UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JULIO CESAR LEMUS FRANCISCO, Petitioner, v. LADEON FRANCIS, Field Office Director, Atlanta Field Office, Immigration and Customs Enforcement, in his official capacity; KRISTI NOEM, Secretary, U.S. Department of Homeland Security, in her official capacity; PAMELA BONDI, U.S. Attorney General, in her official capacity; JASON STREEVAL, Stewart Detention Center, in his official capacity, Respondents.	Case No. **PETITION FOR A WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Julio Cesar Francisco Lemus, a citizen of Mexico, respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 to challenge the legality of his detention by Immigration and Customs Enforcement ("ICE"), a component of the U.S. Department of Homeland Security ("DHS"). He is detained at the Stewart Detention Center in Georgia, where he has been since January 11, 2026.

2. He now faces unlawful detention because the DHS and the Executive Office for Immigration Review ("EOIR") of the Department of Justice ("DOJ") have erroneously concluded Petitioner is subject to mandatory detention under U.S.C. § 1225(b)(2) based on a recently released ICE memo directing a new interpretation of the law. *See* Exh. 1, ICE Memo "Interim Guidance Regarding Detention Authority for Applicants for Admission" dated July 8, 2025 (hereinafter "ICE Memo").

3. Petitioner entered the United States on or about February 1, 2022. Shortly after entry, Petitioner was apprehended by immigration authorities near the border and close in time to entry. DHS thereafter released Petitioner on recognizance, permitting Petitioner to reside in the United States for an extended period while immigration proceedings were contemplated or pending. Only later, after Petitioner had established residence in the interior of the United States, did DHS re-detain Petitioner.

4. Petitioner is charged as removable under § 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA"), which states: "[Y]ou are an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General." 8 U.S.C. § 1182(a)(6)(A)(i). *See* Exh. 2, Notice to Appear.

5. Based on this allegation in Petitioner's removal proceeding, DHS will deny Petitioner release from immigration custody, consistent with the new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone inadmissible under § 1182(a)(6)(A)(i) –i.e., those who entered the U.S. without inspection–to be an "applicant for admission" under 8 § 1225(b)(2)(A) and therefore subject to mandatory detention. This memo admittedly stated that it "has revisited its legal position on detention and release authorities." *See* Exh. 1, ICE Memo. It further stated that the DHS policy was issued "in coordination with the Department of Justice (DOJ)."

6. Under 8 U.S.C. §1225(b)(2)(A), an applicant for admission seeking admission shall be detained for a removal proceeding. It is now the position of the EOIR, which houses both the Board of Immigration Appeals ("BIA") and immigration judges, that 8 U.S.C. § 1225(b)(2)(A) applies to all individuals who arrived in the United States without documents, regardless of how long they have lived in the United States and regardless of how far they were apprehended from the border.

7. Section 1225(b)(2)(A) governs initial inspection and admission decisions—not the re-detention of individuals who have already been released into the United States and are living in the interior. Individuals like Petitioner, who were apprehended near the border, affirmatively released by DHS, and later re-detained after residing in the United States, fall outside the scope of § 1225(b)(2)(A). Their detention authority instead arises under INA § 236(a), 8 U.S.C. § 1226(a), which expressly permits release on bond or conditional parole.

8. Nevertheless, the July 2025 ICE Memo instructs its attorneys to coordinate with the Department of Justice to reject bond redetermination hearings for applicants who previously arrived in the United States without documents.

9. The BIA adopted the same position as the July 8, 2025 ICE policy by issuing a decision holding that an immigration judge has no authority to consider bond requests for any person who entered the U.S. without admission. *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228-29 (BIA 2025).

10. On November 25, 2025, the U.S. District Court for Central District of California rejected this interpretation and certified a nationwide class including noncitizens—like Petitioner—who entered without inspection, were not subject to expedited or mandatory detention statutes, and were later detained under the government's expanded application of § 1225(b)(2)(A). *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.) (Order Granting Plaintiff-Petitioners' Motion for Class Certification)[1].

11. Because Petitioner was apprehended near the border, released into the United States, and only later re-detained, Petitioner falls squarely within the second Bautista class and requests he be given a bond hearing as guaranteed under INA § 236(a).

12. Petitioner's detention on the above basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.

13. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

[1]On November 20, 2025, the Court issued an order granting declaratory relief concluding that the detention of class members is governed by INA § 236(a) and that class members are not subject to mandatory detention pursuant to INA § 235(b)(2). *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 20, 2025 C.D. Cal.) (Order Granting Petitioners' Motion for Partial Summary Judgement). *Maldonado Bautista* rejected the Board's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

14. Notably, the vast majority of federal courts to consider this issue, including this Court as well as the Southern District of Georgia, have agreed. *See, e.g., Villa v. Normand*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) (granting habeas relief and ordering a bond hearing for similar petitioners who never received bond hearing because of *Yajure-Hurtado*); *see also J3.A.M. v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *P.R.S. v. Streeval*, No. 4:25-cv-343-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

15. As such, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within three (3) days.

JURISDICTION AND VENUE

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

17. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

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

19. "A civil action in which a defendant is an officer or employee of the United States or any agency thereof acting in his official capacity or under color of legal authority, or an agency of the United States, may, . . . be brought in any judicial district in which a defendant in the action resides . . ." *See* 28 U.S.C. § 1391(e).

20. The Supreme Court articulated in Rumsfeld v. Padilla the standard for determining if a court has jurisdiction to consider a habeas corpus petition, which breaks down into two subquestions— (1) who is the proper respondent to the petition, and (2) does the Court have jurisdiction over that respondent. Rumsfeld v. Padilla, 542 U.S. 426, 434 (2004).

21. Under *Padilla*, the "immediate custodian" of the detained petitioner is the proper respondent in such habeas actions, which is typically the warden of the facility in which the petitioner is being housed. *See id.* at 443 ("The plain language of the habeas statute thus confirms the general rule that for core habeas petitions challenging present physical confinement, jurisdiction lies in only one district: the district of confinement.")

22. Here, under *Padilla*, the immediate custodian of the Petitioner, and thus the proper Respondent, is the Warden of the ICE Processing Center in Folkston, Georgia. *See id.* Because this Court has jurisdiction over actions arising in Folkston, Georgia, the venue is proper in this case.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

23. There is no statutory exhaustion requirement in 28 U.S.C. § 2241. However, "that does not mean that courts may disregard a failure to exhaust and grant relief on the merits if the respondent properly asserts the defense." *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015). "To properly exhaust administrative remedies, a petitioner must comply with an agency's deadlines and procedural rules." *Straughter v. Warden, FCC Coleman - Low*, 699 F. Supp. 3d 1304, 1306 (M.D. Fla. 2023) (citing *Woodford v. Ngo*, 548 U.S. 81, 90–91 (2006) (discussing the Prison Litigation Reform Act's (PLRA) exhaustion requirement)). It is the Respondent's burden

to prove that the Petitioner has "failed to exhaust all available administrative remedies." *Id.* at 1307.

24. However, in detention cases such as the Petitioner's, requiring the Petitioner to present a motion for bond to prudentially exhaust is not efficient, would cause irreparable harm by continuing to deprive him of his liberty, and would be futile so long as *Matter of Yajure-Hurtado* remains in effect. *See McCarthy v. Madigan*, 503 U.S. 140, 146-49 (1992) *superseded by statute on other grounds as stated in Booth v. Churner*, 532 U.S. 731 (2001) (noting that traditional exceptions include where exhaustion would cause "undue prejudice to subsequent assertion of a court action" or "irreparable harm" to the petitioner, where there is "some doubt as to whether the agency was empowered to grant effective relief," or where it would be futile because "the administrative body is shown to be biased or has otherwise predetermined the issue before it") (internal quotation marks omitted).

25. Additionally, the Immigration Court and BIA cannot adjudicate constitutional issues, as they lack the authority to rule that Respondents' actions violate the Constitution. Instead, constitutional claims are a matter for federal courts.

REQUIREMENTS OF 28 U.S.C. § 2243

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

27. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

28. Petitioner is a citizen of Mexico who has resided in the United States since approximately 2022. Petitioner is a noncitizen who is currently detained at the Stewart Detention Center. He is in the custody, and under the direct control, of Respondents and their agents.

29. Respondent LaDeon Francis is the ICE Field Office Director for the Atlanta Office, which includes Georgia. As such, Respondent Francis is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. Respondent Francis is named in his official capacity.

30. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Respondent Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

31. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. Respondent Bondi is sued in her official capacity.

32. Respondent Jason Streeval, Warden of the Stewart Detention Center is sued in their official capacity. Respondent Streeval is the immediate custodian of the Petitioner.

FACTUAL BACKGROUND

33. Petitioner is a 38-year-old national of Mexico. He entered the United States without inspection in 2022 and has lived here ever since. He lived in Shady Dale, Georgia prior to his detention.

34. He is the sole provider for his family. He has no disqualifying criminal convictions. However, Respondent was convicted for Fraud and Misuse of a Passport in federal court in 2011; over 15 years ago. Since then, Respondent has devoted his life to God and serves as a pastor. Respondent has been a contributing member of his community and has been gainfully employed since his arrival in 2022. *See* Exh. 3 Draft Motion for Bond Redetermination with Evidence Packet.

35. On or around January 11, 2026, Petitioner was arrested by DHS after being told that his ankle monitor was malfunctioning and they were just taking him to correct the issue.

36. Petitioner is eligible for and has applied for Asylum due to various death threats he received in his country.

37. Pursuant to Respondents' new policy, discussed *infra*, Petitioner remains in mandatory detention. Absent relief from this Court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community without ever receiving an individualized hearing justifying his detention in violation of the INA and Due Process.

38. This Petition follows.

LEGAL FRAMEWORK

39. U.S.C. § 2241(c)(3) authorizes federal courts to grant habeas relief to prisoners or detainees who are "in custody in violation of the Constitution or laws or treaties of the United States." Federal courts retain jurisdiction under § 2241 to review purely legal statutory and constitutional claims regarding the government's detention authority, but jurisdiction does not extend to "discretionary judgment," "action," or "decision" by the Attorney General with respect to either detention or removal. *Jennings v. Rodriguez*, 583 U.S. 281, 295 (2018) (citing, *inter alia, Demore v. Kim*, 538 U.S. 510, 516-17 (2003)).

40. Petitioner asserts that (1) his Fifth Amendment right to due process of law was violated when the Respondents deprived him of liberty; (2) the Respondents' actions violated the INA when they detained Petitioner under 8 U.S.C. § 1225(b)(2)(A), rather than 8 U.S.C. § 1226(a); (3) Respondent's actions were contrary to the APA by unlawfully detaining Petitioner; and (4) the Respondents' actions in continuing to deny individuals, like Petitioner, a bond hearing violates the nationwide injunction in *Maldonado Bautista.*

I. Due Process

41. The Due Process Clause of the Fifth Amendment provides Petitioner with important protections regarding his detention. As the Supreme Court has explained, "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

42. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993). To determine whether civil detention violates a noncitizen's Fifth Amendment due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

43. To guarantee against arbitrary detention and to guarantee the right to liberty, due process requires "adequate procedural protections" that ensure the government's asserted justification for a noncitizen's physical confinement "outweighs the individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted).

44. In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention: to mitigate the risks of danger to the community and to prevent flight. *Id.; Demore,* 538 U.S. 510, 522, 528 (2003). The government may not detain a noncitizen based on any other justification.

45. To justify immigration detention, the government must bear the burden of proof by clear and convincing evidence that the noncitizen is a danger or flight risk. *See Singh v. Holder*, 638 F.3d 1196, 1203 (9th Cir. 2011).

46. Due process also requires that a neutral decisionmaker consider available alternatives to detention. A primary purpose of immigration detention is to ensure a noncitizen's appearance during removal proceedings. Detention is not reasonably related to this purpose if there are alternative conditions of release that could mitigate risk of flight. *See Bell v. Wolfish*, 441 U.S. 520, 538 (1979). ICE's alternatives to detention program—the Intensive Supervision Appearance Program (ISAP)—has achieved extraordinary success in ensuring appearance at removal proceedings, reaching compliance rates close to 100 percent. *See Hernandez v. Sessions*, 872 F.3d 976, 991 (9th Cir. 2017) (observing that ISAP "resulted in a 99% attendance rate at all EOIR hearings and a 95% attendance rate at final hearings"). It follows that alternatives to detention must be considered in determining whether further incarceration is warranted.

47. Immigration detainees face severe hardships while incarcerated. Immigration detainees are held in lock-down facilities, with limited freedom of movement and access to their families: "the circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting); *accord Chavez-Alvarez v. U.S. Att'y Gen.*, 783 F.3d 478 (3d Cir. 2015); *Ngo v. INS*, 192 F.3d 390, 397-98 (3d Cir. 1999); *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1218, 1221 (11th Cir. 2016). "And in some cases[,] the conditions of their confinement are inappropriately poor." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting) (citing Dept. of Homeland Security (DHS), Office of Inspector General (OIG), DHS OIG Inspection Cites Concerns With Detainee Treatment and Care at ICE Detention Facilities (2017) (reporting instances of invasive procedures, substandard care, and mistreatment, e.g., indiscriminate strip searches, long waits for medical care and hygiene products, and, in the case of one detainee, a multiday lock down for sharing a cup of coffee with another detainee)).

48. These conditions and obstacles only further underscore the serious due process concerns that immigration detention poses for noncitizens like the Petitioner and reflect the need for a decision before a neutral decisionmaker regarding further detention.

49. The requirement that the government bear the burden of proof by clear and convincing evidence is also supported by application of the three-factor balancing test from *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

50. Under *Mathews*, courts weigh the following three factors: 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." 424 U.S. at 335.

a. Private Interest

51. As to the first *Mathews* factor, "[t]he interest in being free from physical detention" is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004). Incarceration deprives noncitizens of a "profound" liberty interest—one that always requires some form of procedural protections. Diouf, 634 F.3d at 1091- 92; *see also Foucha*, 504 U.S. at 80 ("It is clear that commitment for any purpose constitutes a significant deprivation of liberty that requires due process protection." (citation omitted)).

52. Petitioner has been detained for several weeks at Stewart Detention Center in conditions that are indistinguishable from criminal incarceration. This detention prevents him from seeing his family, going to work to support himself and his family, and deprives him of any privacy and freedom of movement.

b. Risk of Erroneous Deprivation

53. As to the second *Mathews* factor, the risk of error is great where the government is represented by trained attorneys and detained noncitizens are often unrepresented and frequently lack English proficiency. *See Santosky v. Kramer*, 455 U.S. 745, 762-63 (1982) (requiring clear and convincing evidence at parental termination proceedings because "numerous factors combine to magnify the risk of erroneous factfinding" including that "parents subject to termination proceedings are often poor, uneducated, or members of minority groups" and "[t]he State's attorney usually will be expert on the issues contested"). Moreover, Respondents detain noncitizens in prison-like

conditions that severely hamper their ability to obtain legal assistance, gather evidence, and prepare for a bond hearing.

54. The courts must "assess whether the challenged procedure creates a risk of erroneous deprivation of individuals' private rights and the degree to which alternative procedures could ameliorate these risks." *Gunaydin v. Trump*, No. 25-CV-01151 (JMB/DLM), 2025 WL 1459154, at *8 (D. Minn. May 21, 2025). The current procedures cause an erroneous deprivation of Petitioner's liberty interest in remaining free from detention.

55. As discussed above, the statutory text, statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation leave no doubt that Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry, not noncitizens who entered without inspection and were detained inside the country.

56. Here, although Petitioner was apprehended at or near the border shortly after entry, he was affirmatively released by DHS and permitted to reside in the United States. At the time of his later detention, Petitioner was not arriving at a border or port of entry, nor was he seeking admission to the United States. Instead, he had already been released into the interior and had lived in the United States for an extended period before being re-detained by immigration authorities. Accordingly, Petitioner is not subject to mandatory detention under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2).

57. The government's current practice of applying § 1225(b)(2) to re-detain Petitioner—despite his prior release and prolonged residence in the United

States—creates a substantial risk of erroneous deprivation of Petitioner's liberty interest in freedom from arbitrary confinement, in violation of due process.

58. Additionally, there are reasonable alternatives available for Respondents to pursue. As discussed above, Section 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like Petitioner who entered without inspection and were later detained while residing inside the country. As such, proper application of the INA's detention scheme allows for the possibility of detaining Petitioner under Section 1226(a) but first requires a bond hearing to make an individualized determination of his risk of flight or dangerousness. Such a hearing has not happened. Without it, the risk of erroneous deprivation of Petitioner's freedom is high. *See Singh v. Lewis*, 2025 WL 2699219, at *9 ("the risk of erroneously depriving him of his freedom is high if the IJ fails to assess his risk of flight or dangerousness.").

c. Government Interest

59. As to the third *Mathews* factor, the government's interest in maintaining the current procedure is minimal here. The new interpretation of Section 1225(b)(2) – that people like Petitioner who have resided in the United States for years are now subject to mandatory detention – flies in the face of the statutory text, statutory framework, Congressional intent, almost three decades of prior practice, and the decisions of federal courts across the nation. Any government interest in public safety or ensuring that Petitioner attends future immigration proceedings would be satisfied through proper application of Section 1226(a), which requires a bond redetermination hearing where an immigration judge will consider Petitioner's individualized facts and circumstances to determine whether he is a danger to the community or a flight risk.

II. INA

60. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First is detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. *See id.* § 1226(c).

61. The INA also provides for mandatory detention for noncitizens in expedited removal proceedings, 8 U.S.C. § 1225(b)(1), and detention for noncitizens whose immigration cases are completed, id. § 1231(a)(6). *See Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1111-13 (W.D. Wash. 2019) (providing overview of INA's detention authorities).

62. The Petitioner is not properly detained under 8 U.S.C. § 1225(b)(2)(A), as Respondents assert, but under 8 U.S.C. § 1226(a). Pursuant to 8 U.S.C. § 1225(b)(2)(A):

> 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 for a proceeding under section 1229a of this title [i.e., removal proceedings].

63. The Petitioner maintains that he is detained under 8 U.S.C. § 1226(a), which provides that:

> On a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States. Except as provided in subsection (c) [mandating the detention of certain criminal aliens] and pending such decision, the Attorney General -
>
> (1) may continue to detain the arrested alien; and
>
> (2) may release the alien on -
>
> (A) bond of at least $1,500 with security approved by, and containing conditions described by, the Attorney General; or
>
> (B) conditional parole; but
>
> (3) may not provide the alien with work authorization ... unless the alien is lawfully admitted for permanent residence or otherwise would ... be provided such authorization.

64. "Statutory construction must begin with the language employed by Congress and the assumption that the ordinary meaning of that language accurately expresses the legislative purpose." *Park 'N Fly, Inc. v. Dollar Park & Fly, Inc.*, 469 U.S. 189, 194 (1985). Thus, the Court's "first step in interpreting a statute is to determine whether the language at issue has a plain and unambiguous meaning with regard to the particular dispute in the case." *Robinson v. Shell Oil Co.*, 519 U.S. 337, 340 (1997). "The plainness or ambiguity of statutory language is determined by reference to the language itself, the specific context in which that language is used, and the broader context of the statute as a whole." *Id.* (citing, *inter alia, Estate of Cowart v. Nicklos Drilling Co.*, 505 U.S. 469, 477 (1992)).

65. Notably, the issue presented in this action is nearly identical to those this Court has recently decided, finding that those petitioners' detention was governed by 8 U.S.C. § 1226(a). *See Villa v. Normand*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) (granting habeas relief and ordering a bond hearing for similar petitioners who never received bond hearing because of *Matter of Yajure-Hurtado*).

III. APA

66. Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

67. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

IV. *Maldonado Bautista* Injuction

68. Under *Maldonado Bautista*, the district court's injunction extends to noncitizens who entered the United States without inspection and who, although apprehended at or near the border shortly after entry, were released by DHS and later re-detained in the interior after residing in the United States for a period of time. Petitioner falls squarely within this class, having been apprehended near the border, released into the United States, and subsequently re-detained after living in the interior. *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 25, 2025 C.D. Cal.) (Order Granting Plaintiff-Petitioners' Motion for Class Certification); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 20, 2025 C.D. Cal.) (Order Granting Petitioners' Motion for Partial Summary Judgement); *Maldonado Bautista v. Santacruz*, 5:25-CV-01873-SSS-BFM (Dec. 18, 2025 C.D. Cal.) (Final Judgement).

69. In granting partial summary judgment and defining the class, the district court adopted a class definition that turns on the circumstance of apprehension at arrival, not the original physical entry alone. The certified Bond Eligible Class includes "[a]ll noncitizens in the United States without lawful status who (1) have entered … without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not … subject to detention under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 at the time … DHS makes an initial custody determination." *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (Nov. 20, 2025 C.D. Cal.) (Order Granting Petitioners' Motion for Partial Summary Judgement). This class definition encompasses two groups: (i) those who entered without inspection and were later detained after residing in the United States for some time, and (ii) those who were apprehended upon arrival, released on recognizance, and then later re-detained after living in the United States.

70. Petitioner is thus a member of the Bond Eligible Class under *Bautista*, as he:

a. is a noncitizen without lawful status in the US and is currently detained at the Stewart Detention Center;

b. was apprehended upon arrival and released on recognizance, and then later re-detained after living in the US; and

c. is not subject to mandatory detention.

71. Thus, by virtue of the final declaratory judgment issued in that case, Petitioner is entitled to a bond hearing under 8 U.S.C. § 1226(a).

CLAIMS FOR RELIEF

COUNT I
Violation of Due Process

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

73. The government may not deprive a person of "life, liberty, or property without due process of law." U.S. Const. amend. V. "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 protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

74. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

75. Petitioner has a fundamental interest in liberty and being free from official restraint.

76. Here, Petitioner is entitled to due process protections under the Fifth Amendment of the U.S. Constitution. Respondents' refusal to provide Petitioner with an individualized bond hearing—and the IJs' reliance on *Matter of Yajure-Hurtado* to conclude that no jurisdiction exists—violate Petitioner's rights under the Due Process Clause.

77. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly favors Petitioner. His interest in liberty and family unity is paramount; the Government's blanket detention policy under *Yajure-Hurtado* creates an extreme risk of erroneous deprivation by denying him any opportunity to demonstrate eligibility for release; and the Government's interest in ensuring appearance can be served by far less restrictive means.

78. Petitioner entered the country without inspection, was apprehended upon arrival and subsequently released by DHS officials, and lived in the United States for over 3 years before being re-detained. Such an individual may only be subject to discretionary detention under 8 U.S.C. § 1226, which provides for release on bond. Respondents now erroneously detain Petitioner under the mandatory provision in § 1225(b)(2).

79. Respondents' detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

COUNT II
Violation of the INA

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

81. 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 the grounds 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 detained and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231. But Respondents' actions here violate § 1226(a) too because, to date, Respondents have refused to consider Petitioner for bond without ever demonstrating that he is a flight risk or danger to others.

82. Respondents did not process the Petitioner as an arriving alien, did not initiate expedited removal, and did not issue or reinstate a removal order. The IJs' reliance on *Matter of Yajure-Hurtado* is thus contrary to the statutory framework, which mandates bond jurisdiction in § 236(a) cases.

83. Further, contrary to the language of § 1225(b), § 1226(a) does not specify a class or classes of aliens who should be detained under the provision, but governs more generally the "apprehension and detention of aliens." As opposed to the inspection regime for aliens entering the United States set forth in § 1225, the Supreme Court has characterized § 1226(a) as "authoriz[ing] the government to detain certain aliens already in the country pending the outcome of removal proceedings[.]" *Jennings*, 583 U.S. at 289 (emphasis added).

84. Here, the Petitioner is clearly not an "applicant for admission." His NTA charged him as an "alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General," and thus, he should be treated by law as someone who had already entered the U.S. Accordingly, his detention is governed exclusively by INA § 236(a).

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

86. Petitioner was entitled to a bond hearing "at the outset of detention" as established by existing federal regulations. *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.l(d)(l), 1236.l(d)(l)).

87. This Southern District Court of Georgia came to the same conclusion in *Villa v. Normand* regarding the applicability of INA § 236 and § 235 to detained immigrants who had been living in the interior of the country for a time before being arrested and detained without a bond hearing. *See Villa v. Normand*, No. 5:25-CV-100, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025) (granting habeas relief and ordering a bond hearing for similar petitioners who never received bond hearing because of *Yajure-Hurtado*).

88. Petitioner is therefore entitled to immediate release or a prompt bond hearing.

COUNT III
Violation of the APA

89. Petitioner restates and realleges all paragraphs as if fully set forth here.

90. To survive an APA challenge, the agency must articulate "a satisfactory explanation" for its action, "including a rational connection between the facts found and the choice made." Dep't of Com. v. New York, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

91. Here, by detaining the Petitioner without any consideration of his individualized facts and circumstances, Respondents have violated the APA.

92. Respondents have made no finding that Petitioner is a danger to the community.

93. Respondents have made no finding that Petitioner is a flight risk.

94. The IJs' blanket refusal to conduct a bond hearing based on *Matter of Yajure Hurtado* constitutes final agency action that is contrary to statutory text, unsupported by facts,

and irrational. Applying *Yajure-Hurtado* to Petitioner's facts is arbitrary, capricious, and legally erroneous. The resulting deprivation of bond eligibility is therefore unlawful under the APA.

95. Thus, the Petitioner is entitled to a prompt bond hearing or immediate release.

COUNT IV
Violation of a Federal Judgement

96. Petitioner restates and realleges all paragraphs as if fully set forth here.

97. Petitioner is a Valid Class Member under *Maldonado Bautista.*

98. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

99. Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his entitlement to consideration for release on bond as a Bond Eligible Class member.

100. As discussed above, this Court should look to the Petitioner's most recent arrest to determine whether he was apprehended "upon arrival." *See Maldonado Bautista*, 2025 WL 3289861, at *9-11. The *Maldonado Bautista* court's reasoning and language indicate that the relevant inquiry for determining class membership should be a person's most recent arrest. *See id.* at *9-11.

101. Petitioner was re-detained over 3 years after his initial entry in Shady Dale, Georgia. Thus, he is a Bond Eligible Class Member.

102. Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025).

103. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista*, the Court should accordingly order that Respondents must provide Petitioner with a bond hearing under 8 U.S.C. § 1226(a) within three days.

104. Alternatively, the Court should order Petitioner's immediate release.

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within three (3) days;

c. Enjoin Respondents from moving Petitioner outside the jurisdiction of this Court pending adjudication of this petition;

d. Declare that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment, the INA, and the APA;

e. Declare that Petitioner is entitled to a bond hearing under *Maldonado Bautista*;

f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

g. Grant any other and further relief that this Court deems just and proper.

DATED this 26th of Janary, 2026

Respectfully submitted,

Michael Urbina

PETITIONER'S EXHIBITS

EXHIBIT 1 - **ICE Memo "Interim Guidance Regarding Detention Authority for Applicants for Admission," dated July 8, 2025**

EXHIBIT 2 - Notice to Appear

EXHIBIT 3 - **Draft Motion for Bond Redetermination with Evidence Packet**

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 26th of January, 2026.