UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

Wilson Antonio CAAL-YAT, *Petitioner*, v. Tony NORMAND, Wardon of Folkston ICE Processing Center in his official capacity, *Respondent*.	Case No: _____ VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Wilson Antonio Caal-Yat (A[redacted] ("Petitioner" or "Mr. Caal-Yat"), is a native and citizen of Guatemala who entered the United States for the first and only time on February 22, 2023, and has been residing in the United States continuously since that date.

2. When the U.S. Department of Homeland Security ("DHS") inspected Petitioner at the border, it correctly identified him as an "Undocumented [Noncitizen] Child" ("UC"), as defined in the Homeland Security Act of 2002 ("HSA") and the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). *See* 6 U.S.C. § 279(g)(2)); 8 U.S.C. § 1232(g)).

3. Pursuant to the HSA and TVPRA, the DHS transferred custody of Petitioner to the Department of Health and Human Services ("HHS"), Office of Refugee Resettlement ("ORR"), to whom Congress has authorized custody determinations over UCs. *See* 6 U.S.C. §§ 279(b)(1), (1)(C); 8 U.S.C. § 1232(b)(3).

4. After considering the "[g]eneral principles that apply to the care and placement of"

Petitioner, which includes whether he was a danger to the community or a flight risk, the ORR released him to the care of his brother-in-law. *See* 8 U.S.C. § 1232(c)(2)(a); 45 CFR § 410.1003(f).

5. There has been no change in Petitioner's circumstances, such as accruing a criminal history in the United States, that disturbs the ORR's determination.

6. On the day of his entry, DHS provided Petitioner with a Notice to Appear ("NTA"), indicating that he entered the U.S. without being admitted or paroled, that was filed with the Executive Office for Immigration Review ("EOIR") on or around July 26, 2023, initiating removal proceedings against him under 8 U.S.C. § 1229a.

7. A preliminary hearing for Petitioner's removal proceedings was held before the Orlando Immigration Court on July 10, 2025. Petitioner attended the hearing and was scheduled for a subsequent hearing on February 4, 2027.

8. On December 16, 2025, the Immigration and Customs Enforcement ("ICE") arrested Petitioner and detained him at South Florida Reception Center for two weeks before transferring him to the Folkston D Ray Processing Center. Petitioner remains detained at Folkston to this day.

9. As a noncitizen who has been present in the country, his custody is governed by 8 U.S.C. § 1226(a), which provides for discretionary detention and bond eligibility. However, under the Board of Immigration Appeals' ("BIA") decision in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), individuals like Petitioner who entered without inspection are treated as "arriving aliens" and subject to mandatory detention under 8 U.S.C. § 1225(b). This classification forecloses a bond hearing because the immigration judge is deemed without jurisdiction to grant bond, despite Petitioner's presence in the interior.

10. Because of this precedent, pursuing a bond hearing before an immigration judge would be futile. Under *Matter of Yajure-Hurtado*, an immigration judge must treat Petitioner as subject to mandatory detention under § 1225(b) and decline jurisdiction to grant bond. Accordingly, Petitioner brings this petition directly to this Court.

11. The government's recent policy shift—culminating in agency guidance and the BIA's decision in *Yajure Hurtado*, 29 I. & N. Dec. 216—categorically denies bond eligibility to individuals like Petitioner based solely on manner of entry. Applied here, that approach forecloses a neutral, individualized assessment despite Petitioner's ability to show that he continues to pose no danger to the community and no flight risk.

12. This Court has rejected the BIA's reasoning in *Matter of Yajure Hurtado* and declined to follow it in granting habeas relief in the Southern District of Georgia. *See, e.g.*, *Antonio Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 LX 442534, at *20 (S.D. Ga. Nov. 4, 2025). In doing so, the Court has explained that the interpretation adopted in *Matter of Yajure Hurtado* conflicts with the statutory text and structure of 8 U.S.C. §§ 1225 and 1226, departs from prior BIA precedent, and would render the recent Laken Riley Act amendments to § 1226(c) superfluous. *Id.* at 19–21.

13. Petitioner therefore seeks habeas relief to hold that § 1226(a) governs his custody and to order Respondent to release Petitioner or at least provide him the individualized custody redetermination hearing before an immigration judge to which he is statutorily and constitutionally entitled.

JURISDICTION AND VENUE

14. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal question); and 28 U.S.C.

§ 2201 (declaratory relief).

15. Venue is proper in the Southern District of Georgia pursuant to 28 U.S.C. § 2241 because Petitioner is detained at the Folkston D Ray Processing Center, in Folkston, Georgia under the jurisdiction of the ICE Atlanta Field Office.

EXHAUSTION

16. Administrative exhaustion, which is a prudential doctrine in habeas cases, does not apply in this case due to futility. *See Puga v. Ass't Field Office Dir.*, No. 25-24535-CIV, 2025 LX 462379, at *2 (S.D. Fla. Oct. 15, 2025) ("Since the result of Petitioner's custody redetermination and any subsequent bond appeal to the BIA is nearly a foregone conclusion under *Matter of Yajure Hurtado*, any prudential exhaustion requirements are excused for futility.").

REQUIREMENTS OF 28 U.S.C. § 2243

17. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "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 respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

18. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

PARTIES

19. Petitioner, **WILSON ANTONIO CAAL-YAT**, is a native and citizen of

Guatemala who last entered the United States on February 22, 2023. He is currently detained in ICE custody at the Folkston D Ray Processing Center, in Folkston, Georgia.

20. Respondent, **WARDEN TONY NORMAND**, is sued in his official capacity as the official responsible for overseeing Folkston D Ray Processing Center, the facility where Petitioner is currently detained. This Respondent is a legal custodian of Petitioner and is sued in his official capacity.

LEGAL FRAMEWORK FOR IMMIGRATION DETENTION

21. The Immigration and Nationality Act ("INA") prescribes two statutory sections that govern a noncitizen's detention prior to a final order of removal: 8 U.S.C. §§ 1225 and 1226.

22. The detention provisions at 8 U.S.C. § 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, 3009–582 to 3009–583, 3009–585.

23. 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals detained under the authority of § 1226(a) are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d).

24. The INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

25. Following enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *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, [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 . . . The effect of this change is that inadmissible [noncitizens], except for arriving [noncitizens], have available to them bond redetermination hearings before an immigration judge, while arriving [noncitizens] do not. This procedure maintains the *status quo* . . .").

26. Thus, in the decades that followed, most people who entered without inspection—unless they were subject to some other detention authority—received bond hearings. That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply "restates" the detention authority previously found at § 1252(a)).

27. DHS's new policy turns this well-established understanding on its head and violates the statutory scheme.

28. Indeed, this legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings was already rejected by a District Court in the Western District of Washington, finding that such individuals are entitled to bond redetermination hearings before immigration judges, and rejecting the application of § 1225(b)(2) to such cases. *Rodriguez v. Bostock*, No. 3:25-CV-05240 TMC, 2025 WL 1193850, at *12 (W.D. Wash. Apr. 24, 2025).

29. Despite this finding from a federal court, on July 8, 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency

housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without entry documents.

30. On September 5, 2025, the BIA issued an opinion adopting this approach to the detention statutes, *see Matter of Yajure Hurtado*, 29 I. & N. Dec. at 220, further entrenching the government's interpretation of the governing detention statutes. Because this decision is precedential, it is binding on immigration judges (absent contrary instructions from a federal court sitting in habeas).

31. This interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

32. Section 1226(a) applies by default to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

33. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

34. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).

35. The government's interpretation subjects all inadmissible noncitizens to 8 U.S.C. § 1225 and its mandatory detention provisions. But such a reading renders superfluous significant

portions of 8 U.S.C. § 1226(c) that reference inadmissible noncitizens, including 8 U.S.C. § 1226(c)(1)(E) that Congress enacted just months ago by passing the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

36. The new subsection makes a noncitizen subject to mandatory detention if he (i) is inadmissible under 8 U.S.C. §§ 1182(a)(6)(A), (6)(C), or (7) (the "inadmissibility criterion"); "and" (ii) is charged with, arrested for, convicted of, or admits to committing certain crimes (the "criminal conduct criterion"). 8 U.S.C. § 1226(c)(1)(E) (emphasis added). By using the conjunction "and," the provision mandates detention only where the inadmissibility criterion and the criminal conduct criterion are both satisfied.

37. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole.

FACTUAL ALLEGATIONS AND RELEVANT BACKGROUND

38. Upon arrival to the United States in February 2023, the DHS identified Mr. Caal-Yat as a UC from Guatemala.

39. Shortly thereafter, the DHS transferred Petitioner to the ORR, who determined that Petitioner was not a flight risk or danger to the community, and released him from federal custody. There have been no changes to Mr. Caal-Yat's circumstances, such as accrued criminal history, undermining this determination.

40. Despite the ORR's prior determination that Mr. Caal-Yat need not be detained and the DHS's classification of Mr. Caal-Yat as a UC, ICE arrested and detained him on December 16, 2025, after he was encountered at a traffic stop while driving with a valid Florida driver's license. Mr. Caal-Yat was not issued a traffic citation or otherwise charged as a result.

41. ICE detained Mr. Caal-Yat at South Florida Reception Center for two weeks before transferring him to Folkston D Ray Processing Center, where he remains detained.

42. As of January 17, 2026, Mr. Caal-Yat has not been provided any written explanation of the basis for his detention, nor any other documents from ICE regarding his detention or immigration proceedings.

43. Mr. Caal-Yat has not received a bond hearing before an immigration judge. Nevertheless, seeking such a hearing would be futile because *Matter of Yajure-Hurtado*, binds immigration judges from concluding anything except that Mr. Caal-Yat is subject to mandatory detention based on the manner of his entry and would therefore find that the court lacks jurisdiction to grant bond.

CAUSES OF ACTION

COUNT ONE

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Bond Hearing

44. Petitioner incorporates paragraphs 1 to 43 as if fully stated herein.

45. Respondent's continued detention of Mr. Caal-Yat without the opportunity for him to obtain a bond hearing on the theory that he is subject to mandatory detention under 8 U.S.C. § 1225 contravenes the INA and Due Process.

46. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled.

47. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231. The application of § 1225(b)(2) to bar Petitioner from receiving a custody redetermination hearing before an immigration judge violates the INA.

48. Rather, § 1225 applies to noncitizens actively "seeking admission" at the border or its immediate functional equivalent. By contrast, § 1226 governs the arrest and detention of those "already in the country" pursuant to a warrant issued by the Attorney General. The two provisions are mutually exclusive. *See Jennings v. Rodriguez*, 583 U.S. 281, 288-89 (2018).

49. Even if Petitioner were to seek a bond hearing before an immigration judge, DHS would continue to detain him pending adjudication. Considering the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 220, an immigration judge would likely determine that Petitioner is subject to mandatory detention based on the manner of his entry and decline jurisdiction to consider bond.

50. In *Matter of Yajure Hurtado*, the BIA held that all noncitizens who entered the United States without admission or parole, like Petitioner, are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and are ineligible for bond hearings. It constitutes the BIA's affirmation of ICE's faulty reimagining of the governing detention statutes.

51. This Court has rejected the BIA's reasoning in *Matter of Yajure Hurtado* and declined to follow it in granting habeas relief in the Southern District of Georgia. *See Aguirre Villa v. Normand*, 2025 LEXIS 442534, at *35–36 (S.D. Ga. Nov. 4, 2025). ("I conclude Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2) . . . Thus, Petitioner's detention based on 8 U.S.C. § 1225(b)(2) is unlawful. Any immigration court order which has relied on this misinterpretation to continue to detain Petitioner is contrary to the INA, and therefore, § 2241 relief is proper.").

52. Numerous other federal courts have ruled that the BIA's decision is not entitled to any deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), and have overwhelmingly rejected the BIA's decision in *Yajure Hurtado*, concluding it is contrary to law.

See, e.g., *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115, at *14-16 (M.D. Ga. Nov. 1, 2025) (rejecting the government's arguments, which largely parrot the rationale in *Yajure Hurtado* . . . [to] conclude[] that § 1226(a), not § 1225(b)(2), applies" to immigrants like Petitioner, and ordering the immigration court to grant a bond hearing); *Garcia v. Noem*, No. 2:25-cv-00879-SPC-NPM, 2025 LX 400655, at *11 (M.D. Fla. Oct. 31, 2025) ("Since DHS's change in policy, courts in this District and around the country have rejected its new interpretation of the INA. This Court agrees with the growing consensus.").[1]

[1] The overwhelming majority of United States Federal District Courts outside of the Eleventh Circuit have drawn the same conclusion. *See, e.g., Hernandez Lopez v. Hardin*, No. 2:25-cv-830-KCD-NPM, 2025 U.S. Dist. LEXIS 212865, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025); *Aguilar Guerra v. Joyce*, 2:25-cv-534-SDN, 2025 U.S. Dist. LEXIS 208608, 2025 WL 2986316 (D. Maine Oct. 23, 2025); *Contreras Maldonado v. Cabezas*, No. 25-cv-13004, 2025 U.S. Dist. LEXIS 208752, 2025 WL 2985256 (D. N.J. Oct. 23, 2025); *Gomez Garcia v. Noem*, No. 5:25-cv-02771-ODW (PDx), 2025 U.S. Dist. LEXIS 209286, 2025 WL 2986672 (C.D. Cal. Oct. 22, 2025); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 U.S. Dist. LEXIS 208290, 2025 WL 2977650 (D.Colo. Oct. 22, 2025); *Ochoa Ochoa v. Noem*, No. 25-CV-10865, 2025 U.S. Dist. LEXIS 204142, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *N.A. v. Larose*, No. 25-cv-2384-RSH-BLM, 2025 U.S. Dist. LEXIS 198688, 2025 WL 2841989 (S.D. Cal. Oct. 7, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 U.S. Dist. LEXIS 188232, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 U.S. Dist. LEXIS 175513, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 U.S. Dist. LEXIS 175767, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 U.S. Dist. LEXIS 174828, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 U.S. Dist. LEXIS 171714, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 U.S. Dist. LEXIS 167280, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 U.S. Dist. LEXIS 165015, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 U.S. Dist. LEXIS 163056, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Samb v. Joyce*, No. 25 Civ. 6373 (DEH), 2025 U.S. Dist. LEXIS 161109, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 U.S. Dist. LEXIS 160622, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 U.S. Dist. LEXIS 158808, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Maldonado v. Olson*, No. 25-cv-03142-SRN-SGE, 2025 U.S. Dist. LEXIS 158321, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. 25-CV-02157-PHX-DLR (CDB), 2025 U.S. Dist. LEXIS 156344, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. 25-CV-02157-PHX-DLR (CDB), 2025 U.S. Dist. LEXIS 156336, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Diaz Martinez v. Hyde*, No. 25-CV-11613-BEM, 2025 U.S. Dist. LEXIS 141724, 2025 WL 2084238 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299 (D. Mass. July 7, 2025).

53. Notably, none of the Federal District Courts within the Eleventh Circuit that have reviewed *Matter of Yajure-Hurtado* have agreed with its rationale. *See e.g., J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115 (M.D. Ga. Nov. 1, 2025); *Gonzalez v. Sterling*, No. 1:25-CV-6080-MHC, 2025 LX 501591 (N.D. Ga. Nov. 3, 2025); *Patel v. Hardin*, No. 2:25-cv-870-JES-NPM, 2025 LX 544378, at *10 (M.D. Fla. Dec. 1, 2025) ("Since DHS's change in policy, courts in this District and around the country have rejected its new interpretation of the INA. This Court now joins the consensus, concluding that the interpretation is flawed for several reasons.")

54. Because *Matter of Yajure-Hurtado* is binding agency precedent, seeking a bond hearing before an immigration judge would be futile. Under that decision, an immigration judge would conclude that Petitioner is subject to mandatory detention based on the manner of his entry and would therefore lack jurisdiction to grant bond, to which he is entitled as an individual subject to detention under 8 U.S.C. § 1226(a).

55. Petitioner was not "seeking admission" within the meaning of § 1225(b) but was "already in the country" within the meaning of *Jennings*, 583 U.S. at 288–89. His custody is governed by § 1226(a), under which detention is discretionary and subject to individualized bond hearings.

56. The Court should, at a minimum, order Respondent to grant Petitioner an individualized bond hearing consistent with long-standing practice.

COUNT TWO

Due Process Violation

57. Petitioner incorporates paragraphs 1 to 56 as if fully stated herein.

58. Respondent's continued detention of Petitioner without the opportunity for him to obtain a bond hearing on the theory that he is subject to mandatory detention under 8 U.S.C. § 1225 contravenes Due Process.

59. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); accord *Trump v. J. G. G.*, 604 U.S. 670, 673 (2025) (" 'It is well established that the Fifth Amendment entitles aliens to due process of law' in the context of removal proceedings.") (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).

60. The Fifth Amendment forbids deprivation of liberty without notice and a meaningful opportunity to be heard before a neutral decision-maker.

61. To determine whether civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the three-part test articulated in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under that test, courts must weigh (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

62. Applying the *Mathews* test, Petitioner's liberty interest is paramount, and the risk of erroneous deprivation is extreme considering that Petitioner, who has no criminal history in the United States, and whom the ORR has already determined is not a flight risk or danger to the community, is not subject to mandatory detention under 8 U.S.C. § 1226(c). Likewise, the risk of erroneous deprivation of liberty is great due to the lack of a non-independent adjudicator. *Marcello v. Bonds*, 349 U.S. 302, 305-06 (1955).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(a) Assume jurisdiction over this matter;

(b) Grant the writ of habeas corpus and order that Respondent release Petitioner from immigration detention, or at minimum order a custody redetermination hearing consistent with 8 U.S.C. § 1226(a);

(c) Enjoin the Respondent from transferring Petitioner outside the jurisdiction of the U.S. District Court for the Southern District of Georgia;

(d) Award Petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and

(e) Grant any additional relief that this Court deems just and proper.

Dated: January 19, 2026

Respectfully submitted,

s/Thomas Evans
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Kuck Baxter
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Atlanta, GA 30350
c. 404. 949.8176
tsanchezevans@immigration.net

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

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

Dated: January 19, 2026

s/ Thomas Evans
GA Bar No. 305649

JS 44 (Rev. 03/24)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. *(SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)*

I. (a) PLAINTIFFS

Wilson Antonio CAAL-YAT

(b) County of Residence of First Listed Plaintiff Charlton
(EXCEPT IN U.S. PLAINTIFF CASES)

(c) Attorneys *(Firm Name, Address, and Telephone Number)*

Thomas Evans, Kuck Baxter LLC, PO Box 501359, Atlanta, GA 31150, (404) 949-8176

DEFENDANTS Tony Normand

County of Residence of First Listed Defendant _____
(IN U.S. PLAINTIFF CASES ONLY)
NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED.

Attorneys *(If Known)*

II. BASIS OF JURISDICTION *(Place an "X" in One Box Only)*

- ☐ 1 U.S. Government Plaintiff
- ☐ 3 Federal Question *(U.S. Government Not a Party)*
- ☒ 2 U.S. Government Defendant
- ☐ 4 Diversity *(Indicate Citizenship of Parties in Item III)*

III. CITIZENSHIP OF PRINCIPAL PARTIES *(Place an "X" in One Box for Plaintiff and One Box for Defendant)*
(For Diversity Cases Only)

	PTF	DEF		PTF	DEF
Citizen of This State	☐ 1	☐ 1	Incorporated *or* Principal Place of Business In This State	☐ 4	☐ 4
Citizen of Another State	☐ 2	☐ 2	Incorporated *and* Principal Place of Business In Another State	☐ 5	☐ 5
Citizen or Subject of a Foreign Country	☐ 3	☐ 3	Foreign Nation	☐ 6	☐ 6

IV. NATURE OF SUIT *(Place an "X" in One Box Only)*

Click here for: Nature of Suit Code Descriptions.

CONTRACT
- ☐ 110 Insurance
- ☐ 120 Marine
- ☐ 130 Miller Act
- ☐ 140 Negotiable Instrument
- ☐ 150 Recovery of Overpayment & Enforcement of Judgment
- ☐ 151 Medicare Act
- ☐ 152 Recovery of Defaulted Student Loans (Excludes Veterans)
- ☐ 153 Recovery of Overpayment of Veteran's Benefits
- ☐ 160 Stockholders' Suits
- ☐ 190 Other Contract
- ☐ 195 Contract Product Liability
- ☐ 196 Franchise

TORTS

PERSONAL INJURY
- ☐ 310 Airplane
- ☐ 315 Airplane Product Liability
- ☐ 320 Assault, Libel & Slander
- ☐ 330 Federal Employers' Liability
- ☐ 340 Marine
- ☐ 345 Marine Product Liability
- ☐ 350 Motor Vehicle
- ☐ 355 Motor Vehicle Product Liability
- ☐ 360 Other Personal Injury
- ☐ 362 Personal Injury - Medical Malpractice

PERSONAL INJURY
- ☐ 365 Personal Injury - Product Liability
- ☐ 367 Health Care/ Pharmaceutical Personal Injury Product Liability
- ☐ 368 Asbestos Personal Injury Product Liability

PERSONAL PROPERTY
- ☐ 370 Other Fraud
- ☐ 371 Truth in Lending
- ☐ 380 Other Personal Property Damage
- ☐ 385 Property Damage Product Liability

FORFEITURE/PENALTY
- ☐ 625 Drug Related Seizure of Property 21 USC 881
- ☐ 690 Other

LABOR
- ☐ 710 Fair Labor Standards Act
- ☐ 720 Labor/Management Relations
- ☐ 740 Railway Labor Act
- ☐ 751 Family and Medical Leave Act
- ☐ 790 Other Labor Litigation
- ☐ 791 Employee Retirement Income Security Act

IMMIGRATION
- ☐ 462 Naturalization Application
- ☐ 465 Other Immigration Actions

BANKRUPTCY
- ☐ 422 Appeal 28 USC 158
- ☐ 423 Withdrawal 28 USC 157

INTELLECTUAL PROPERTY RIGHTS
- ☐ 820 Copyrights
- ☐ 830 Patent
- ☐ 835 Patent - Abbreviated New Drug Application
- ☐ 840 Trademark
- ☐ 880 Defend Trade Secrets Act of 2016

SOCIAL SECURITY
- ☐ 861 HIA (1395ff)
- ☐ 862 Black Lung (923)
- ☐ 863 DIWC/DIWW (405(g))
- ☐ 864 SSID Title XVI
- ☐ 865 RSI (405(g))

FEDERAL TAX SUITS
- ☐ 870 Taxes (U.S. Plaintiff or Defendant)
- ☐ 871 IRS—Third Party 26 USC 7609

OTHER STATUTES
- ☐ 375 False Claims Act
- ☐ 376 Qui Tam (31 USC 3729(a))
- ☐ 400 State Reapportionment
- ☐ 410 Antitrust
- ☐ 430 Banks and Banking
- ☐ 450 Commerce
- ☐ 460 Deportation
- ☐ 470 Racketeer Influenced and Corrupt Organizations
- ☐ 480 Consumer Credit (15 USC 1681 or 1692)
- ☐ 485 Telephone Consumer Protection Act
- ☐ 490 Cable/Sat TV
- ☐ 850 Securities/Commodities/ Exchange
- ☐ 890 Other Statutory Actions
- ☐ 891 Agricultural Acts
- ☐ 893 Environmental Matters
- ☐ 895 Freedom of Information Act
- ☐ 896 Arbitration
- ☐ 899 Administrative Procedure Act/Review or Appeal of Agency Decision
- ☐ 950 Constitutionality of State Statutes

REAL PROPERTY
- ☐ 210 Land Condemnation
- ☐ 220 Foreclosure
- ☐ 230 Rent Lease & Ejectment
- ☐ 240 Torts to Land
- ☐ 245 Tort Product Liability
- ☐ 290 All Other Real Property

CIVIL RIGHTS
- ☐ 440 Other Civil Rights
- ☐ 441 Voting
- ☐ 442 Employment
- ☐ 443 Housing/ Accommodations
- ☐ 445 Amer. w/Disabilities - Employment
- ☐ 446 Amer. w/Disabilities - Other
- ☐ 448 Education

PRISONER PETITIONS

Habeas Corpus:
- ☒ 463 Alien Detainee
- ☐ 510 Motions to Vacate Sentence
- ☐ 530 General
- ☐ 535 Death Penalty

Other:
- ☐ 540 Mandamus & Other
- ☐ 550 Civil Rights
- ☐ 555 Prison Condition
- ☐ 560 Civil Detainee - Conditions of Confinement

V. ORIGIN *(Place an "X" in One Box Only)*

☒ 1 Original Proceeding ☐ 2 Removed from State Court ☐ 3 Remanded from Appellate Court ☐ 4 Reinstated or Reopened ☐ 5 Transferred from Another District *(specify)* ☐ 6 Multidistrict Litigation - Transfer ☐ 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing *(Do not cite jurisdictional statutes unless diversity)*:
28 USC 2241

Brief description of cause:
Challenge to unlawful detention of noncitizen eligible for bond

VII. REQUESTED IN COMPLAINT: ☐ CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. **DEMAND $** CHECK YES only if demanded in complaint.
JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY *(See instructions)*: JUDGE _____ DOCKET NUMBER _____

DATE: 01/19/2026

SIGNATURE OF ATTORNEY OF RECORD: /s/ Thomas Evans

FOR OFFICE USE ONLY

RECEIPT # _____ AMOUNT _____ APPLYING IFP _____ JUDGE _____ MAG. JUDGE _____

INSTRUCTIONS FOR ATTORNEYS COMPLETING CIVIL COVER SHEET FORM JS 44

Authority For Civil Cover Sheet

The JS 44 civil cover sheet and the information contained herein neither replaces nor supplements the filings and service of pleading or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. Consequently, a civil cover sheet is submitted to the Clerk of Court for each civil complaint filed. The attorney filing a case should complete the form as follows:

I.(a) Plaintiffs-Defendants. Enter names (last, first, middle initial) of plaintiff and defendant. If the plaintiff or defendant is a government agency, use only the full name or standard abbreviations. If the plaintiff or defendant is an official within a government agency, identify first the agency and then the official, giving both name and title.

(b) County of Residence. For each civil case filed, except U.S. plaintiff cases, enter the name of the county where the first listed plaintiff resides at the time of filing. In U.S. plaintiff cases, enter the name of the county in which the first listed defendant resides at the time of filing. (NOTE: In land condemnation cases, the county of residence of the "defendant" is the location of the tract of land involved.)

(c) Attorneys. Enter the firm name, address, telephone number, and attorney of record. If there are several attorneys, list them on an attachment, noting in this section "(see attachment)".

II. Jurisdiction. The basis of jurisdiction is set forth under Rule 8(a), F.R.Cv.P., which requires that jurisdictions be shown in pleadings. Place an "X" in one of the boxes. If there is more than one basis of jurisdiction, precedence is given in the order shown below.
United States plaintiff. (1) Jurisdiction based on 28 U.S.C. 1345 and 1348. Suits by agencies and officers of the United States are included here.
United States defendant. (2) When the plaintiff is suing the United States, its officers or agencies, place an "X" in this box.
Federal question. (3) This refers to suits under 28 U.S.C. 1331, where jurisdiction arises under the Constitution of the United States, an amendment to the Constitution, an act of Congress or a treaty of the United States. In cases where the U.S. is a party, the U.S. plaintiff or defendant code takes precedence, and box 1 or 2 should be marked.
Diversity of citizenship. (4) This refers to suits under 28 U.S.C. 1332, where parties are citizens of different states. When Box 4 is checked, the citizenship of the different parties must be checked. (See Section III below; **NOTE: federal question actions take precedence over diversity cases.**)

III. Residence (citizenship) of Principal Parties. This section of the JS 44 is to be completed if diversity of citizenship was indicated above. Mark this section for each principal party.

IV. Nature of Suit. Place an "X" in the appropriate box. If there are multiple nature of suit codes associated with the case, pick the nature of suit code that is most applicable. Click here for: Nature of Suit Code Descriptions.

V. Origin. Place an "X" in one of the seven boxes.
Original Proceedings. (1) Cases which originate in the United States district courts.
Removed from State Court. (2) Proceedings initiated in state courts may be removed to the district courts under Title 28 U.S.C., Section 1441.
Remanded from Appellate Court. (3) Check this box for cases remanded to the district court for further action. Use the date of remand as the filing date.
Reinstated or Reopened. (4) Check this box for cases reinstated or reopened in the district court. Use the reopening date as the filing date.
Transferred from Another District. (5) For cases transferred under Title 28 U.S.C. Section 1404(a). Do not use this for within district transfers or multidistrict litigation transfers.
Multidistrict Litigation – Transfer. (6) Check this box when a multidistrict case is transferred into the district under authority of Title 28 U.S.C. Section 1407.
Multidistrict Litigation – Direct File. (8) Check this box when a multidistrict case is filed in the same district as the Master MDL docket.
PLEASE NOTE THAT THERE IS NOT AN ORIGIN CODE 7. Origin Code 7 was used for historical records and is no longer relevant due to changes in statute.

VI. Cause of Action. Report the civil statute directly related to the cause of action and give a brief description of the cause. **Do not cite jurisdictional statutes unless diversity.** Example: U.S. Civil Statute: 47 USC 553 Brief Description: Unauthorized reception of cable service.

VII. Requested in Complaint. Class Action. Place an "X" in this box if you are filing a class action under Rule 23, F.R.Cv.P.
Demand. In this space enter the actual dollar amount being demanded or indicate other demand, such as a preliminary injunction.
Jury Demand. Check the appropriate box to indicate whether or not a jury is being demanded.

VIII. Related Cases. This section of the JS 44 is used to reference related cases, if any. If there are related cases, insert the docket numbers and the corresponding judge names for such cases.

Date and Attorney Signature. Date and sign the civil cover sheet.