

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

DIEGO PINEDA HERNANDEZ,
Petitioner,

vs.

JASON STREEVAL in his official
capacity as Warden of Stewart County
Detention Center; and PAMELA
BONDI in her official capacity as the
U.S. Attorney General,
Respondents.

Civil Action No.:


HEARING REQUESTED

PETITION FOR *WRIT OF HABEAS CORPUS* BY AN ALIEN DETAINEE

To the Honorable Judges of this Court:

Petitioner, Diego Pineda Hernandez, respectfully brings this Petition for *Writ of Habeas Corpus* seeking relief to remedy his unlawful detention.

I. FACTUAL BACKGROUND

1. Petitioner is a 29-year-old Mexican national, married to a United States citizen and father to 3 United States children, who has continuously lived in the United States since 2018. His A number i 

2. On January 5, 2026, U.S. Immigration and Customs Enforcement (ICE) arrested Petitioner in Atlanta, Georgia, and transported him to the Stewart County Detention Center (SCDC) pending removal proceedings.

3. At the time of his arrest by ICE, Petitioner was not seeking admission to the United States nor was he at a port of entry.

4. On September 5, 2025, the Board of Immigration Appeals (BIA) issued an unprecedented decision in Matter of Yahure Hurtado, 29 I&N Dec. 216 (BIA 2025), reclassifying all undocumented immigrants present in the United States as “applicants for admission” under 8 U.S.C. § 1225(b)(2), subjecting them to mandatory detention without bond hearings.

5. On January 30, 2026, an Immigration Judge entered an Order finding that it lacked jurisdiction to consider Petitioner for bond based on Matter of Yahure Hurtado.

6. Petitioner seeks an order declaring § 1225(b)(2) inapplicable to him and mandating a § 1226(a) bond hearing with procedural safeguards.

7. Due to irreparable harm caused by his detention, he requests an order to show cause within three days under 28 U.S.C. § 2243 requiring Respondent to

provide him with a bond hearing within 7 days or release him. Petitioner reserves the right to seek a temporary restraining order under Fed. R. Civ. P. 65(b).

II. JURISDICTION AND VENUE


8. This action arises under the United States Constitution, the Immigration and Nationality Act of 1952 (INA), 8 U.S.C. § 1101 *et seq.*

9. This Court has jurisdiction to grant a *writ of habeas corpus* under 28 U.S.C. § 2241, Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), and the Fifth Amendment's Due Process Clause. The Court also has federal question jurisdiction under 28 U.S.C. § 1331, mandamus jurisdiction under 28 U.S.C. § 1361, and authority to issue declaratory and injunctive relief under 28 U.S.C. §§ 2201–2202 and the All Writs Act, 28 U.S.C. § 1651.

10. Petitioner challenges only the statutory applicability of § 1225(b)(2), not its implementation or regulations. Thus, 8 U.S.C. § 1252(e)(3), which limits review of such implementation to the District of Columbia, does not apply. J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 3-4.

11. Petitioner is detained at the Stewart Detention Center (SCDC) in Lumpkin, Georgia, which lies within the Middle District of Georgia, Columbus Division. Venue is therefore proper pursuant to 28 U.S.C. § 1391(b)–(e).

III. PARTIES

12. Petitioner, Diego Pineda Hernandez, is a Mexican citizen currently detained by Respondent at the SCDC. His alien registration number is  He entered the United States in 2018 without being apprehended by immigration authorities.

13. Respondent Jason Streeval is the Warden of the Stewart County Detention Center and is being sued in his official capacity. He is responsible for the operations of the SCDC and has control over Petitioner as his immediate custodian.

14. Respondent Pamela Bondi is the U.S. Attorney General and is being sued in her official capacity. She is in charge of the Executive Office of Immigration Review, also known as Immigration Court. She is a legal custodian of Petitioner.

IV. CLAIM FOR RELIEF – *WRIT OF HABEAS CORPUS*

15. The Constitution guarantees the right of *writ of habeas corpus* to every individual detained within the United States, including immigration-related detention. Zadvydas v. Davis, 533 U.S. 678, 687 (2001). A *writ of habeas corpus* must be granted if the person is in custody in violation of the Constitution or

federal law. 28 U.S.C. § 2241(c)(3) as in here, where Petitioner is being detained based on an incorrect application of federal law and in violation of his due process rights.

16. The legal issues presented by this Petition have already been resolved by the this Court in J.A.M. v. Streeval, 4:25-cv-00342-CDL-AGH (M.D. Ga. Nov. 1, 2025).

A. Count 1: Unlawful Detention Under 8 U.S.C. § 1225(b)(2)

17. Petitioner’s detention is in violation of law because he is being erroneously subject to mandatory detention as classified as an alien seeking admission under 8 U.S.C. § 1225(b)(2). That provision applies only to an alien seeking admission, 8 U.S.C. § 1225(b)(2)(A), not aliens like Petitioner who have been present in the United States for several years and are not seeking entry or applying for admission. *See J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), slip op. at 7-10 (M.D. Ga. Nov. 1, 2025).

18. Two statutes primarily govern the detention of aliens in removal proceedings, 8 USC §§ 1225 and 1226. § 1225 addresses when mandatory detention applies, and it covers aliens who, *inter alia*, are “seeking admission”

(emphasis added). In the other hand, § 1226 provides discretionary release for aliens who are neither a flight risk nor a danger to the community.

19. Since §§ 1225 and 1226 were enacted in 1996, Respondents have afforded the procedural safeguards of § 1226 to aliens who, like Petitioner, have been apprehended in the interior of the United States.

20. In July of 2025, Respondents changed course abruptly and began alleging that all aliens who entered without being admitted or inspected are to be considered aliens seeking admission. On September 5, 2025, Respondents' new position was made binding upon Immigration Judges with the issuance of Matter of Yahure Hurtado, 29 I&N Dec. 216 (BIA 2025).

21. This interpretation, which is contrary to decades of precedent, clear statutory text, regulations, and the government's own long-standing practice, has already been rejected by district courts nationwide, including this Honorable Court in J.A.M. v. Streeval, 4:25-cv-00342-CDL-AGH (M.D. Ga. Nov. 1, 2025).

22. Petitioner is not an alien seeking admission. Under 8 U.S.C. § 1226(a), Petitioner is entitled to a prompt, individualized bond hearing before an Immigration Judge at which the government bears the burden of proving that

continued detention is necessary to serve a legitimate purpose such as preventing flight or protecting the community.

23. By refusing to provide even the minimal safeguards Congress built into § 1226(a), Respondents have acted in a manner that is arbitrary, capricious, and inconsistent with the basic promise of due process, that the government may not imprison a person first and ask questions later.

B. County II: Unlawful Detention in Violation of Petitioner’s Due Process Rights

24. Petitioner’s detention violates his substantive and procedural due process rights under the Fifth Amendment of the U.S. Constitution, which guarantees that no person shall be deprived of liberty without due process of law. Arbitrary, unreviewable civil detention is categorically unconstitutional. The Due Process Clause requires that any deprivation of Petitioner’s liberty serve, at minimum, a legitimate purpose. *See Reno v. Flores*, 507 U.S. 292, 302-306 (1993)(explaining that infringements on fundamental liberty rights violate due process unless they are “narrowly tailored to serve a compelling state interest”).

25. Civil detention is permissible only in narrow, non-punitive circumstances where the government demonstrates a compelling justification that outweighs an individual’s liberty interest. Here, Respondents have no special justification.

Petitioner has no criminal record, poses no danger, and is not a flight risk.

Continued incarceration under these circumstances bears no reasonable relation to any regulatory goal and therefore violates the substantive component of the Fifth Amendment's Due Process Clause.

26. Petitioner's detention also violates the procedural due process guarantees of the Fifth Amendment. The government has deprived him of liberty, the most fundamental of all interests, without providing any meaningful opportunity to contest that deprivation. He has received no hearing before a neutral decision-maker, no notice of the factual basis for his detention, and no chance to present evidence of his family ties, work history, or lack of danger to the community. Under Mathews v. Eldridge, 424 U.S. 319 (1976), such an absolute denial of process fails every prong of the balancing test: the private interest at stake is immense; the risk of erroneous deprivation is total where no procedure exists; and the government's burden in providing a simple bond hearing is minimal.

27. Petitioner thus merits immediate relief in the form of a bond hearing with the Executive Office of Immigration Review (Immigration Court).

28. Despite several grants by this Court of habeas corpus petitions filed by similarly situated detainees, certain Immigration Judges over the SCDC have

perfunctorily performed hearings denying bond for individuals who pose neither a flight risk nor a danger to the community. To ensure fidelity to our Constitution and to protect due process, this Court should retain enter an Order requiring that Petitioner be given a meaningful bond hearing and should retain jurisdiction to ensure compliance.

29. A *writ of habeas corpus* should issue requiring Respondents to provide Petitioner with a meaningful bond hearing in Immigration Court or release him.

WHEREFORE, Petitioner prays this Honorable Court:

- (a) assume jurisdiction over this matter;
- (b) expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action for *habeas corpus*;
- (c) issue and order directing Respondents to show cause why a *writ* should not be granted;
- (d) issue a *writ of habeas corpus* ordering Respondents to release Petitioner unless they provide a bond hearing under § 1226(a) within 7 days;
- (e) retain jurisdiction over this matter to ensure that Petitioner is provided with due process at any bond hearing;

- (f) grant such other and further relief as this Court deems proper under the circumstances; and
- (g) grant reasonable attorney's fees and costs of Court to Petitioner under the Equal Access to Justice Act.

Respectfully submitted this February 12, 2026.

/s/ Giovanna Andrea Holden
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