**UNITED STATES DISTRICT COURT**
**SOUTHERN DISTRICT OF GEORGIA**
**WAYCROSS DIVISION**

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| GABRIEL RAIMUNDO DOS SANTOS-FERREIRA,<br><br>Petitioner,<br><br>v.<br><br>FACILITY DIRECTOR (WARDEN), FOLKSTON D. RAY ICE PROCESSING CENTER;<br><br>KRISTEN SULLIVAN, *in her official capacity* as Acting Field Office Director of the ICE Atlanta Field Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement;<br><br>TODD M. LYONS, *in his official capacity* as Acting Director, Immigration and Customs Enforcement;<br><br>KRISTI NOEM, *in her official capacity* as Secretary, U.S. Department of Homeland Security; and<br><br>PAMELA JO BONDI, *in her official capacity* as Attorney General of the United States;<br><br>Respondents. | Civil Action File No.<br><br>PETITION FOR WRIT OF HABEAS CORPUS<br><br>A # [redacted] |

## I. INTRODUCTION

1. Petitioner Gabriel Raimundo Dos Santos-Ferreira is a noncitizen currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Folkston D. Ray ICE Processing Center in Folkston, Georgia.

2. Petitioner brings this action pursuant to 28 U.S.C. § 2241 to challenge his ongoing civil immigration detention, which has become arbitrary, unreasonable, and unlawful under the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

3. Petitioner is detained under 8 U.S.C. § 1226(a) and is statutorily eligible for release on bond, yet ICE continues to detain him without a meaningful opportunity for release.

4. Moreover, Petitioner is a victim of a severe form of human trafficking and is eligible for humanitarian immigration relief in the form of T Nonimmigrant Status (T Visa). His continued detention undermines congressional intent and statutory protections afforded to trafficking victims. While an order of removal does not prevent removability of a T Visa applicant (absent stay relief), there is no current removal order in effect, and thus the arrest and detention of Petitioner is improper.

## II. JURISDICTION AND VENUE

5. This Court has jurisdiction pursuant to 28 U.S.C. §§ 2241 and 1331, and Article I, section 9, clause 2 of the United States Constitution.

6. Petitioner is detained at the Folkston D. Ray ICE Processing Center in Charlton County, Georgia.

7. Charlton County lies within the Southern District of Georgia, Waycross Division.

8. Venue is proper because Petitioner is physically detained within this District and his immediate custodian exercises authority here.

## III. RESPONDENTS

9. Facility Director (Warden), Folkston D. Ray ICE Processing Center is Petitioner's immediate custodian, with day-to-day physical control over Petitioner, and is sued in an official capacity.

10. Kristen Sullivan, Acting Field Office Director, ICE Atlanta Field Office, exercises legal authority over immigration detention decisions in Georgia, North Carolina, and South Carolina, and is sued in an official capacity.

11. Todd M. Lyons, Acting Director of U.S. Immigration and Customs Enforcement, is responsible for nationwide ICE detention policies and is sued in an official capacity.

12. Kristi Noem, Secretary of the U.S. Department of Homeland Security, has ultimate authority over ICE and immigration detention and is sued in an official capacity.

13. Pamela Jo Bondi, Attorney General of the United States, is the chief law enforcement officer responsible for the legal defense and enforcement of federal detention policies and is sued in an official capacity.

## IV. FACTUAL BACKGROUND

14. Petitioner is a native and citizen of Brazil, who arrived in the United States in 2024. He and his wife and children were arrested and released on their own recognizance in February 2024. *See* Order of Release on Recognizance, attached as **Exhibit 1**.

15. DHS issued a notice to appear on February 16, 2024 for a hearing in January 2025 on the basis that Petitioner was not admitted or paroled after inspection. *See* NTA, attached as **Exhibit 2**.

16. Petitioner is a victim of a severe form of human trafficking.

17. As a trafficking victim, Petitioner is eligible for relief under INA § 101(a)(15)(T) and is pursuing T Nonimmigrant Status (T Visa). Accordingly, Petitioner sought T Nonimmigrant Status in July 2025.

18. Congress created the T Visa to protect trafficking victims, promote stability, and encourage cooperation with law enforcement—not to subject victims

to prolonged civil detention.

19. Notwithstanding, on December 2, 2025, ICE arrested Petitioner, where ICE continues to detain Petitioner at the Folkston D. Ray ICE Processing Center pending removal proceedings without a meaningful, individualized custody determination that accounts for his eligibility for humanitarian relief.

20. On January 27, 2026, Petitioner had a bond hearing before an immigration judge ("IJ") concerning his continued detention.

21. The IJ denied bond, indicating that he did not have authority under *Matter of YAJURE HURTADO*, 29 I&N Dec. 216 (BIA 2025) ("Based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission"). *See* IJ Order Denying Bond, attached as **Exhibit 3**.

22. The IJ also indicated that even if he had jurisdiction, he would deny bond because Petitioner, in the IJ's view, did not provide sufficient evidence that he was not a flight risk. *See id.*

## V. LEGAL FRAMEWORK

23. District courts have the power to grant writs of habeas corpus. 28 U.S.C. § 2241(a). The Constitution guarantees that the writ of habeas corpus is available to every individual detained within the United States. *Hamdi v. Rumsfeld*, 542 U.S.

507, 525 (2004) (citing U.S. Const. Art. I, § 9, cl. 2); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("The essence of habeas corpus is an attack by a person in custody upon the legality of that custody, and ... the traditional function of the writ is to secure release from illegal custody.").

24. A district court's power includes jurisdiction to hear habeas challenges to immigration-related detention. *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001). Indeed, noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

25. The immigration court concluded, based on the government's arguments at the bond hearing, that Petitioner must be mandatorily detained under the INA as set forth in *Matter of Yajure Hurtado*, in which the BIA concluded ICE could treat undocumented immigrants already present in the United States as arriving aliens subject to mandatory detention under 8 U.S.C. § 1225.

26. Under section 1225(b)(2), "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." 8 U.S.C. § 1225(b)(2) (emphasis added). By contrast, a noncitizen arrested on a warrant issued by the Attorney General "*may*" be detained but is also eligible for release on bond. 8 U.S.C § 1226(a) (emphasis supplied). "Courts have

repeatedly held that § 1225 applies to arriving aliens, while § 1226 governs detention of 'aliens already in the country.'" *Palma v. Trump*, 2025 WL 2624385, at *2 (D. Neb. Sept. 11, 2025) (quoting *Jennings v. Rodriguez*, 583 U.S. 281, 281 (2018)). As the Court in *Palma* noted, "[t]he BIA's decision in *Hurtado* represents a stark departure from that approach." *Palma*, 2025 WL 2624385, at *2.

27. Indeed, federal courts in Georgia have reached the same conclusion. *J.A.M. v. Streeval*, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *P.R.S. v. Streeval*, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

28. Furthermore, while Petitioner believes that he is a member of the "Bond Eligible Class" certified in *Maldonado Bautista v. Santacruz*, 2025 WL 3713987 (C.D. Cal. Dec. 18, 2025), as argued at the bond hearing, Petitioner is cognizant of Judge Land's conclusions in *C.C.M. v. Warden, Stewart Det. Ctr.*, regarding the effect of that decision on Petitioner's specific circumstances here. 2026 WL 67145, at *1 n.1 (M.D. Ga. Jan. 8, 2026). Notwithstanding, Petitioner raises the argument that he is entitled to relief as a "Bond Eligible" class member under *Maldonado Bautista* for purposes of preserving the issue. And regardless of its effect, the overwhelming weight of authority concludes that Petitioner is entitled to statutory process under section 1226(a).

29. Finally, the BIA's controlling authority on the IJ is not dispositive. *Garcia v. Shanahan*, 615 F. Supp. 2d 175, 179 (S.D.N.Y. 2009) ("While the

Immigration and Nationality Act ... precludes review of the 'Attorney General's discretionary judgment' with regard to 'detention or release of any alien or the grant, revocation, or denial of bond or parole,' 8 U.S.C. § 1226(e), the United States Supreme Court rejected the contention that § 1226(e) deprives courts of jurisdiction to consider challenges to the interpretation of the mandatory detention statute.") (citing *Demore v. Kim*, 538 U.S. 510, 517, 123 S.Ct. 1708, 155 L.Ed.2d 724 (2003)). Courts have independent judgment in determining whether an agency has acted within its statutory authority. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 412, 144 S.Ct. 2244, 219 L.Ed.2d 832 (2024).

30. As other courts have concluded since *Hurtado*, "[t]he text of Sections 1225 and 1226, together with binding Supreme Court precedent interpreting those provisions [...] confirm that [the petitioner] is subject to Section 1226(a)'s discretionary detention scheme." *Sampiao v. Hyde*, 2025 WL 2607924, at *8 (D. Mass. Sept. 9, 2025) (granting habeas relief to a noncitizen who was arbitrarily detained following three years of release on an order of recognizance).

31. Here, Respondents' continued detention of Petitioner violates federal law because Petitioner is not an applicant for admission, therefore he is entitled to a bond determination. Moreover, since his arrest and release on recognizance, Petitioner has sought relief as a trafficking victim.

32. Because Petitioner is not detained pursuant to section 1225(b)(2), the Court should, in the event it is raised by Respondents, find that exhaustion is not required here. Because BIA has adopted a policy that deprives Petitioner of jurisdiction to seek a bond from immigration detention, further review of the IJ's decision invoking *Hurtado* will be futile. *Vazquez v. Feeley*, 2025 WL 2676082, at *10 (D. Nev. Sept. 17, 2025) ("Because, as discussed below, this Court finds the BIA has adopted a policy [in *Hurtado*] that likely violates federal law, awaiting the BIA's decision regarding Petitioner is futile.").

## VI. CLAIMS FOR RELIEF

### COUNT I
### Violation of Fifth Amendment Right to Due Process
### (against all Respondents)

34. Petitioner re-incorporates and re-alleges paragraphs 1-32 above as if fully set forth herein.

35. "[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. While certain constitutional protections do not extend outside the "geographic borders" of the United States, "legal circumstances change" as soon as a noncitizen "enters the country." *Id.; see also A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025) ("'[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.'") (quoting

*Trump v. J.G.G.,* 145 S. Ct. 1003, 1006 (2025) (per curiam)).

36. To determine whether civil detention violates a detainee's due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews,* courts consider (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. *See id.* at 335.

37. Here, all three factors favor Petitioner. He has a significant private interest at stake. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (freedom from physical detention is "the most elemental of liberty interests"); *see also Zadvydas*, 533 U.S. at 690 ("Freedom 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."). Petitioner is experiencing all the deprivations that come with physical detention, including separation from his family, community, and the economic means to support his family. Next, there is a large risk of the erroneous deprivation of Petitioner's liberty interest through the procedures used in the immigration court proceedings. There are also alternative procedures, such as a cash bond, and other measures that might mitigate against the

risk of flight. Finally, to the extent there is any government interest in detention, it is minimal compared with Petitioner's liberty interest.

38. Here, Respondents have chosen to detain Petitioner under the wrong statute and in an arbitrary manner in violation of the INA, and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because section 1225 does not apply, Respondents' detention of Petitioner violates the Fifth Amendment.

**COUNT II**
**Violation of the Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2)(A)**
**(against all Respondents)**

39. Petitioner re-incorporates and re-alleges paragraphs 1-32 above as if fully set forth herein.

40. Under the APA, a court "shall . . . hold unlawful . . . agency action" that is "not in accordance with law;" "contrary to constitutional right;" "in excess of statutory jurisdiction, authority, or limitations;" or "without observance of procedure required by law." 5 U.S.C. § 706(2)(A)-(D).

41. Congress has made it clear that mandatory detention under 8 U.S.C. § 1225(b) applies to "applicant[s] for admission" who are determined to be "seeking admission." By contrast, Congress permits other noncitizens who are arrested on a warrant issued by the Attorney General to be detained (using the language "may") but those noncitizens are also eligible for release on bond. 8

U.S.C § 1226(a).

42. Courts have interpreted section 1225 to apply to arriving noncitizens, while section 1226 applies to noncitizens already in the United States.

43. Petitioner entered the United States in 2024. He was arrested and released on his own recognizance. Thereafter he sought trafficking victims' protection here. The government contends Petitioner is an applicant for admission to which section 1225 applies. The IJ at the immigration hearing determined the court lacked jurisdiction to determine whether Petitioner was eligible for bond because of the section 1225 bar.

44. Respondents' determination that Petitioner is "seeking admission" under section 1225(b)(2) was arbitrary, capricious, an abuse of discretion, and not otherwise in accordance with law. 5 U.S.C. § 706(2)(A). Indeed, "ICE, like any agency, 'has the duty to follow its own federal regulations.'" *Rombot v. Souza*, 296 F. Supp. 3d 383, 388 (D. Mass. 2017) (quoting *Haoud v. Ashcroft*, 350 F.3d 201, 205 (1st Cir. 2003)).

45. Because Petitioner is not subject to mandatory detention, Respondents' determination was unlawful.

## VII. RELIEF REQUESTED

WHEREFORE, Petitioner Gabriel Raimundo Dos Santos-Ferreira respectfully requests that this Court:

A. Retain jurisdiction over this action;

B. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days pursuant to 28 U.S.C. § 2243;

C. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and/or Administrative Procedure Act;

D. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody or in the alternative provide a bond hearing under 8 U.S.C. § 1226(a);

E. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the Court's approval;

F. Award Petitioner attorneys' fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and

G. Grant all other relief that the Court deems just and proper.

Dated: January 29, 2026

Respectfully Submitted,

*/s/ James M. Slater*

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