

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

CARLOS ALBERTO VELASCO
JIMENEZ,

A 

Petitioner,

v.

TONY NORMAND, Warden of the
Folkston Detention Center

Respondent.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner Carlos Alberto Velasco Jimenez is in the custody of
3 Respondents at the Folkston Detention Center. Petitioner now faces unlawful
4 detention because the Department of Homeland Security (DHS) and the Executive
5 Office of Immigration Review (EOIR) have concluded Petitioner is subject to
6 mandatory detention.
7

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

10 3. Based on this allegation in Petitioner's removal proceedings, DHS
11 denied Petitioner release from immigration custody, consistent with a new DHS
12 policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement
13 (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e.,
14 those who entered the United States without admission or inspection—to be subject
15 to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for bond.
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17 4. Similarly, on September 5, 2025, the Board of Immigration Appeals
18 (BIA or Board) issued a precedent decision, binding on all immigration judges,
19 holding that an immigration judge has no authority to consider bond requests for any
20 person who entered the United States without admission. *See Matter of Yajure*
21 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). *Yajure Hurtado* determined that such
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individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

5. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.

6. Respondents' new legal interpretation is plainly contrary to the statutory framework, contrary to decades of agency practice applying § 1226(a), and contrary to recent federal decisions—including decisions of this Court—holding that § 1225(b)(2) applies only to individuals who are “seeking admission” in the context of an arrival inspection by an examining immigration officer.

7. Thus, Petitioner seeks habeas corpus requiring that he be released unless Respondent provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

8. Petitioner is in the custody of Respondent. Petitioner is detained at the Folkston Detention Center located in Folkston, Georgia.

9. 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).

10. 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

11. 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 Southern District of Georgia, the judicial district in which Petitioner currently is detained.

12. Pursuant to 28 U.S.C. § 1391(e), venue is proper because Respondent is an employee, officer, and agent of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of Georgia, Waycross Division.

REQUIREMENTS OF 28 U.S.C. § 2243

13. 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, Respondent must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

14. 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)

1 (emphasis added). “The application for the writ usurps the attention and displaces
2 the calendar of the judge or justice who entertains it and receives prompt action from
3 him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120
4 (9th Cir. 2000) (citation omitted).

5 6 **PARTIES**

7 15. Petitioner Carlos Alberto Velasco Jimenez is native and citizen of
8 Venezuela who has been in immigration detention since January 31, 2026. Petitioner
9 was detained and taken into ICE custody, who did not set bond, and Petitioner is
10 unable to obtain review of his custody by an Immigration Judge, pursuant to the
11 Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

12
13 16. Respondent Tony Normand is employed by Core Civic Group as
14 Warden of the Folkston Detention Center, where Petitioner is detained. He has
15 immediate physical custody of Petitioner. Petitioner is sued in his official capacity.

16 **LEGAL FRAMEWORK**

17 17. The Immigration and Nationality Act (“INA”) prescribes three basic
18 forms of detention for the majority of noncitizens in removal proceedings.

19
20 18. First, 8 U.S.C. § 1226 governs the detention of individuals placed in
21 standard removal proceedings under § 1229a. Noncitizens detained under § 1226(a)
22 are generally entitled to a custody redetermination before an Immigration Judge
23 unless they fall into the narrow mandatory-detention categories of § 1226(c).

1 19. Second, 8 U.S.C. § 1225(b)(1)-(2) provides for mandatory detention of
2 certain individuals seeking admission who are inspected at the border and
3 determined not “clearly and beyond a doubt entitled to be admitted.” This detention
4 framework is tied to the process of arrival inspection performed by an examining
5 immigration officer.

6
7 20. Third, 8 U.S.C. § 1231 governs detention of individuals who are subject
8 to final orders of removal, including individuals in withholding-only proceedings,
9 *see* U.S.C. § 1231(a)-(b).

10 21. This case turns on the proper application of § 1226(a) versus §
11 1225(b)(2).

12
13 22. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as
14 part of the Illegal Immigration Reform Act (“IIRIRA”) of 1996, Pub. L. No. 104-
15 208, Div. C. §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585.
16 Section 1226(a) was most recently amended earlier this year by the Laken Riley Act,
17 Pub. L. No. 119-1, 139 Stat. 3 (2025).

18
19 23. Historically, individuals who entered without inspection and were later
20 placed in § 1229a removal proceedings were treated as detained under § 1226, not §
21 1225. EOIR regulations following IIRIRA confirm that such individuals were not
22 considered “arriving” and therefore were eligible for bond hearings. *See* 62 Fed.
23 Reg. 10312, 10323 (Mar. 6, 1997).

1 24. For decades, consistent with this regulatory framework and prior
2 immigration law, noncitizens who entered without inspection and were apprehended
3 inside the United States received custody redeterminations unless subject to §
4 1226(c). *See* former 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229
5 (1996).
6

7 **The Government's Recent Policy Shift**

8 25. On July 8, 2025, ICE—"in coordination with" DOJ—issued guidance
9 declaring that all individuals who entered without inspection must now be detained
10 under § 1225(b)(2)(A), regardless of when they entered the United States or whether
11 they were ever inspected by an immigration officer.
12

13 26. On September 5, 2025, the BIA adopted this new position in *Matter of*
14 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), holding that any noncitizen who
15 entered without admission is subject to § 1225(b)(2)(A) and categorically barred
16 from a bond hearing.
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18 **This Court Has Rejected Respondents' Interpretation**

19 27. This Court has rejected the government's reading of § 1225(b)(2). In
20 *Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025), this
21 Court held that § 1225(b)(2) applies only to noncitizens who are "seeking
22 admission" in the context of an arrival inspection by an examining immigration
23 officer.
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1 28. This Court explained that “seeking admission” requires an affirmative
2 act at or near the time of arrival to obtain legal entry, coupled with contemporaneous
3 inspection. *Villa* rejected DHS’s argument that individuals apprehended years after
4 entering the country may be treated as if they were seeking admission. *Id.* at 3.

5
6 29. Applying that interpretation, this Court concluded that § 1225(b)(2)
7 does not apply to individuals like Petitioner, whose alleged inadmissibility is based
8 on conduct occurring long after entry and *not* in connection with an arrival
9 inspection.

10 **Courts Nationwide Have Rejected the Government’s Theory**

11 30. Federal courts across the country agree that § 1226(a)—not §
12 1225(b)—governs detention of individuals apprehended inside the United States,
13 even when they originally entered without inspection. *See, e.g., Rodriguez Vazquez*
14 *v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, 2025 WL
15 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, 2025 WL 2084238 (D.
16 Mass. July 24, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11,
17 2025); *Ramirez Clavijo v. Kaiser*, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025);
18 *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Pizarro*
19 *Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025).

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22 31. These courts uniformly conclude that Respondent’s interpretation
23 contradicts the statutory text, structure, and decades of agency practice.
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1 **Folkston Immigration Court's Continued Refusal to Exercise Jurisdiction**

2 32. Despite this Court's decision in *Villa*, the Folkston Immigration Court
3 continues to decline jurisdiction over custody redeterminations for noncitizens like
4 Petitioner, based on the BIA's erroneous decision in *Matter of Yajure Hurtado*.
5

6 33. Because Petitioner has no administrative avenue to challenge his
7 custody, habeas corpus is the only remedy capable of addressing the ongoing
8 violation of federal law.

9 **FACTUAL BACKGROUND**

10 34. Petitioner, Carlos Alberto Velasco Jimenez, is a seventy (70) year old
11 national of Venezuela who has resided in the U.S. since he entered without
12 inspection in 2023.
13

14 35. Petitioner, prior to detention, was gainfully employed as an Uber driver.

15 36. Petitioner suffers from high blood pressure.

16 37. Petitioner has a pending I-589, Application for Asylum and
17 Withholding of Removal. Petitioner has his work authorization document that
18 permits him to work legally.
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20 38. ICE charged Petitioner with, inter alia, 8 U.S.C. § 1182(a)(7)(A)(i)(I)
21 immigrant not in possession of a valid unexpired immigrant visa or other required
22 entry document at the time of application for admission.
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1 39. Pursuant to *Matter of Yajure Hurtado*, the Immigration Judge is
2 jurisdictionally barred from granting Petitioner a bond at the conclusion of a custody
3 redetermination hearing.

4 40. As a result, Petitioner remains in detention. Without relief, he faces the
5 prospect of months, or even years, in immigration custody, separated from his family
6 and community.

8 CLAIMS FOR RELIEF

9 COUNT I 10 Violation of the INA

11 41. Petitioner incorporates by reference the allegations of fact set forth in
12 the preceding paragraphs.

13 42. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
14 apply to all noncitizens residing in the United States who are subject to the grounds
15 of inadmissibility. Relevant here, Section 1225(b)(2) does not apply to those who
16 previously entered the country and have been residing in the United States prior to
17 being apprehended and placed in removal proceedings by Respondents. Such
18 noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), §
19 1226(c), or § 1231.

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21 43. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
22 continued detention and violates the INA.
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COUNT II

Violation of the Bond Regulations

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

45. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite 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.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

46. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

47. 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

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

49. 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).

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

51. 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. Order that Petitioner shall not be transferred outside the Southern District of Georgia while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- e. Declare that Petitioner's detention is unlawful;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 12th day of February, 2026.

/s/ Matthew K. Winchester

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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I represent Petitioner, Mr. Carlos Alberto Velasco Jimenez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED this 12th day of February, 2026.

/s/ Matthew K. Winchester

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Search Results: 1

CARLOS ALBERTO VELASCO-JIMENEZ

Country of Birth : Venezuela

A-Number: [REDACTED]

Status : In ICE Custody

State: GA

Current Detention Facility: Folkston D Ray ICE Processing Center

* Click on the Detention Facility name to obtain facility contact information

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