

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Manuel Antonio URBINA TERCERO,)
)
Petitioner,)
)
v.)
)
JASON STREEVAL, *in his official capacity*)
as Warden of Stewart Detention Center, and)
GEORGE STERLING, *Field Office Director ICE*)
Atlanta Field Office and TODD LYONS, in his)
official capacity as Acting Director of Immigration)
and Customs Enforcement and KRISTI NOEM)
Secretary of Homeland Security,)
)
Respondents.)

Case No.4:26-cv-290

**PETITION FOR WRIT
OF HABEAS CORPUS**

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I. INTRODUCTION

1. Petitioner Manuel Antonio Urbina-Tercero (“Petitioner” or “Mr. Urbina Tercero”) is a noncitizen resident of the United States who is currently detained by the Department of Homeland Security (“DHS”) at the Stewart Detention Center in Lumpkin, Georgia. He entered the United States without inspection years ago and was arrested in the interior; he is not and has never been placed in expedited-removal proceedings.

2. Under the Immigration and Nationality Act (“INA”), individuals arrested in the interior and placed in § 240 removal proceedings are detained, if at all, under 8 U.S.C. § 1226(a), with a right to a custody redetermination by an Immigration Judge (“IJ”).

3. DHS and the BIA assert that because Mr. Urbina Tercero was never formally admitted, he is an “applicant for admission” subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and ineligible for bond. That position contravenes the statute, the implementing regulations, decades of pattern & practice, and a judge of this Court rejected the same theory recently in ordering a § 1226(a) bond hearing for another Stewart detainee. *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115 (M.D. Ga. Nov. 1, 2025). (**Exhibit A, *J.A.M. v. Streeval***).

4. Petitioner seeks a writ of habeas corpus directing Respondents to release him immediately in response to Respondents’ repeated refusal to acknowledge their error of law, as this Court has pointed out in numerous previous rulings. Not only do Respondents’ fail and refuse to follow this Court’s rulings, the Chief Immigration Judge has now instructed them to continue to do so, as shown in Exhibit B in which she instructs all immigration judges to ignore *Maldonado Bautista* and continue to enforce *Yajure Hurtado* (**Exhibit B, Email from CIJ Teresa Riley, dated January 13, 2026, obtained and made public by American Immigration Lawyers Association**). Respondents have made it clear that they have no intention of following the law as set out by this Court, and by more than 300 other District Court Judges around the county, or of affording detainees due process. Immediate release of Petitioner has now become the appropriate remedy.

5. In the alternative, Petitioner asks that Respondents provide him a

prompt, individualized bond hearing before a neutral adjudicator under § 1226(a) (within 7 days), at which the Government bears the burden to show by clear and convincing evidence that he is a danger or flight risk. He also seeks an order prohibiting transfer outside this District during the pendency of these proceedings.

II. VENUE AND JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. §§ 2241 and 1331 and Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause). Habeas relief is available to challenge the legality of civil immigration detention and to compel a bond hearing or release.

7. Venue lies in the Columbus Division because Petitioner is confined at the Stewart Detention Center within this Division and Respondent Streeval is his immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

8. Petitioner Mr. Urbina Tercero is a 34-year-old national of Nicaragua who resides in Mint Hill, North Carolina. He is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

9. Respondent Jason Streeval is the Warden of Stewart Detention Center. As such, Respondent is responsible for the operation of the Detention Center where Mr. Jacinto-Maldonado is detained. Because ICE contracts with private prisons such as Stewart to house immigration detainees such as Mr.

Jacinto-Maldonado, Respondent Streeval has immediate physical custody of the Petitioner.

10. Respondent George Sterling is the Atlanta Field Office Director (“FOD”) for ICE Enforcement and Removal Operations (“ERO”). As such, Respondent Sterling is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Sterling is being sued in his official capacity.

11. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (“ICE”). As such, Respondent Lyons is responsible for the oversight of ICE operations. Respondent Lyons is being sued in his official capacity.


12. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (hereinafter “DHS”). As Secretary of DHS, Secretary Noem is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Noem is being sued in her official capacity.


IV. EXHAUSTION AND FUTILITY

13. No statute imposes an exhaustion requirement for habeas petitions under 28 U.S.C. § 2241 in this context. Any prudential exhaustion is excused because Immigration Judges in the Stewart Immigration Court are bound by *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and have been declining bond jurisdiction for entrants without inspection, rendering any motion

futile. The question presented is purely legal and urgent, and Petitioner faces ongoing deprivation of physical liberty absent judicial intervention.

V. STATEMENT OF FACTS

14. Mr. Urbina Tercero is a Nicaraguan national born on 

 He entered the United States in early 2023, and has lived continuously in North Carolina for the past three years. He resides in Mint Hill, North Carolina with his United States citizen wife, Jelleny Sanchez.

15. On January 15, 2026, Mr. Urbina Tercero was detained when his spouse, on the advice of criminal counsel, paid to bond him out of jail.

16. On May 26, 2023 DHS placed Petitioner in removal proceedings under 8 U.S.C. § 1228 (INA § 240) by filing a Notice to Appear.

17. DHS has never processed Petitioner for § 235 admission or expedited removal under § 235(b)(1).

18. Petitioner has not requested a custody redetermination, because DHS and the BIA have taken the position that he is categorically ineligible for bond because he is an “applicant for admission” under § 235(b)(2)(A). Requesting a custody redetermination would be futile. If an IJ hearing occurred, the IJ would be bound to deny jurisdiction under *Yajure*.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

19. Section 236(a) of the INA, 8 U.S.C. § 1226(a), governs discretionary civil immigration detention for “any alien” arrested and detained pending a decision on removal, unless § 236(c) applies. It authorizes release on

bond and gives Immigration Judges custody-redetermination authority by regulation. See 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a).

21. The detainer process is a recognized mechanism for cooperation between federal and local authorities in immigration enforcement, as outlined in 8 C.F.R. § 287.7. The situation where a subject is arrested by local law enforcement, ICE lodges a detainer, and local law enforcement subsequently transfers custody to ICE is consistent with the scope of Section 236 custody under immigration law.

22. Section 235(b)(2) of the INA, 8 U.S.C. § 1225(b)(2), governs detention in the inspection context and the classes designated for expedited removal—settings that occur at or near the border and, by regulation, only for individuals described in published Federal Register notices. See 8 C.F.R. § 235.3(b)(1)–(2). Interior expedited removal is limited to certain encounters and, at most, to those who cannot show two years’ continuous presence. 84 Fed. Reg. 35,409 (July 23, 2019). Individuals—like Petitioner—who were arrested in the interior long after entry and placed in § 240 proceedings are detained, if at all, under § 1226(a).

23. Recently, this Court rejected DHS’s “mandatory detention for anyone not ‘admitted’” theory, holding that § 1225(b)(2) is limited to “aliens seeking admission” and that § 1226(a) governs custody for noncitizens arrested inside the United States who are not actively seeking lawful admission. The Court explained that reading §§ 1225 and 1226 together, § 1225(b)(2) is a

narrow “catchall,” but “it only catches ‘aliens seeking admission,’” whereas § 1226(a) preserves discretionary custody with a bond hearing for those arrested here. It further found *Yajure Hurtado* unpersuasive and emphasized that Congress’s text and canons of construction control. *See* Exhibit A. On this record—identical legal question, same facility, same court—the remedy should match: apply § 1226(a) and order a prompt bond hearing under the regulations.

**VII. CAUSES OF ACTION
COUNT ONE**

STATUTORY CLAIM (Detention Governed by INA § 236(a))

24. Petitioner incorporates paragraphs 1 through 23 as if fully set out herein.

25. Section 235(b)(2)(A) does not govern Petitioner’s detention because he was not encountered during inspection and is not within any class designated for expedited removal by published notice. Reading § 1225(b)(2)(A) to govern all never-admitted noncitizens regardless of when and where they were arrested would nullify Congress’s express two-year limit on interior expedited removal and collapse the statute’s two-track scheme. Under § 1226(a) and its implementing regulations, Petitioner is entitled to a prompt bond hearing before a neutral adjudicator.

**COUNT TWO
PROCEDURAL DUE PROCESS (U.S. Const. amend. V)**

26. Petitioner incorporates paragraphs 1 through 23 as if fully set out herein.

27. Prolonged civil detention without a neutral bond hearing violates

procedural due process. If Respondents' position categorically forecloses any IJ bond review for interior arrestees like Petitioner, it denies a meaningful opportunity to be heard and invites arbitrary confinement. At minimum, due process requires a prompt bond hearing at which the Government bears the burden to justify detention by clear and convincing evidence.

COUNT THREE
SUBSTANTIVE DUE PROCESS (U.S. Const. amend. V)

26. Petitioner incorporates paragraphs 1 through 23 as if fully set out herein.

27. Civil detention must remain reasonably related to its purposes of ensuring appearance and protecting the community. Detaining Petitioner without any individualized assessment, solely on a categorical theory rejected by this Court days ago, bears no reasonable relation to any legitimate aim and is excessive in relation to its purposes.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Issue a writ of habeas corpus directing Respondents to immediately release Petitioner.
- 3) Issue a writ of habeas corpus directing Respondents to provide Petitioner a bond hearing under 8 U.S.C. § 1226(a) before an Immigration Judge within 7 days of the Court's order, with the Government bearing the burden to establish that Petitioner is a danger to the community or a flight risk, and to consider alternatives to detention;
- 4) Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of these proceedings;
- 5) Order Respondents to answer the petition within 3 business days;

6) Award attorney fees.

Grant such other relief as the Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this 2nd day of February, 2026

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