 U.S. Dist. LEXIS 224656, at *26 (S.D. Ga. Nov. 14, 2025). Instead, such individuals are subject to discretionary detention under Section 1226(a), which allows for release on bond. *Id.* at *20.

5. Petitioner challenges his detention as a violation of the INA and the Due Process Clause of the Fifth Amendment. Without an order from this Court, Petitioner is subject to continued detention in violation of his constitutional rights.

6. Accordingly, Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order his immediate release, or in the alternative, order the government to provide him a bond hearing before the Immigration Court.

CUSTODY

7. Petitioner is in the physical custody of Respondent. He is imprisoned at Folkston ICE Processing Center, an immigration detention facility within D. Ray James Correctional Facility located in Folkston, Georgia, which is within this District. Petitioner is detained in Georgia and under the direct control of DHS and its agents.

JURISDICTION

8. This action arises under the U.S. Constitution and the INA, 8 U.S.C. § 1101 *et seq*.

9. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, Cl. 2 of the United States Constitution (the Suspension Clause), and the INA, 8 U.S.C. § 1101 *et. seq.*

10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the All Writs Act, 28 U.S.C. § 1651.

VENUE

11. Venue is proper under 28 U.S.C. § 1391(e) because Respondent is an agent of the United States and has detained Petitioner at the Folkston ICE Processing Center, which is within the jurisdiction of this District. In addition, venue is proper in this District because a substantial part of the events giving rise to Petitioner's claims occurred in this District.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

12. There is no statutory exhaustion requirement for habeas challenges under 28 U.S.C. § 2241. In the absence of a statutory exhaustion requirement, "sound judicial discretion governs." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). A court may waive prudential exhaustion when it would be futile to seek administrative remedies. *Jones v. Zenk*, 495 F. Supp. 2d 1289, 1297 (N.D. Ga. 2007). Petitioner sought a bond hearing before an IJ and was denied based on the government's current interpretation of 8 U.S.C. § 1225(b)(2)(A). Because the Board of Immigration Appeals ("BIA") issued the binding decision in *Matter of Yajure Hurtado*, appealing the IJ's denial of bond based on that decision would be futile. Similarly, it would be futile for Petitioner to seek review of his claim of unlawful detention in violation of his due process rights because Immigration Courts and the BIA are unable to grant relief on constitutional claims. *Carr v. Saul*, 593 U.S. 83, 93 (2021) ("It makes little sense to require litigants to present claims to adjudicators who are powerless to grant the relief requested.")

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

13. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to Respondent "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require Respondent to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

14. Petitioner is "in custody" for purposes of 28 U.S.C. § 2241 because ICE arrested and detained Petitioner and he is under the direct control of ICE, Respondent, and government officials.

PARTIES

15. Petitioner Cristian Alexis Lazo Chapa has been in ICE custody since November 28, 2025, when he was arrested by ICE agents. He remains detained at Folkston ICE Processing Center in Folkston, Georgia. Before detention, Petitioner resided in Hackensack, New Jersey with his mother, uncle, and 16-year-old half-sister.

16. Respondent Tony Normand is sued in his official capacity as Warden of Folkston ICE Processing Center. He is the individual who is in charge of the facility where Petitioner is currently detained. He has immediate physical custody over Petitioner, and in conjunction with DHS, ICE, and their agents, has the authority to release him.

FACTUAL ALLEGATIONS

17. Petitioner Cristian Alexis Lazo Chapa is 35 years old and a native and citizen of Ecuador. At 18 years old, he entered the United States in May of 2008 at an unknown place.

18. He has lived in the United States for 18 years and has no criminal record.

19. Petitioner lives with his mother, uncle, and 16-year-old half-sister.

20. On November 28, 2025, ICE agents arrested Petitioner while he was buying coffee at a 7-11 convenience store and detained him at the Delaney Hall Detention Center in Newark, New

Jersey. On December 11, 2025, Petitioner was transferred to Arizona. On December 13, 2025, Petitioner was transferred to Utah. On December 14, 2025, Petitioner was transferred to Port Isabel Detention Center in Los Fresnos, Texas. On December 16, 2025, Petitioner was transferred to Jacksonville, Florida. On December 17, 2025, Petitioner was transferred to and remains detained at the Folkston ICE Processing Center in Folkston, Georgia.

21. On January 6, 2026, through counsel, Petitioner requested a custody redetermination hearing before the Immigration Court. 8 C.F.R. § 1236.1(d)(1) (authorizing IJ jurisdiction to review initial custody determinations). Exhibit A, IJ Bond Order. The same day, the IJ denied Petitioner's request for custody redetermination finding that the Immigration Court lacks jurisdiction over bond hearings for any individual who entered the United States without admission, based on *Matter of Yajure Hurtado*, 29 I.&N. Dec. 216 (BIA 2025). *Id.*

22. As a result, Petitioner is unlawfully detained under 8 U.S.C. § 1225(b)(2)(A), and he remains separated from his family. Without an order from this Court, Petitioner faces many more months of detention.

LEGAL FRAMEWORK

23. There are three statutes that govern civil immigration detention. *See* 8 U.S.C. §§ 1225, 1226, 1231.

24. First, Section 1226(a) authorizes discretionary detention of noncitizens in standard removal proceedings under 8 U.S.C. § 1229a. Individuals in Section 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

25. Second, Section 1225 authorizes mandatory detention of individuals subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals "seeking admission" to the United States under Section 1225(b)(2).

26. Last, Section 1231 authorizes detention of noncitizens with a final or reinstated removal order. *Id.* § 1231(a)-(b).

27. This Petition presents a legal question regarding whether Petitioner's detention is governed by 8 U.S.C. §§ 1225 or 1226.

Statutory Context and Background

28. The detention provisions at Sections 1226(a) and 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208. Div. C, §§ 302-03, 110 Stat. 3009-546, 300-582 to 3009-583, 3009-585. Congress most recently amended Section 1226 earlier this year through the Laken Riley Act. 8 U.S.C. § 1226(c)(1)(E), *as amended* by Pub. L. 119-1, 139 Stat. 3 (2025).

29. Closely following the enactment of IIRIRA, EOIR drafted regulations explaining that, in general, people who enter the United States without inspection are not considered detained under Section 1225; rather detention under Section 1226(a) applies. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) ("Despite being applicants for admission, aliens who are present without having been admitted or paroled (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination").

30. In the decades that followed, individuals who entered without inspection and were subsequently placed in removal proceedings were granted bond hearings if detained by ICE, except in cases where their criminal history required mandatory detention under Section 1226(c). This

practice aligned with decades of prior practice before enactment of IIRIRA, in which noncitizens who entered the United States, even without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, individuals stopped at the border or port-of-entry were only entitled to release on parole. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 220 (1996) (noting that Section 1226(a) simply "restates" the detention authority previously found at Section 1252(a)).

31. Despite the long-established statutory construction of Sections 1225 and 1226, and the government's own historical practice of providing bond hearings to noncitizens like Petitioner, ICE reversed course in July 2025 and began asserting that all individuals present in the United States without inspection should be considered "seeking admission" and subject to mandatory detention under Section 1225(b)(2)(A) without a bond hearing.

32. On September 5, 2025, the BIA issued a binding decision adopting ICE's interpretation. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *Matter of Yajure Hurtado* strips Immigration Courts of jurisdiction to hold bond hearings for any noncitizen present in the United States without inspection, regardless of how long they have resided in the United States or where ICE encountered them within the country. *Id.* at 216, 229.

33. DHS's and the BIA's overly broad interpretation of Section 1225(b)(2)(A) departs from the INA's text, federal precedent, existing regulations, and longstanding agency practice. ICE's new policy is contrary to law and arbitrary and capricious in violation of the Administrative Procedure Act ("APA"). The government's interpretation was also adopted without complying with formal rulemaking procedures under the APA. *See* 5 U.S.C. § 553; *see also FCC v. Fox TV Stations, Inc.*, 556 U.S. 502, 537 (2009) (agencies "cannot simply disregard contrary or inconvenient factual determinations that it made in the past.").

34. This Court and many others have properly rejected the government's interpretation and the reasoning of *Yajure Hurtado*, finding instead that Section 1226—not Section 1225—authorizes detention of individuals who entered without inspection and were later apprehended in the interior of the United States. *See, e.g.*, *Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 U.S. Dist. LEXIS 217348, at *29 (S.D. Ga. Nov. 4, 2025) (collecting cases), *report and recommendation adopted*, *Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 U.S. Dist. LEXIS 224656 (S.D. Ga. Nov. 14, 2025).

Statutory Interpretation of Sections 1225 and 1226

35. The INA's context and structure make clear that Section 1226 applies to individuals who entered without inspection and have not been admitted to the United States.

36. Section 1225 begins by defining an "applicant for admission" as a noncitizen "who has not been admitted or who arrives in the United States." 8 U.S.C. § 1225(a)(1). With limited exceptions not applicable here, Section 1225(b)(2) applies to all other applicants for admission outside of Section 1225(b)(1) who are seeking admission. *Id.* § 1225(b)(2)(A).

37. Section 1225(b)(2)(A) states that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained" during standard removal proceedings. *Id.* (emphasis added). Clearly, Congress defined in Section 1225(a)(1) the broad term "applicant for admission" but added the narrowing qualifier "seeking admission" in Section 1225(b)(2)(A), thereby limiting its application to those who are "seeking admission." the government's interpretation ignores the plain language of Section 1225(b)(2)(A) and violates basic principles of statutory construction.

38. By contrast, Section 1226(a) detention applies when a noncitizen is arrested and "detained pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). Pending a decision on removal, the individual may be detained or released on bond or conditional parole. *Id.* § 1226(a)(1)-(2). Discretionary detention under Section 1226(a) is often referred to as the "default rule" for noncitizens already present in the United States. *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018).

39. Although in a different context, the Supreme Court has explained that Section 1225(b) "applies primarily to aliens seeking entry," and is generally imposed "at the Nation's borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is admissible." *Jennings*, 583 U.S. 281 at 287, 297. Whereas Section 1226 "authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings." *Id.* at 289 (emphases added). Accordingly, discretionary detention under Section 1226(a) is often referred to as the "default rule" for noncitizens already present in the United States. *Id.* at 288.

40. This interpretation aligns with the statutory framework governing immigration detention and ensures no provision is rendered meaningless. *Corley v. United States*, 556 U.S. 303, 314 (2009) (reiterating rule that statutes should be construed as a whole so that effect is given to all its provisions). If inadmissible individuals present in the United States are already subject to mandatory detention under Section 1225(b)(2)(A), as the government contends, then Section 1226(c) and amendments to the Laken Riley Act would be superfluous. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257–58 (W.D. Wash. 2025) (explaining that Section 1226(c)(1)(E) which mandates detention for inadmissible noncitizens who are implicated in an enumerated crime, including those present without admission, would be meaningless since Section 1225

mandatory detention would already govern detention of all noncitizens present without admission). There would be no need for Section 1226(c) or Congress's recent amendments to that provision.

41. The text of the Laken Riley Act explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Logically, the Laken Riley Act's reference to individuals who entered without inspection makes clear that, by default, those individuals *are* afforded a bond hearing under Section 1226(a).

42. Accordingly, the mandatory detention provision of Section 1225(b)(2) does not apply to Petitioner, who entered the United States 18 years ago.

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT
(8 U.S.C. § 1226(a) and Implementing Regulations)

43. Petitioner alleges and incorporates by reference the paragraphs above.

44. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to a ground of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by the government. Such noncitizens are detained under Section 1226(a), unless they are subject to mandatory detention under Sections 1225(b)(1), 1226(c), or 1231.

45. The application of Section 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT TWO
FIFTH AMENDMENT DUE PROCESS VIOLATION
(Due Process)

46. Petitioner alleges and incorporates by reference the paragraphs above.

47. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Due process "applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

48. Petitioner arrived in the United States at the age of 18 and has lived here continuously since 2008. He has significant ties to this country.

49. Petitioner has a significant interest in being free from detention. Petitioner has lived in the United States for 18 years and has no criminal record. Yet he remains imprisoned since November 28, 2025, separated from his family.

50. ICE's continued detention of Petitioner, based on the erroneous statutory interpretation presented in *Matter of Yajure Hurtado* and ICE's position that 8 U.S.C. § 1225(b)(2)(A) applies to long-term residents, constitutes arbitrary government action that violates Petitioner's due process rights.

51. Petitioner has no meaningful avenue before DHS or EOIR to challenge his continued detention.

52. Petitioner's continued detention, when he is indeed subject to discretionary detention under 8 U.S.C. § 1226(a) and is neither dangerous, nor a flight risk, does not serve a compelling governmental interest.

53. The government's actions are a significant violation of Petitioner's due process rights.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;

2. Enjoin Respondent from transferring Petitioner outside the jurisdiction of this District pending the resolution of this case;
3. Issue an Order to Show Cause ordering Respondent to show cause why this Petition should not be granted within three days;
4. Issue a Writ of Habeas Corpus ordering Respondent to release Petitioner from detention, or in the alternative to provide Petitioner a bond hearing before an Immigration Judge within ___ days of this Court's order;
5. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and
6. Grant any further relief this Court deems just and proper.

Date: January 20, 2026

Respectfully Submitted,

/s/ *Alexis Ruiz*

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner Cristian Alexis Lazo Chapa as his attorney. I have discussed with Mr. Lazo Chapa the events described in this Petition and have examined all documents referenced herein. On the basis of those discussions and upon my review of those documents, on information and belief, I hereby verify that the factual statements made in the forgoing Verified Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of my knowledge.

Date: January 20, 2026

/s/ *Alexis Ruiz*
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Attorney for Petitioner