

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

Yazbek DUARTE-CASTELLANO

Petitioner,

v.


George STERLING, in his official capacity as 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.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

**INTRODUCTION**

1. Petitioner, **Yazbek Duarte Castellano A** , is currently in physical custody of Respondents at the Stewart Detention Center. Petitioner is subject to unlawful detention as the Department of Homeland Security (“DHS”) and the Executive Office for Immigration Review (“EOIR”) have determined that he is subject to mandatory detention.

2. Petitioner is charged with, inter alia, having entered the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i) 1 and 8 U.S.C. § 1182(a)(7)(A)(i)(I) (*See TAB A*)

3. Based on this allegation in Petitioner’s removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025,

instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. Respondents' recent legal interpretation directly contravenes the statutory framework and departs from decades of established agency practice applying 8 U.S.C. § 1226(a) to similarly situated individuals, including Petitioner.

5. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be provided with a bond hearing under § 1226(a) within seven days.

### **JURISDICTION**

6. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Stewart Detention Center, Lumpkin, Georgia.

7. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

### **VENUE**

9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Middle District of Georgia, the judicial district in which Petitioner currently is detained.

10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a


substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Georgia.

### REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

12. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it, and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

### PARTIES

13. Petitioner Yazbek Duarte Castellano  is a citizen of Nicaragua who has been in immigration detention since about December 2, 2025. After arresting Petitioner, ICE did not set bond, and Petitioner is unable to obtain a review of her custody by an IJ claiming lack of jurisdiction, pursuant to the Board’s decision in *Matter of Q. Li*, 27 I&N Dec. 704 (BIA 2019).

14. Respondent George Sterling is the Director of the Atlanta Field Office of ICE’s Enforcement and Removal Operations division. As such, George Sterling is the Petitioner’s immediate custodian and is responsible for the Petitioner’s detention and removal. He is named in his official capacity.

15. Respondent Kristi Noem is the Secretary of the Department of Homeland

Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA) and oversees ICE, which is responsible for the Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

17. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

18. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

19. Respondent Jason Streeval is named in his official capacity as the Warden of the Stewart Detention Center, where Petitioner is detained. As Warden, he is responsible for the operations of the Stewart Detention Center, including overseeing the people in the facility's custody, and as such, he is a custodian of the Petitioner. Respondent Warden's address is 146 CCA Road, Lumpkin, GA 31815. He is sued in his official capacity.

## **LEGAL FRAMEWORK**

20. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings.

21. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),

while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

22. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

23. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

24. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

25. Following the enactment of the IIRAIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *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).

26. This practice was consistent with longstanding agency procedures predating the current statutory scheme, under which noncitizens not classified as “arriving aliens” were entitled to a custody determination by an Immigration Judge or other authorized hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (observing that § 1226(a) merely “restates” the detention authority previously codified at § 1252(a)). On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of

practice.

27. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

28. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

29. While *Matter of Q. Li* interprets the scope of mandatory detention under INA § 236(c), administrative precedent cannot negate constitutional protections. The Fifth Amendment guarantees that civil detention must be accompanied by adequate procedural safeguards, including a meaningful opportunity to contest continued confinement.
30. Civil immigration detention is non-punitive. When detention becomes prolonged, due process requires an individualized assessment of whether continued detention is justified by flight risk or danger. Even where Congress authorizes detention, the Constitution limits how long and under what conditions detention may persist without review. The Supreme Court has repeatedly emphasized that liberty is the norm and detention is the carefully limited exception. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

31. Where a statute is susceptible to more than one interpretation, courts must adopt the reading that avoids constitutional infirmity. Denying any bond hearing regardless of detention length, government delay, or likelihood of removal would render § 236(c) constitutionally suspect.

32. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S.

281, 287 (2018).

33. In this case DHS had the opportunity to label the Respondent as a arriving alien but decided to label her as an alien present which has always allowed immigrants to have a bond hearing.

### FACTS

34. Petitioner entered the United States on or about August 8, 2021, through San Luis, Arizona and was labeled as an alien present.

35. The Petitioner was labeled by DHS as an alien present that hasn't been admitted or paroled and not as an arriving alien

36. On or about December 2, 2025, Petitioner was arrested at her check-in appointment with Immigration and Customs Enforcement (ICE) and transferred to an immigration detention center.

37. Removal proceedings were initiated on April 30, 2024, pursuant to 8 U.S.C. § 1229a by DHS after Petitioner was placed in ICE custody.

38. Pursuant to *Matter of Qli*, the immigration judge lacks jurisdiction to consider Petitioner's bond request.

39. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months in immigration custody, separated from her family and community.

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<sup>2</sup> *Immigration and Nationality Act* ("INA") § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A) (authorizing the Secretary of Homeland Security, in his discretion, to parole an alien into the United States temporarily "for urgent humanitarian reasons or significant public benefit").

**CLAIMS FOR RELIEF**

**COUNT I**

**Violation of the INA**

40. Petitioner incorporates by reference the allegations of fact outlined in the preceding paragraphs.

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

**COUNT II**

**Violation of the Bond Regulations**

42. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

43. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

**COUNT III**

**Violation of Due Process**

44. Petitioner repeats, re-alleges, and incorporates by reference every allegation in the preceding paragraphs as if fully set forth herein.

45. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

46. Petitioner has a fundamental interest in liberty and being free from official restraint.

47. The government’s detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

**PRAYER FOR RELIEF**

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

- a. Assume jurisdiction over this matter.
- b. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- c. Issue a Writ of Habeas Corpus requiring that Respondents, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days.
- d. Grant any other and further relief that this Court deems proper.

DATED: February 10, 2026

Respectfully submitted,



William Matos, Esq.  
Immigration Solution  
848 Jesse Jewell Pkwy  
Gainesville, GA 30501  
Phone: (787) 205-7564  
[wmatoslaw@aol.com](mailto:wmatoslaw@aol.com)  
*Attorney for Petitioner*