

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

GENRRY RONEY AGUILAR BENITEZ,

A 

Petitioner,

v.

TONY NORMAND, WARDEN,
FOLKSTON ICE PROCESSING CENTER,

Respondent.

Civil Action No.: CV 526-217

**VERIFIED PETITION FOR WRIT OF
HABEAS CORPUS PURSUANT TO 28
U.S.C. § 2241**

INTRODUCTION

1. Genrry Roney Aguilar Benitez, Petitioner, seeks a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the constitutionality and statutory legality of his current immigration detention.¹ Petitioner is a 31-year-old citizen of Honduras who together with his wife and minor daughter presented himself at the U.S./Mexico border on July 10, 2019. After presenting themselves at the border, Petitioner and his family were taken into U.S. Immigration and Customs Enforcement (“ICE”) custody. On July 11, 2019, Petitioner with his wife and minor daughter were paroled into the United States pursuant to an Order of Release on Recognizance by ICE. Exhibit A, Order of Release. On the same day, the Department of Homeland Security (“DHS”) issued Petitioner a Notice to Appear and placed him in removal proceedings under 8 U.S.C. § 1229a. Exhibit B, NTA. Petitioner lived freely in the community, complied with all conditions of release, maintained lawful employment pursuant to employment authorization, and established deep family and community ties. On December 10, 2025, at around 6:00 a.m., Petitioner was stopped by police on his way to work. Petitioner handed the police officer his driver’s license and valid

¹ Petitioner’s first name is incorrectly listed as Genery in DHS and EOIR records.

employment authorization document. The police officer then arrested Petitioner and took him to Bay County Jail in Panama City, Florida where a ICE hold was immediately placed on him. On December 12, 2025, Petitioner was transferred to Walton County Jail in DeFuniak Springs, Florida. On December 15, 2025, Petitioner was transferred to Everglades Detention Facility "Alligator Alcatraz." On December 29, 2025, Petitioner was transferred to Folkston ICE Processing Center.

2. Petitioner's re-detention violates the Immigration and Nationality Act ("INA") and the Due Process Clause of the Fifth Amendment. Petitioner possessed a protected liberty interest arising from his conditional parole under 8 U.S.C. § 1226(a), and the Government extinguished that liberty without notice, without a hearing, and without any opportunity to be heard. Because the deprivation of liberty occurred in the complete absence of constitutionally required procedures, Respondent lacked lawful authority to detain Petitioner at the outset. As such, Petitioner's detention is unlawful, his continued detention is without justification, and immediate release is the only adequate remedy.

3. Petitioner is in the physical custody of Respondent Tony Normand at the Folkston ICE Processing Center in Folkston, Georgia. He faces unlawful detention because the DHS and the Executive Office for Immigration Review ("EOIR") have concluded that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

4. It is futile to request a bond redetermination with the Immigration Court because the immigration judge is bound by *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) ("*Matter of Yajure Hurtado*"). Thus, Petitioner remains improperly detained under Section 1225(b)(2)(A) without eligibility for release on bond.

5. In addition to Respondent's lack of authority to detain Petitioner, by applying the incorrect detention statute to Petitioner, Respondent violates the plain language of the INA and applicable

regulations. As this Court has already concluded, Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered without inspection and are now residing in the United States. *Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 U.S. Dist. LEXIS 224656, at *26 (S.D. Ga. Nov. 14, 2025). Instead, such individuals are subject to discretionary detention under Section 1226(a), which allows for release on bond. *Id.* at *20. However, release is the appropriate remedy here because Respondent unlawfully detained Petitioner while he was residing in the United States pursuant to valid parole under 8 U.S.C. § 1226(a).

6. Petitioner challenges his detention as a violation of the INA and the Due Process Clause of the Fifth Amendment. Without an order from this Court, Petitioner is subject to continued detention in violation of his constitutional rights.

7. Accordingly, Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order his immediate release, or in the alternative, order the government to provide him a bond hearing before an impartial judge under 8 U.S.C. § 1226(a). Should the Court order such a hearing, Petitioner respectfully requests that the Government be directed to file a written status report with this Court explaining whether bond was granted or denied and setting forth the reasons for the custody determination, so that this Court may ensure compliance with statutory and constitutional due process requirements.

CUSTODY

8. Petitioner is in the physical custody of Respondent. He is imprisoned at Folkston ICE Processing Center, an immigration detention facility within D. Ray James Correctional Facility located in Folkston, Georgia, which is within this District. Petitioner is detained in Georgia and under the direct control of DHS and its agents.

JURISDICTION

9. This action arises under the U.S. Constitution and the INA, 8 U.S.C. § 1101 *et seq.*

10. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, Cl. 2 of the United States Constitution (the Suspension Clause), and the INA, 8 U.S.C. § 1101 *et seq.*

11. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, the All Writs Act, 28 U.S.C. § 1651.

VENUE

12. Venue is proper under 28 U.S.C. § 1391(e) because Respondent is an agent of the United States and has detained Petitioner at the Folkston ICE Processing Center, which is within the jurisdiction of this District. In addition, venue is proper in this District because a substantial part of the events giving rise to Petitioner's claims occurred in this District.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. There is no statutory exhaustion requirement for habeas challenges under 28 U.S.C. § 2241. In the absence of a statutory exhaustion requirement, "sound judicial discretion governs." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992). There are no administrative remedies available for Petitioner to exhaust.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

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

15. Petitioner is “in custody” for purposes of 28 U.S.C. § 2241 because ICE arrested and detained Petitioner and he is under the direct control of ICE, Respondent, and government officials.

PARTIES

16. Petitioner Genrry Roney Aguilar Benitez has been in ICE custody since December 10, 2025, when he was arrested by a police officer in Panama City, Florida during a traffic stop. He remains detained at Folkston ICE Processing Center in Folkston, Georgia. Before detention, Petitioner resided in Panama City, Florida with his wife, 5-year-old son, 10-year-old daughter, his sister-in-law, and his niece.

17. Respondent Tony Normand is sued in his official capacity as Warden of Folkston ICE Processing Center. He is the individual who is in charge of the facility where Petitioner is currently detained. He has immediate physical custody over Petitioner, and in conjunction with DHS, ICE, and their agents, has the authority to release him.

FACTUAL ALLEGATIONS

18. Petitioner Genrry Aguilar Benitez is 31 years old and a native and citizen of Honduras. At 24 years old, he together with his wife and minor daughter turned themselves in at the U.S./Mexico border and were taken into ICE custody. On July 11, 2019, Petitioner and his family were paroled into the United States by ICE pursuant to an Order of Release on Recognizance in accordance with 8 U.S.C. § 1226(a). On the same day of his and his family’s release, Petitioner was issued a Notice to Appear (“NTA”) and placed into standard removal proceedings under 8 U.S.C. § 1229a.

19. Petitioner has lived in the United States for 6 years and 7 months with parole under § 1226(a) granted to him by DHS in 2019. Petitioner has no criminal record, and he is neither a flight risk nor a danger to the community, as ICE necessarily determined on July 11, 2019, when the agency released him on parole.

20. Prior to detention, Petitioner lived with his wife, 10-year-old daughter, 5-year-old son, sister-in-law, and niece.

21. On December 10, 2025, a local police officer turned Petitioner over to ICE after a traffic stop. There were no changed circumstances when ICE detained Petitioner on December 10, 2025.

22. It is futile to request a bond redetermination hearing with the Immigration Court because the immigration judge is bound by *Matter of Hurtado*, 29 I&N Dec. 216 (BIA 2025) finding that the court lacks jurisdiction under 8 U.S.C. § 1225(b)(2)(A) to grant bond to noncitizens who are “present . . . without admission.” *Id.* As a result, Petitioner is unlawfully detained under 8 U.S.C. § 1225(b)(2)(A), and he remains separated from his family. Without an order from this Court, Petitioner faces many more months of detention.

LEGAL FRAMEWORK

23. There are three statutes that govern civil immigration detention. *See* 8 U.S.C. §§ 1225, 1226, 1231.

24. First, Section 1226(a) authorizes discretionary detention of noncitizens in standard removal proceedings under 8 U.S.C. § 1229a. Individuals in Section 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).

25. Second, Section 1225 authorizes mandatory detention of individuals subject to expedited removal under 8 U.S.C. § 1225(b)(1), and other recent arrivals “seeking admission” to the United States under Section 1225(b)(2).

26. Last, Section 1231 authorizes detention of noncitizens with a final or reinstated removal order. *Id.* § 1231(a)-(b).

27. The INA's context and structure make clear that Section 1226 applies to individuals who entered without inspection and have not been admitted to the United States.

28. Section 1225 begins by defining an “applicant for admission” as a noncitizen “who has not been admitted or who arrives in the United States.” 8 U.S.C. § 1225(a)(1). With limited exceptions not applicable here, Section 1225(b)(2) applies to all other applicants for admission outside of Section 1225(b)(1) who are “seeking admission.” *Id.* § 1225(b)(2)(A).

29. Section 1225(b)(2)(A) states that “in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien *seeking admission* is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained” during standard removal proceedings. *Id.* (emphasis added). Clearly, Congress defined in Section 1225(a)(1) the broad term “applicant for admission” but added the narrowing qualifier “seeking admission” in Section 1225(b)(2)(A), thereby limiting its application to those who are “seeking admission.” The government’s recent interpretation ignores the plain language of Section 1225(b)(2)(A) and violates basic principles of statutory construction.

30. By contrast, Section 1226(a) detention applies when a noncitizen is arrested and “detained pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Pending a decision on removal, the individual may be detained or released on bond or conditional parole. *Id.* § 1226(a)(1)-(2). Discretionary detention under Section 1226(a) is often referred to as the “default rule” for noncitizens already present in the United States. *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018).

31. This Court and many others have properly rejected the government’s interpretation and the reasoning of *Yajure Hurtado*, finding instead that Section 1226—not Section 1225—authorizes detention of individuals who entered without inspection and were later apprehended in the interior

of the United States. *See, e.g., Aguirre Villa*, 2025 U.S. Dist. LEXIS 217348, at *29 (S.D. Ga. Nov. 4, 2025) (collecting cases), *report and recommendation adopted*, 2025 U.S. Dist. LEXIS 224656 (S.D. Ga. Nov. 14, 2025); *Caal-Yat v. Warden, Folkston Ice Processing Ctr.*, No. 5:26-CV-1, 2026 WL 194512, at *1 (S.D. Ga. Jan. 26, 2026) (adopting the reasoning of *Villa* and granting habeas); *Merino v. Ripa*, No. 25-23845-CIV, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025) (collecting cases); *see also Patel v. McShane*, No. 25-5975, 2025 U.S. Dist. LEXIS 228258, at *1 (E.D. Pa. Nov. 20, 2025) (noting “at least 282” recent district court decisions rejecting the government’s interpretation of § 1225).

32. While most courts agree that interpreting §§ 1226 and 1225 this way is consistent with the statutory framework, a small number of courts, and recently the Fifth Circuit, have agreed with the government’s interpretation, finding that the term “applicant for admission” necessarily includes “seeking admission” regardless of length of presence in the United States or subjective intent. *See, e.g., Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330, at *4 (5th Cir. Feb. 6, 2026).

33. The interpretation followed by the majority of courts, including numerous courts in this district, is persuasive for several reasons. First, it gives independent meaning to Congress’s deliberate use of both “applicant for admission” and “seeking admission” in § 1225(b)(2)(A), rather than treating one phrase as surplusage in violation of fundamental canons of construction. *Aguirre Villa*, 2025 U.S. Dist. LEXIS 217348, at *18. Second, it aligns with the statutory definition of “admission” in § 1101(a)(13)(A) as “lawful entry . . . after inspection and authorization,” reading “seeking admission” to refer to noncitizens actively pursuing this process at or near the border. *Id.*; *Carcamo v. Noem*, No. 2:25-CV-00922-SPC-NPM, 2025 WL 3119263, at *3 (M.D. Fla. Nov. 7, 2025). Third, it respects the Supreme Court’s distinction in *Jennings* between § 1225(b), which applies to “aliens seeking admission into the country,” and § 1226, which governs

“aliens already in the country.” *Aguirre Villa*, 2025 U.S. Dist. LEXIS 217348, at *22. Finally, it avoids rendering the recently enacted Laken Riley Act and other provisions of § 1226(c) largely superfluous, as would result if all inadmissible noncitizens in the interior were already subject to mandatory detention under § 1225(b)(2)(A). *Id.* at *24-26.

34. There is no doubt that Section 1226(a) governed Petitioner’s release in 2019 because the Order of Release on Recognizance he received expressly states that fact. Petitioner’s re-detention remains governed by § 1226. Exhibit A. And while ICE attempts to unilaterally assert detention under § 1225(b)(2), ICE cannot “cite authority supporting the idea that they possessed that unilateral right.” *Loa Caballero v. Baltazar*, No. 25-CV-03120-NYW, 2025 WL 2977650, at *8 (D. Colo. Oct. 22, 2025) (citation omitted). “[T]he government cannot switch tracks and subject Petitioner[] to mandatory detention under section 1225(b)(2) when the government has instead placed Petitioner[] in removal proceedings under section 1229a and released [him] on [his] own recognizance under section 1226(a).” *Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2741654, at *9 (N.D. Cal. Sept. 26, 2025).

35. Accordingly, the mandatory detention provision of Section 1225(b)(2) does not apply to Petitioner, who entered the United States 6 years and 7 months ago and possessed a valid Order of Release on Recognizance when ICE detained him in December 2025. Because ICE never lawfully revoked Petitioner’s Order of Release on Recognizance and arbitrarily detained him without due process, his detention was unlawful from the outset. Thus, the appropriate remedy here is immediate release, not a bond hearing. *See Danierov v. Noem*, No. 2:25-CV-01215-KG-KRS, 2025 WL 3653925, at *3 (D.N.M. Jan. 7, 2026) (ordering immediate release after unlawful re-detention following release on recognizance).

CLAIMS FOR RELIEF

COUNT ONE
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT
(8 U.S.C. § 1226(a) and Implementing Regulations)

36. Petitioner alleges and incorporates by reference the paragraphs above.

37. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to a ground of inadmissibility. As relevant here, it does not apply to those who previously entered the country following release on recognizance and have been residing in the United States prior to being re-detained by the government. Such noncitizens are squarely subject to Section 1226(a), unless they are subject to mandatory detention under Sections 1225(b)(1), 1226(c), or 1231.

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

COUNT TWO
FIFTH AMENDMENT DUE PROCESS VIOLATION
(Substantive Due Process)

39. Petitioner alleges and incorporates by reference the paragraphs above.

40. “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). Due process “applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 693.

41. Petitioner arrived in the United States at the age of 25 and has lived here continuously since 2019 after ICE released him on his own recognizance. He has significant ties to this country.

42. Petitioner has a significant interest in being free from detention. Petitioner has lived in the United States for 6 years and has no criminal record. Yet he remains imprisoned since December 10, 2025, separated from his wife and children.

43. ICE's continued detention of Petitioner, based on the erroneous statutory interpretation presented in *Matter of Yajure Hurtado* and ICE's position that 8 U.S.C. § 1225(b)(2)(A) applies to long-term residents, constitutes arbitrary government action that violates Petitioner's due process rights.

44. Petitioner has no meaningful avenue before DHS or EOIR to challenge his continued detention.

45. Petitioner's continued detention, when he is indeed subject to discretionary detention under 8 U.S.C. § 1226(a) and is neither dangerous, nor a flight risk, does not serve a compelling governmental interest.

46. The government's actions are a significant violation of Petitioner's due process rights.

**COUNT THREE
FIFTH AMENDMENT DUE PROCESS VIOLATION
(Procedural Due Process)**

47. Petitioner alleges and incorporates by reference the paragraphs above.

48. The Supreme Court has long-established that noncitizens are afforded due process rights. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Zadvydas*, 533 U.S. at 690.

49. To determine whether civil detention violates an individual's due process rights, courts consider: (1) the private interest affected; (2) the risk of erroneous deprivation and probable value of additional safeguards; and (3) the government's interest, including fiscal and administrative burdens. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

50. Being free from physical detention is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Individuals have a liberty interest in their continued freedom, and this principle has been reinforced by both the Supreme Court and district courts on many occasions. See, e.g., *See Young v. Harper*, 520 U.S. 143, 146-47 (1997).

51. By releasing Petitioner on his own recognizance, ICE created a reasonable expectation in Petitioner that he would be permitted to remain free without being subject to arbitrary arrest. *Perry v. Sindermann*, 408 U.S. 593, 601–03 (1972) (reliance on policies and practices may establish a legitimate claim of entitlement to a constitutionally-protected interest).

52. The risk of erroneous deprivation to Petitioner is high. By adopting an impermissibly broad reading of 8 U.S.C. § 1225—a reading that ICE did not initially apply to Petitioner—Respondent now denies Petitioner any process while subjecting him to mandatory detention. ICE detained Petitioner without prior notice, without any changed circumstances, and without affording him an opportunity to be heard before a neutral decisionmaker.

53. While the government has an interest in ensuring that noncitizens appear at their removal proceedings and are not a danger to the community, this interest is low when compared to Petitioner’s significant liberty interest. ICE already determined in 2019 that Petitioner was neither dangerous nor a flight risk and released him according to that determination. *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff’d* 905 F.3d 1137 (9th Cir. 2018). Petitioner has no criminal history, and he fully complied with the terms of his release. Outside of the government’s incorrect interpretation of § 1225, nothing has changed to warrant Petitioner’s detention.

54. ICE violated Petitioner’s due process rights by re-detaining him without affording him any due process, thereby rendering Petitioner’s detention unlawful from day one.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Assume jurisdiction over this matter;

2. Enjoin Respondent from transferring Petitioner outside the jurisdiction of this District pending the resolution of this case;
3. Issue an Order to Show Cause ordering Respondent to show cause why this Petition should not be granted within three days;
4. Issue a Writ of Habeas Corpus ordering Respondent to release Petitioner from detention, or in the alternative to provide Petitioner a bond hearing before an Immigration Judge within 3 days of this Court's order;
5. If a bond hearing is ordered, direct Respondents to file a written status report with this Court within a time set by the Court, stating the outcome of the bond hearing, the bond amount and conditions if granted, and a summary of the reasons stated on the record for the custody determination, so as to ensure compliance with statutory and constitutional due process requirements;
6. Order that Respondents are enjoined and restrained from re-detaining Petitioner unless the government demonstrates, by clear and convincing, evidence at a pre-deprivation bond hearing before a neutral decisionmaker, that Petitioner is a flight risk or danger to the community, such that his physical detention is legally justified;
7. Award reasonable attorneys' fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412, and on any other basis justified under law; and
8. Grant any further relief this Court deems just and proper.

Date: February 13, 2026

Respectfully Submitted,

/s/ Alexis Ruiz
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Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner Genrry Roney Aguilar Benitez as his attorney. I have discussed with Mr. Aguilar Benitez the events described in this Petition and have examined all documents referenced herein. On the basis of those discussions and upon my review of those documents, on information and belief, I hereby verify that the factual statements made in the forgoing Verified Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of my knowledge.

Date: February 13, 2026

/s/ Alexis Ruiz
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Attorney for Petitioner