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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Oscar Rene GUTIERREZ,

Petitioner,

v.

Kristen SULLIVAN, Field Office Director of
Enforcement and Removal Operations, Atlanta
Field Office, Immigration and Customs
Enforcement; Kristi NOEM, Secretary, U.S.
Department of Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; Pamela BONDI, U.S. Attorney
General; EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; Jason
STREEVAL, Warden of STEWART
DETENTION CENTER

Respondents.

Case No. 4:26-cv-155

**PETITION FOR WRIT OF
HABEAS CORPUS**

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INTRODUCTION

1. Petitioner Oscar Rene Gutierrez brings this petition for a writ of habeas corpus to seek enforcement of their right to seek release from custody under 8 U.S.C. §1226(a). Petitioner is in the physical custody of Respondents at the Stewart Detention facility. The Petitioner has been detained since at least December 29, 2025. The Petitioner does not contest that they are an alien present in the United States that was not admitted to the United States.

2. The Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide by the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*.

3. The Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have refused to follow this Court's decisions in *J.A.M v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025) (concerning whether the petitioner is properly detained under 8 U.S.C. §1225(b)(2) or 8 U.S.C. §1226(a).

4. On November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) (order

1 certifying Plaintiffs-Petitioners' proposed nationwide Bond Eligible Class, incorporating
2 and extending declaratory judgment from Order Granting Petitioners' Motion for Partial
3 Summary Judgment).

4 5. The declaratory judgment held that the Bond Denial Class members are
5 detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release
6 on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

7 6. The Petitioner's case is similar to previous cases before this Court. In
8 *J.A.M v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025)
9 and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24,
10 2025) the Court held that the Petitioner is entitled to a discretionary bond hearing under 8
11 U.S.C. §1226(a) and rejected Respondents position that the Petitioner's detention was
12 mandatory under 8 U.S.C. §1225(b)(2) and was not eligible for a bond hearing.

1 7. Nonetheless, the Executive Office for Immigration Review and its
2 subagency the Immigration Court and the Department of Homeland Security (DHS) have
3 blatantly refused to abide by the declaratory relief, this Court's prior decisions, and have
4 unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

5 8. Petitioner Oscar Rene Gutierrez is a member of the Bond Eligible Class,
6 as he:

- 7 a. does not have lawful status in the United States and is currently detained at the
8 Stewart Detention Facility. They were apprehended by immigration authorities on
9 or about December 29, 2025.
- 10 b. entered the United States without inspection over 3 years ago and was not
11 apprehended upon arrival, *cf. id.*; and
- 12 c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

1 added). “The application for the writ usurps the attention and displaces the calendar of
2 the judge or justice who entertains it and receives prompt action from him within the four
3 corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation
4 omitted).

5 **PARTIES**

6 22. Petitioner Oscar Rene Gutierrez is alleged to be a citizen of El Salvador
7 who has been in immigration detention since December 29, 2025. After Petitioner was
8 arrested, ICE did not set bond and Petitioner requested review of his custody by an IJ. On
9 January 16, 2026, Petitioner was denied bond by an IJ at the Stewart Immigration Court
1 because they were deemed an “applicant for admission” and under 8 U.S.C.
2 §1225(b)(2)(A) the Immigration Judge lacked authority to hear bond requests.

3 23. Respondent Kristen SULLIVAN is the Director of the Atlanta Field
4 Office of ICE’s Enforcement and Removal Operations division. As such, Kristen
5 SULLIVAN is Petitioner’s immediate custodian and is responsible for Petitioner’s
6 detention and removal. She is named in her official capacity.

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

12 25. Respondent Department of Homeland Security (DHS) is the federal
13 agency responsible for implementing and enforcing the INA, including the detention and
14 removal of noncitizens.

1 34. Further the Petitioner's situation is almost identical to the Petitioners in
2 *J.A.M v. Streeval*, No. 4:25-cv-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025)
3 and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24,
4 2025).

5 35. By denying Petitioner a bond hearing under § 1226(a) and asserting that
6 they are subject to mandatory detention under § 1225(b)(2), Respondents violate
7 Petitioner's statutory rights under the INA and their constitutional rights as found in the
8 previously mentioned cases.

PRAYER FOR RELIEF

9 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 10 a. Assume jurisdiction over this matter;
- 11 b. Issue a writ of habeas corpus requiring that within one day, Respondents release
12 Petitioner;
- 13 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
14 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
15 seven days; and
- 16 d. Grant any other and further relief that this Court deems just and proper.

17 DATED this 27th of January 2026.

18 _____
19 /s/Helen Parsonage
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* Pro hac vice application forthcoming