

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

Nelson Leonel Morales Morales

Petitioner,

v.

Tony Normand, Warden, Folkston Main
Detention Center

Respondent.

Case No.:

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Nelson Leonel Morales Morales, is a national of Guatemala who is unlawfully detained in the physical and legal custody of Respondent at the Folkston ICE Processing Center in Folkston, Georgia. Exhibit 1.

2. Petitioner challenges the legality of his prolonged civil immigration detention and the categorical denial of any meaningful bond hearing. Petitioner has been continuously detained since September 25, 2025, pursuant to removal proceedings initiated by the Department of Homeland Security.

3. Although Petitioner has never been afforded an individualized custody determination, he remains detained without any opportunity to demonstrate that continued detention is unnecessary because he is neither a flight risk nor a danger to the community.

4. Petitioner has not requested a bond hearing before the Immigration Court because Immigration Judges at the Stewart Immigration Court have consistently maintained that they lack

jurisdiction to conduct bond hearings for individuals classified as arriving aliens. As a result, any attempt to seek bond administratively would be futile and unavailable as a matter of law.

5. Any attempt to justify Petitioner's confinement by classifying him as an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b) is legally erroneous. Petitioner's detention is governed by 8 U.S.C. § 1226(a), which expressly contemplates discretionary custody and an individualized determinations regarding release on bond.

6. For the foregoing reasons issuance of the writ of habeas corpus is warranted. Petitioner respectfully requests that this Court declare his continued detention unlawful and order his immediate release or in the alternative order a prompt individualized bond hearing before an immigration judge with authority to grant release.

JURISDICTION

7. This action is brought pursuant to the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*, and challenges the legality of Petitioner's ongoing detention under federal law.

7. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody in violation of the Constitution and laws of the United States. Jurisdiction is also proper under 28 U.S.C. § 1331 because this action presents federal questions. The Administrative Procedure Act ("APA"), 5 U.S.C. §§ 701–706, and the Suspension Clause of Article I, Section 9, Clause 2 of the Constitution further support the Court's jurisdiction.

8. Sovereign immunity does not bar this action. Congress has waived immunity for non-monetary claims seeking relief from unlawful agency action under 5 U.S.C. § 702, and federal courts may enjoin unconstitutional or ultra vires conduct by federal officers.

VENUE

9. Venue is proper in this District because Petitioner is detained at the Folkston Main Detention Facility in Folkston, Georgia, within the territorial jurisdiction of this Court. Venue is also proper because Respondent is a federal officer of the United States and a substantial part of the events giving rise to this Petition occurred in this District. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. Although 28 U.S.C. § 2241 does not impose a statutory exhaustion requirement, courts may consider whether a petitioner has pursued available administrative remedies before seeking habeas relief.

11. Any prudential exhaustion requirement is satisfied or in the alternative should be excused. Petitioner has effectively been denied any available administrative remedy to challenge his custody. Immigration Judges at the Stewart Immigration Court have made clear through their rulings in similar cases that they interpret the law to preclude jurisdiction to conduct bond hearings for individuals classified as arriving aliens. Based on that position the Immigration Court has declined to conduct any individualized custody determination for Petitioner.

12. Further administrative review would be futile. The Board of Immigration Appeals lacks authority to grant the relief Petitioner seeks or to adjudicate the constitutional claims raised in this Petition. Where the Immigration Judge has expressly disclaimed jurisdiction to consider bond, no administrative remedy exists to address the legality of Petitioner's detention.

13. Administrative remedies are also inadequate under these circumstances because Petitioner challenges the legality of his continued civil detention under the Constitution and the INA, claims that fall squarely within the province of the federal courts.

PARTIES

14. Petitioner, Nelson Leonel Morales Morales, is a citizen and national of Guatemala who is currently detained at the Folkston Main Detention Center in Folkston, Georgia.

15. Respondent is the Warden of the Folkston Main Detention Center, who has immediate physical custody of Petitioner and is the sole proper respondent in this action. *See Rumsfeld v. Padilla*, 542 U.S. 426 (2004) (in a habeas petition, the proper respondent is the petitioner's immediate custodian).

STATEMENT OF FACTS

16. On or about September 25, 2025, Petitioner was arrested and taken into custody by the Immigration and Customs Enforcement and served with a Notice to Appear issued in Columbia, South Carolina. The Notice to Appear charges Petitioner as inadmissible under INA § 212(a)(6)(A)(i). *See Exhibit 2*. Petitioner remains detained pursuant to those removal proceedings and has been continuously confined since September 25, 2025.

17. Since September 25, 2025, Petitioner has remained continuously detained without bond. He has never received a custody determination hearing by an immigration judge.

Jurisdictional Bar to Bond Hearing

18. From the outset of Petitioner's detention, any attempt to obtain release on bond was categorically precluded by DHS's classification of Petitioner as an arriving alien and the consistent adherence to that classification by Immigration Judges at the Stewart Immigration Court.

19. Immigration Judges have made clear that they lack jurisdiction to conduct bond hearings for individuals deemed applicants for admission and subject to mandatory detention.

20. In other words, because Petitioner was treated as an arriving alien, the Immigration Judges concluded that INA § 1225(b) deprived the court of authority to review ICE's custody

determination. Relying on agency interpretations of the immigration detention statutes, the Immigration Judges declined to consider whether Petitioner's continued detention was justified by any flight risk or danger he might pose. No individualized assessment of Petitioner's suitability for release was ever conducted.

21. This categorical jurisdictional bar foreclosed any meaningful review of Petitioner's detention at an early stage of his confinement. Petitioner was denied the basic procedural safeguard of a bond hearing, even as his detention began and continued for months.

22. The ordinary process by which a detainee could seek reconsideration of custody status was entirely unavailable to Petitioner, setting the stage for his prolonged confinement without the benefit of the case-by-case evaluation that Congress ordinarily provides in INA § 1226(a) custody redeterminations.

Prolonged Detention Without Bond Hearing

23. As Petitioner's removal case progressed, he remained jailed without any opportunity for release. By late 2025, multiple federal district courts in Georgia had issued decisions recognizing that noncitizens in Petitioner's circumstances, longtime residents detained within the United States and charged under INA § 212(a)(6)(A)(i), are entitled to individualized bond hearings under 8 U.S.C. § 1226(a), notwithstanding DHS's contrary view.

24. Despite this growing body of case law, the Immigration Judge's at the Stewart Immigration Court continue to apply a blanket rule that they cannot entertain a bond request. The Immigration Judges refuse to evaluate Petitioner's individual circumstances and make any findings as to whether Petitioner might be a flight risk or a danger to the community.

25. Petitioners' detention has now extended for months without any opportunity for release or meaningful review. Less restrictive alternatives to incarceration including release on reasonable bond or conditions of supervision have never been considered.

26. The continued categorical denial of a bond hearing has left Petitioner with no administrative avenue to secure his freedom while he awaits the resolution of his immigration case.

CLAIM FOR RELIEF

COUNT ONE

Violation of the Fifth Amendment Due Process Clause

27. The allegations in the above paragraph are realleged and incorporated herein.

28. The Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of liberty without due process of law. These protections extend to all persons within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

29. Whether the procedures accompanying a noncitizen's civil detention satisfy due process is evaluated under the balancing test of *Mathews v. Eldridge*, 424 U.S. 319 (1976), which considers: (1) the private interest affected by official action; (2) the risk of an erroneous deprivation of that interest through the procedures used; and (3) the government's interest, including the function involved and the fiscal or administrative burdens that additional procedural requirements would entail.

30. Petitioner has been detained for four months without any individualized bond hearing. His liberty interest is substantial, and the risk of erroneous deprivation of that liberty is extraordinarily high where detention is automatic and categorical, without a case-by-case evaluation.

31. The government's interest in ensuring Petitioner's appearance does not justify the complete denial of any hearing, particularly when less restrictive alternatives to incarceration, such as release on bond, supervision, or other conditions, are available. The blanket refusal to provide a bond hearing violates fundamental principles of due process.

32. The government's interest does not outweigh Petitioner's due process rights to an individualized determination. Providing a bond hearing would impose minimal administrative burden and is the precise procedure Congress contemplated under 8 U.S.C. § 1226(a) for individuals in Petitioner's situation.

33. Under the balancing framework set forth in *Mathews v. Eldridge*, Petitioner's continued detention without a bond hearing violates the Due Process Clause.

COUNT TWO
Detention Not Authorized by the Immigration and Nationality Act and Agency
Action Not in Accordance with Law
(5 U.S.C § 706(2)(A) and 8 U.S.C. § 1226)

34. The allegations in the above paragraph are realleged and incorporated herein.

35. The INA authorizes only discretionary civil immigration detention, with individualized custody determinations under 8 U.S.C. § 1226(a).

36. Congress did not mandate unconditional, prolonged detention for immigrants like Petitioner who were arrested inside the United States and have substantial ties to the community. The categorical denial of bond in Petitioner's case, based solely on an agency's interpretation that classifies him as an arriving alien and thereby strips Immigration Judges of jurisdiction, exceeds the detention authority that Congress has granted.

37. It effectively places Petitioner in the category of mandatory detention without statutory basis, in contravention of the framework set forth by Congress in the INA.

38. Under the APA, a reviewing court must set aside agency action that is arbitrary, capricious, or not in accordance with law. 5 U.S.C. § 706(2)(A). An agency acts unlawfully when it fails to consider relevant factors, departs from the evidence before it, or applies a categorical rule that exceeds its statutory authority.

39. Respondent's agents and the immigration authorities have treated Petitioner as ineligible for bond by applying a blanket policy that disregards the text of 8 U.S.C. § 1226(a). Petitioner has been detained for months without any individualized determination that he poses a flight risk or a danger to the community. There have been no administrative findings to justify his ongoing incarceration. By continuing to detain Petitioner without a bond hearing or individualized reasoning, Respondent is acting more than the statutory authority provided by the INA and in a manner not in accordance with law.

40. By continuing to detain Petitioner without a bond hearing, Respondent is acting beyond statutory authority. The Court should grant habeas relief and order that Petitioner be afforded the process Congress provided, or his immediate release.

PRAYER FOR RELIEF

Wherefore, Petitioner seeks the same relief granted in Villa v. Normand, 5:25-cv-89, and related cases in with the Southern District of Georgia granted habeas relief for individuals unlawfully detained without a bond hearing under the same legal theory. As such, Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this Petition;
- B. Declare that Respondent's continued detention of Petitioner without an individualized bond hearing violates the Constitution and laws of the United States;

- C. Issue a Writ of Habeas Corpus ordering Respondent to release Petitioner immediately, or, in the alternative, to provide a prompt individualized bond hearing before an immigration judge authorized to order release;
- D. Prohibit Respondent from transferring Petitioner from this District without prior approval of the Court; and
- E. Grant any further relief this Court deems just and proper.

Respectfully Submitted,
This 26rd day of January, 2026.



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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. Based on those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

This 26rd day of January, 2026.

A handwritten signature in black ink, appearing to read "Rachel Effron Sharma", with a long horizontal flourish extending to the right.

Rachel Effron Sharma
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