

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

GRISELDA ISABEL GONZALEZ ESPINOSA,

Petitioner,

v.

JASON STREEVAL, *in his official capacity as Warden of Stewart Detention Center*; GEORGE STERLING, *in his official capacity as Field Office Director of Immigration and Customs Enforcement, Enforcement and Removal Operations Atlanta Field Office*; KRISTI NOEM, *in her official capacity as Secretary of Homeland Security*; PAMELA J. BONDI, *in her official capacity as Attorney General of the United States,*

Respondents.

**PETITION FOR A WRIT OF
HABEAS CORPUS**

Case No. 4:26-cv-215

INTRODUCTION

1. Petitioner Griselda Isabel Gonzalez Espinosa (“Ms. Gonzalez” or “Petitioner”) is being forced to file this habeas petition to obtain the bond hearing she is entitled to under 8 U.S.C. § 1226(a) because of Respondents’ unlawful and unprecedented policy to mandatorily detain any immigrant who is alleged to have entered the United States (“U.S.”) without inspection – including people who have resided in the United States for many years.

2. Ms. Gonzalez has lived in the United States for nearly twenty years, after entering without inspection in search of a better life. She is a mother to two U.S.-citizen children. She has no criminal convictions, other than for minor traffic violations, and has deep roots in her community in South Carolina.

3. U.S. Immigration and Customs Enforcement (“ICE”) agents detained Ms. Gonzalez in October 2025 in North Carolina.

4. Had ICE detained Ms. Gonzalez before September 5, 2025 – indeed, at any time during the past three decades – she would have been entitled to seek a bond hearing before an Immigration Judge (“IJ”) under 8 U.S.C. §1226(a) (Section 236(a) of the Immigration and Nationality Act (“INA”)). However, in a dramatic reimagining of the law, the Board of Immigration Appeals (“BIA”) issued a decision holding that an IJ has *no jurisdiction* to consider bond requests for any noncitizen who is “present in the United States without admission,” finding that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A). *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 220 (BIA 2025). Accordingly, Ms. Gonzalez is currently being subjected to mandatory detention due to DHS’ and the BIA’s erroneous interpretation of law (an interpretation that has been roundly rejected by habeas courts across the country).

5. This Court has already soundly rejected the BIA’s flawed reasoning in numerous recent habeas decisions. *See, e.g., J.A.M. v. Streeval, et al.*, No. 4:25-CV-342 (CDL), 2025 WL 3050094, at *2-3 (M.D. Ga. Nov. 1, 2025); *see also* Order, ECF No. 12, *Patel v. Bondi et al.*, 4:25-cv-00277-CDL-AGH (Nov. 4, 2025); Order, ECF No. 5, *Garcia-Reynoso v. Streeval et al.*, 4:25-cv-00278-CDL-AGH (Nov. 4, 2025); Order, ECF No. 19, *Dominguez Rivera v. Streeval et al.*, 4:25-cv-00288-CDL-AGH (Nov. 4, 2025); Order, ECF No. 6, *Pascual Pedro v. Streeval et al.*, 4:25-cv-00290-CDL-AGH (Nov. 4, 2025); Order, ECF No. 7, *Hernandez Gomez v. Streeval et al.*, 4:25-cv-00291-CDL-AGH (Nov. 4, 2025); Order, ECF No. 13, *Paredes Alvarez v. Streeval et al.*, 4:25-cv-00296-CDL-AGH (Nov. 4, 2025); Order, ECF No. 4, *Guzman Paulino v. Sterling et al.*, 4:25-cv-00297-CDL-AGH (Nov. 4, 2025); Order, ECF No. 7, *Ospina Capera v. Sterling et al.*, 4:25-cv-00298-CDL-AGH (Nov. 4, 2025); Order, ECF No. 9, *Escobar Olivares v. Sterling et al.*,

4:25-cv-00299-CDL-AGH (Nov. 4, 2025); Order, ECF No. 9, *Merino Ortiz v. Sterling et al.*, 4:25-cv-00300-CDL-AGH (Nov. 4, 2025); Order, ECF No. 6, *Mauricio Lopez v. Sterling et al.*, 4:25-cv-00302-CDL-AGH (Nov. 4, 2025); Order, ECF No. 7, *Guerra Guzman v. Sterling et al.*, 4:25-cv-00305-CDL-AGH (Nov. 4, 2025); Order, ECF No. 6, *Quistian Vazquez v. Sterling et al.*, 4:25-cv-00306-CDL-AGH (Nov. 4, 2025); Order, ECF No. 5, *Diaz-Baron v. Sterling et al.*, 4:25-cv-00309-CDL-AGH (Nov. 4, 2025).

6. Ms. Gonzalez has done nothing but worked hard to advance herself and to contribute to her family and her community since arriving in the United States nearly two decades ago. And yet, as a result of Respondents' disingenuous interpretation of the law, Ms. Gonzalez is needlessly detained hundreds of miles from her children, friends, and loved ones, without the opportunity to seek review of her custody before a neutral arbiter. To correct this injustice, this Court should grant this petition and order a bond hearing for Ms. Gonzalez as soon as practicable.

JURISDICTION & VENUE

7. This Court has subject matter jurisdiction under Art. I § 9, cl. 2 of the U.S. Constitution ("the Suspension Clause"), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

8. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

9. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is currently detained in this district and division, and events or omissions giving rise to this action occurred in this district and division.

PARTIES

10. Petitioner is a native and citizen of Mexico and resident of North Carolina who is currently detained at Stewart Detention Center (“Stewart”) in Lumpkin, Georgia.

11. Respondent Jordan Streeval is the Warden of Stewart, a detention center operated privately by CoreCivic that contracts, via an intergovernmental services agreement with Stewart County, Georgia, with ICE to detain noncitizens. Warden Streeval oversees Stewart’s administration and management. Warden Streeval is Ms. Gonzalez’s immediate custodian. He is sued in his official capacity.

12. Respondent George Sterling is the Field Office Director (“FOD”) for the ICE Atlanta Field Office. In that capacity, he is charged with overseeing Stewart, and he has the authority to make custody determinations regarding individuals detained there. Respondent Sterling is a legal custodian of Petitioner. He is sued in his official capacity.

13. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (“DHS”). She supervises ICE, an agency within DHS that is responsible for the administration and enforcement of immigration laws, and she has supervisory responsibility for and authority over the detention and removal of non-citizens throughout the United States. Secretary Noem is the ultimate legal custodian of Petitioner. Respondent Noem is sued in her official capacity.

14. Respondent Pamela Bondi is the Attorney General of the United States. As the Attorney General, she oversees the Executive Office for Immigration Review (“EOIR”), including all IJs and the BIA. Respondent Bondi is sued in her official capacity.

STATEMENT OF FACTS

15. Ms. Gonzalez is a 48-year-old citizen of Mexico and resident of South Carolina who has lived in the U.S. for nearly two decades. She has not left the U.S. since her last arrival in

around March 2007, which was her first entry to the U.S.

16. Before being detained in October 2025, Ms. Gonzalez was living with her children and her partner in South Carolina. She has lived in the Myrtle Beach area since 2007. She has two U.S.-citizen children, a son and a daughter, both of whom are minors. The children's father abandoned the family years ago, and Ms. Gonzalez has been their primary provider ever since.

17. Ms. Gonzalez has no criminal convictions in the U.S. or in any other country, save several minor traffic violations. She has always paid the fine or otherwise resolved these violations.

18. Ms. Gonzalez was first encountered by ICE officials in May 2018, after she was arrested in South Carolina for driving without a license. At that time, ICE officials detained Ms. Gonzalez and took her to Stewart Detention Center in Lumpkin, Georgia. They also issued her a "Notice to Appear" ("NTA"), charging her as removable under Section 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1182(a)(6)(A)(i). Ex. 1, NTA (dated May 23, 2018).

19. Under the prevailing interpretation of the INA at the time, Ms. Gonzalez was able to request a bond hearing before an IJ. Because she was not a flight risk nor a danger to the community, an IJ granted Ms. Gonzalez release on bond in June or July 2018, and she returned to living with her family in South Carolina while awaiting the resolution of her removal proceedings. Ex. 2, IJ Bond Decision. Her removal proceedings were subsequently transferred from Stewart Immigration Court to the Charlotte Immigration Court in North Carolina, which has jurisdiction over noncitizens facing removal in North and South Carolina.

20. Upon returning to South Carolina, Ms. Gonzalez secured immigration counsel to help her prepare an application for "cancellation of removal and adjustment of status for certain

nonpermanent residents” under 8 U.S. Code § 1229b(b). Ms. Gonzalez filed her application with the Charlotte Immigration Court in or around December 2018.

21. While her application was pending, Ms. Gonzalez was eligible for and did receive employment authorization. For the first time since entering the U.S. more than a decade prior, Ms. Gonzalez was authorized to work lawfully. For years, Ms. Gonzalez worked full-time for a cleaning service and did additional cleaning work on the side to support herself and her children. Ms. Gonzalez was also eligible to obtain a driver’s license, and intended to do so, but was overwhelmed by her work schedule and the application process, and so was unable to secure a driver’s license.

22. The final merits hearing on Ms. Gonzalez’s application for cancellation of removal was continued or reset several times by the Charlotte Immigration Court. Finally, on August 6, 2021, following testimony and other evidentiary submissions from Ms. Gonzalez, an IJ in Charlotte denied her application. Ms. Gonzalez timely appealed this decision to the Board of Immigration Appeals (“BIA”).

23. In October 2025, history appeared to repeat itself. Ms. Gonzalez was again arrested for driving without a license after being stopped at a police check-point. Upon paying her fine at the local courthouse, Ms. Gonzalez was detained by ICE agents who took her once again to Stewart.

24. Because Ms. Gonzalez’s case was on appeal to the BIA, she had no hearings in immigration court after being detained. And because of Respondents’ drastic and deeply flawed re-interpretation of the law, Ms. Gonzalez was and is now unable to seek bond from an IJ while awaiting a decision on her appeal.

25. On December 29, 2025, the BIA remanded Ms. Gonzalez's case to the IJ for further proceedings to address important factual issues in her case relating to the hardship her U.S.-citizen children would suffer if Ms. Gonzalez is removed to Mexico. Ex. 3, BIA Decision. More than one month later, Ms. Gonzalez has still not had a court hearing scheduled with the Stewart Immigration Court.¹ She has thus been detained for around four months without a court hearing.

26. Ms. Gonzalez is now facing accelerated deportation to a country where she fears violence, extreme poverty, and worse, indefinite separation from her two U.S.-citizen children and other family members.

27. If and when Ms. Gonzalez is released from DHS custody, she will return to living with her children and her community of friends, family, and loved ones who miss her and are concerned about her safety in detention, not to mention fearing that she will be harmed or killed upon return to Mexico.

LEGAL FRAMEWORK

28. Section 1229a of Title 8 of the U.S. Code (Section 240 of the INA) describes the primary process through which DHS seeks to remove non-citizens from the United States. It specifies that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether [a non-citizen] may be . . . removed from the United States." 8 U.S.C. § 1229a(a)(3).

¹ For unknown reasons, the Immigration Court's Automatic Case Status system shows Ms. Gonzalez as having an Individual Hearing scheduled with an IJ in the Charlotte Immigration Court on April 15, 2026. Ex. 4, EOIR Case Status Print-out. Ms. Gonzalez's case should have been sent to the Stewart Immigration Court on remand from the BIA, since the Charlotte Immigration Court does not hear cases of detained noncitizens. This apparent administrative error has yet to be corrected and is needlessly prolonging Ms. Gonzalez's detention.

29. To initiate removal proceedings against a non-citizen under Section 1229a, DHS must issue the non-citizen an NTA. 8 U.S.C. § 1229(a)(1). Most non-citizens go through removal proceedings from outside detention. But ICE is increasingly detaining non-citizens during their removal proceedings.

30. 8 U.S.C. § 1226(a) (Section 236(a) of the INA) is the “the default rule” for detaining noncitizens “already present in the United States.” *See Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). It states that “on a warrant issued by the Attorney General,² [a non-citizen] may be arrested and detained pending a decision on whether the [non-citizen] is to be removed from the United States” 8 U.S.C. § 1226(a). Non-citizens arrested upon a warrant and in ongoing removal proceedings are eligible to seek bond from an IJ. *Id.* § 1226(a)(2).

31. A separate provision governs the detention of people who seek admission to the U.S. at the border or at a port of entry like an airport. It states that “in the case of a [non-citizen] who is an applicant for admission, if the examining immigration officer determines that a [non-citizen] *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the non-citizen shall be detained for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). IJs do not have jurisdiction to grant bond for such individuals seeking admission, though DHS retains the discretion to release such non-citizens on a specific type of parole “for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A).

32. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104-

² In 2003, the Immigration and Naturalization Service (INS) within the Department of Justice (DOJ) became what is now ICE, which is housed within DHS. Therefore, some statutory references to the “Attorney General,” like this one, now refer to authorities delegated in whole or in part to the Secretary of DHS.

208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

33. Following IIRIRA’s enactment, then-INS drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and were instead detained under § 1226(a), making them eligible to be released on bond. *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997) (“Despite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination”).

34. In the decades that followed, most people who entered without admission or parole and were thereafter arrested and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an IJ, unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice in which noncitizens who had entered the U.S., even if without inspection, were entitled to a custody redetermination hearing before an IJ or other hearing officer. *See e.g., Jennings*, 583 U.S. at 287 (discussing Section 1226(a) as the “default rule” for detaining noncitizens “already present in the United States”); *Miranda v. Garland*, 34 F.4th 338, 346 (4th Cir. 2022) (same); *Leal-Hernandez v. Noem*, No. 1:25-CV-02428-JRR, 2025 WL 2430025, at *9 (D. Md. Aug. 24, 2025) (“Since at least 1996, the INA has mandated the detention of arriving aliens and certain criminal non-citizens detained in the United States. The Board of Immigration Appeals has long held to this interpretation. For everyone else, 8 U.S.C. § 1226(a) provides DHS the discretion to detain

noncitizens, subject to review during a custody hearing before an immigration judge.”); *Hasan v. Crawford*, No. 1:25-CV-1408 (LMB/IDD), 2025 WL 2682255, at *9 (E.D. Va. Sept. 19, 2025) (“Before July 8, 2025, ‘DHS’s long-standing interpretation has been that § 1226(a) applies to those who have crossed the border between ports of entry and are shortly thereafter apprehended.”) (quoting Transcript of Oral Argument at 44:24–45:2, *Biden v. Texas*, 597 U.S. 785 (2022)). See also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

35. In the past several months, Respondents have adopted an entirely new interpretation of the statute. On September 5, 2025, the BIA issued a precedential decision holding that any noncitizen who is present in the United States without having been inspected or admitted is subject to mandatory detention under 8 U.S.C. §1225(b)(2)(A). See *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

36. Bound by this decision, IJs across the country – including at Stewart – are now holding that they lack jurisdiction to determine bond for any person who has entered the United States without inspection, even if that person has resided in the U.S. for years. Instead, consistent with *Matter of Yajure Hurtado*, IJs are concluding that such people are subject to mandatory detention under § 1225(b)(2)(A).

37. The mandatory detention provision of § 1225(b)(2) does not apply to people like Ms. Gonzalez who are arrested in the interior of the United States, because these individuals are evidently not “seeking admission” into the United States. *J.A.M. v. Streeval, et al.*, No. 4:25-CV-342 (CDL), 2025 WL 3050094, at *2-3 (M.D. Ga. Nov. 1, 2025). Accordingly, Ms. Gonzalez is entitled to a bond hearing under 8 U.S.C. § 1226(a) and release on bond, if appropriate.

CLAIMS FOR RELIEF

COUNT I
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond

38. Petitioner incorporates by reference the allegations set forth in paragraphs 1-42 herein.

39. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to those arrested in the interior of the U.S. who are not “seeking admission.” Such noncitizens are detained under § 1226(a) and are eligible for release on bond.

40. Therefore, Petitioner is neither an “applicant for admission” nor is she “seeking admission.” She is detained pursuant to § 1226(a) and eligible for bond.

41. DHS and the Immigration Courts have adopted a policy and practice of applying § 1225(b)(2) to people like Petitioner.

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

COUNT II
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
Procedural Due Process

43. Petitioner incorporates by reference the allegations set forth in paragraphs 1-42 herein.

44. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals’ due process rights.

45. Respondents’ erroneous application of Section 1225(b)(2)(A) to Petitioner and deprivation of her ability to seek review of her custody before a neutral adjudicator violates her due process rights under *Mathews* because her liberty interest, and the risk of erroneous deprivation of her liberty posed by mandatory detention under 1225(b)(2)(A), outweigh Respondents’ interest

in detaining Petitioner, who is not a flight risk, not a danger, and is not even removable from the United States for the reasons DHS alleges.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Respondents not transfer Petitioner outside of the jurisdiction of the U.S. District Court for the Middle District of Georgia during the pendency of this petition;
- b. Declare that Respondents' actions or omissions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution and/or the Immigration and Nationality Act;
- c. Order that Respondents provide a bond hearing to Petitioner within 3 business days of the date of the order;
- d. Award Petitioner reasonable fees under the Equal Access to Justice Act, 5 U.S. Code § 504;
- d. Grant any other further relief this Court deems just and proper.

Dated: February 5, 2026

Respectfully submitted,

/s/ F. Evan Benz

F. Evan Benz, Esq.

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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: February 5, 2026

Respectfully submitted,

/s/ F. Evan Benz
Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system, which will send a notice of electronic filing to all counsel of record.

Dated: February 5, 2026

Respectfully submitted,

/s/ F. Evan Benz
Counsel for Petitioner