

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

Severo Ventura Cilia

Petitioner,

v.

Tony Normand, Warden, Folkston Main  
Detention Center

Respondent.

Case No.:

**PETITION FOR WRIT OF  
HABEAS CORPUS**

**INTRODUCTION**

1. Petitioner, Severo Ventura Cilia, is a national of Mexico who is unlawfully detained in the physical and legal custody of Respondent at the Folkston Main Detention Center in Folkston, Georgia. Exhibit 1.

2. Petitioner was arrested on January 30, 2026, and served with a Notice to Appear charging him under INA § 212(a)(6)(A)(i) as a noncitizen present without admission or parole. Exhibit 2.

3. Although Petitioner is charged in removal proceedings under INA § 240, and although his Notice to Appear does not designate him as an arriving alien, Respondent is detaining him pursuant to the Department of Homeland Security's (DHS) July 2025 reinterpretation of INA § 1225 and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which strip immigration judges of bond jurisdiction over individuals who entered without inspection.

4. Petitioner is therefore being detained without access to any custody redetermination hearing. Under the Immigration and Nationality Act, detention pending removal proceedings for

individuals arrested within the interior of the United States is governed by 8 U.S.C. § 1226(a). That provision expressly contemplates discretionary custody, individualized assessment, and the possibility of release on bond or conditional supervision. It does not authorize categorical or automatic detention.

5. Yet Respondent is treating Petitioner as though he were subject to mandatory detention under 8 U.S.C. § 1225(b), a provision that applies to applicants for admission at the threshold of entry. Petitioner is not an arriving alien. The Notice to Appear does not designate him as such. Instead, he has been placed into removal proceedings under INA § 240 and charged as a noncitizen present without admission or parole.

6. Despite this, Immigration Judges at the Stewart Immigration Court, relying on *Matter of Yajure Hurtado* and DHS's July 2025 reinterpretation of the detention statutes, categorically disclaim jurisdiction to conduct bond hearings for individuals in Petitioner's position. As a result, Petitioner has no administrative avenue to obtain a custody determination.

7. Any attempt to justify Petitioner's confinement by classifying him as an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b) is legally erroneous. Petitioner's detention is governed by 8 U.S.C. § 1226(a), which expressly contemplates discretionary custody and individualized determinations regarding release on bond.

8. For the foregoing reasons issuance of the writ of habeas corpus is warranted. Petitioner respectfully requests that this Court declare his continued detention unlawful and order his immediate release or in the alternative order a prompt individualized bond hearing before an immigration judge with authority to grant release.

#### **JURISDICTION**

7. This action is brought pursuant to the Constitution of the United States and the Immigration and Nationality Act (“INA”), 8 U.S.C. § 1101 *et seq.*, and challenges the legality of Petitioner’s ongoing detention under federal law.

9. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody in violation of the Constitution and laws of the United States. Jurisdiction is also proper under 28 U.S.C. § 1331 because this action presents federal questions. The Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–706, and the Suspension Clause of Article I, Section 9, Clause 2 of the Constitution further support the Court’s jurisdiction.

10. Sovereign immunity does not bar this action. Congress has waived immunity for non-monetary claims seeking relief from unlawful agency action under 5 U.S.C. § 702, and federal courts may enjoin unconstitutional or ultra vires conduct by federal officers.

#### **VENUE**

11. Venue is proper in this District because Petitioner is detained at the Folkston Main Detention Facility in Folkston, Georgia, within the territorial jurisdiction of this Court. Venue is also proper because Respondent is a federal officer of the United States and a substantial part of the events giving rise to this Petition occurred in this District. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973).

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

12. Although 28 U.S.C. § 2241 does not impose a statutory exhaustion requirement, courts may consider whether a petitioner has pursued available administrative remedies before seeking habeas relief.

13. Any prudential exhaustion requirement is satisfied or in the alternative should be excused. Petitioner has effectively been denied any available administrative remedy to challenge

his custody. Immigration Judges at the Stewart Immigration Court have made clear through their rulings in similar cases that they interpret the law to preclude jurisdiction to conduct bond hearings for individuals classified as arriving aliens. Based on that position the Immigration Court has declined to conduct any individualized custody determination for Petitioner.

14. Further administrative review would be futile. The Board of Immigration Appeals lacks authority to grant the relief Petitioner seeks or to adjudicate the constitutional claims raised in this Petition. Where the Immigration Judge has expressly disclaimed jurisdiction to consider bond, no administrative remedy exists to address the legality of Petitioner's detention.

15. Administrative remedies are also inadequate under these circumstances because Petitioner challenges the legality of his continued civil detention under the Constitution and the INA, claims that fall squarely within the province of the federal courts.

#### **PARTIES**

16. Petitioner, Severo Ventura Cilia, is a citizen and national of Mexico who is currently detained at the Folkston Main Detention Center in Folkston, Georgia.

17. Respondent is the Warden of the Folkston Main Detention Center, who has immediate physical custody of Petitioner and is the sole proper respondent in this action. *See Rumsfeld v. Padilla*, 542 U.S. 426 (2004) (in a habeas petition, the proper respondent is the petitioner's immediate custodian).

#### **STATEMENT OF FACTS**

18. On January 30, 2026, DHS served Petitioner with a Notice to Appear initiating removal proceedings under INA § 240. *See Exhibit 2*. The Notice to Appear alleges that Petitioner is not a citizen or national of the United States, that he is a native and citizen of Mexico, that he

entered the United States at or near an unknown location on an unknown date, and that he arrived at a time or place other than as designated by the Attorney General. *Id.*

19. Based on those allegations, DHS charged Petitioner as removable under INA § 212(a)(6)(A)(i) as a noncitizen present in the United States without having been admitted or paroled.

20. Since January 30, 2026, Petitioner has remained continuously detained without bond. He has never received a custody determination hearing by an immigration judge. Despite being charged in standard § 240 proceedings and not designated as an arriving alien, ICE is detaining Petitioner under a mandatory detention theory derived from INA § 1225(b) and *Matter of Yajure Hurtado*.

21. As a result, immigration judges in this jurisdiction treat themselves as lacking authority to conduct bond hearings for individuals in Petitioner's position.

22. Petitioner therefore has no access to an individualized custody determination.

**The Statutory Detention Framework Does Not Support Mandatory Detention In This Case**

23. 8 U.S.C. § 1226(a) exists to ensure that noncitizens placed in removal proceedings receive individualized custody determinations. Congress created a narrow exception for certain criminal noncitizens under 8 U.S.C. § 1226(c), mandating detention only in those specifically enumerated circumstances. Petitioner is not charged under § 1226(c), nor does he fall within any mandatory detention category identified by Congress. Respondent's interpretation nevertheless transforms § 1226(a) discretionary detention into categorical mandatory detention for all entrants without inspection, a result Congress did not authorize.

24. Immigration Judges in this jurisdiction have made clear that they lack jurisdiction to conduct bond hearings for individuals deemed applicants for admission and subject to mandatory detention under 8 U.S.C. § 1225.

25. DHS cannot simultaneously place Petitioner in removal proceedings under INA § 240, the interior removal framework, while denying bond jurisdiction under the border inspection framework of 8 U.S.C. § 1225.

26. These statutory schemes govern distinct circumstances and operate in separate procedural contexts. INA § 240 proceedings apply to noncitizens already present in the United States and are accompanied by the detention framework set forth in 8 U.S.C. § 1226.

27. The government may not invoke the interior removal provisions to prosecute Petitioner while simultaneously relying on the border inspection detention regime to deny him access to bond. Doing so collapses the statutory structure and applies mutually inconsistent provisions of the Act.

28. As a result of this misclassification, Petitioner has been denied any access to the custody review process that Congress expressly provided in § 1226(a). The categorical jurisdictional bar imposed by agency interpretation eliminates the individualized determination that the statute guarantees.

29. The detention framework established by Congress presumes discretionary custody in cases like this one. By denying Petitioner a bond hearing altogether, Respondent has exceeded statutory authority and nullified the procedural protections embedded in the INA.

**BREAKDOWN OF IMMIGRATION COURT NEUTRALITY AND  
NEED FOR ARTICLE III RELEASE**

30. Federal courts traditionally presume that when a habeas petitioner prevail, the immigration courts will implement the court's ruling in good faith by conducting a lawful and neutral bond hearing. That presumption no longer holds.

31. Since mid 2025, the Executive Office for Immigration Review has continued instructing immigration judges to deny bond categorically under Matter of Yajure Hurtado, even in cases where Article III courts have determined that detention under 8 U.S.C. § 1225(b) is unlawful and that custody is governed by § 1226(a). As a result, immigration judges in this jurisdiction do not view themselves as bound to provide individualized bond hearings in cases like Petitioner's.

32. Once a noncitizen has effected entry into the United States, full constitutional protections apply. The Supreme Court has repeatedly held that physical presence triggers the Fifth Amendment's guarantee of due process regardless of the legality of entry. See *Landon v Plasencia*, 459 U.S. 21, 32 (1982); *Kwong Hai Chew v Colding*, 344 U.S. 590, 596 (1953). Those protections include the right to a neutral decisionmaker and an individualized determination of liberty. Civil detention without meaningful access to such a determination is constitutionally suspect.

33. Recent structural developments within the immigration court system have undermined the neutrality required by due process. Public reporting and documentary evidence reflect significant administrative restricting and personnel actions that have placed immigration judges under institutional pressure when granting relief, including bond. Exhibit 3. In this environment, bond adjudication no longer reliably reflects independent judicial decision making.

34. Even where an immigration judge grants bond, release is frequently illusory. DHS routinely appeals bond decisions to the Board of Immigration Appeals and invokes the automatic stay regulation to continue detention during the appeal. What was once exceptional has become

routine. Multiple federal courts have concluded that this automatic stay practice exceeds statutory authority and raises serious due process concerns. See *Campos Leon v Forestal*, No. 1:25 cv 01774 SEB MJD, 2025 WL 2694763 (S.D. Ind. Sept. 22, 2025); *B.D.V.S. v Forestal*, No. 1:25 cv 01968 SEB TAB, 2025 WL 2855743 (S.D. Ind. Oct. 8, 2025). The practical consequence is that even a favorable bond ruling does not result in release.

35. Under these circumstances, if the Court determines that immediate release is not warranted but that a custody determination is required, the hearing should occur before an Article III judge. Federal courts are structurally insulated from executive control and are uniquely positioned to ensure the neutral and individualized assessment of liberty required by *Landon*, *Kwong Hai Chew*, and the Fifth Amendment. A remand to the immigration court system risks perpetuating the same jurisdictional and structural defects challenged here.

36. Moreover, any bond hearing must place the burden squarely on the government. Although the Eleventh Circuit has not yet resolved the issue, every circuit to consider the question has held that under § 1226(a) the government must prove by clear and convincing evidence that continued detention is necessary due to flight risk or danger. See *Diaz v Garland*, 53 F.4th 1189, 1196 (9th Cir. 2022); *Velasco Lopez v Decker*, 978 F.3d 842, 853–56 (2d Cir. 2020); *Hernandez Lara v Lyons*, 10 F.4th 19 (1st Cir. 2021). This allocation reflects Congress’s design that § 1226(a) operates as discretionary detention, not de facto mandatory custody. Without a meaningful burden on the government, a bond hearing would provide only the appearance of process.

37. Recent experience across immigration courts confirms that this is not isolated error but a systemic practice. Exhibit 4. Bond denials frequently rest on conclusory assertions of flight risk without meaningful engagement with the record or application of the factors identified in *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006). Evidence of family ties, long residence, compliance

with proceedings, and lack of recent criminal history is routinely discounted, converting discretionary detention into automatic detention in practice.

**CLAIM FOR RELIEF**

**COUNT ONE**

**Violation of the Fifth Amendment Due Process Clause**

38. The allegations in the above paragraph are realleged and incorporated herein.

39. The Fifth Amendment to the United States Constitution prohibits the federal government from depriving any person of liberty without due process of law. These protections extend to all persons within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

40. Whether the procedures accompanying a noncitizen's civil detention satisfy due process is evaluated under the balancing test of *Mathews v. Eldridge*, 424 U.S. 319 (1976), which considers: (1) the private interest affected by official action; (2) the risk of an erroneous deprivation of that interest through the procedures used; and (3) the government's interest, including the function involved and the fiscal or administrative burdens that additional procedural requirements would entail.

41. Petitioner has been detained for several months without any individualized bond hearing. His liberty interest is substantial, and the risk of erroneous deprivation of that liberty is extraordinarily high where detention is automatic and categorical, without a case-by-case evaluation.

42. The government's interest in ensuring Petitioner's appearance does not justify the complete denial of any hearing, particularly when less restrictive alternatives to incarceration, such as release on bond, supervision, or other conditions, are available. The blanket refusal to provide a bond hearing violates fundamental principles of due process.

43. The government's interest does not outweigh Petitioner's due process rights to an individualized determination. Providing a bond hearing would impose minimal administrative burden and is the precise procedure Congress contemplated under 8 U.S.C. § 1226(a) for individuals in Petitioner's situation.

44. Under the balancing framework set forth in *Mathews v. Eldridge*, Petitioner's continued detention without a bond hearing violates the Due Process Clause.

**COUNT TWO**  
**Detention Not Authorized by the Immigration and Nationality Act and Agency**  
**Action Not in Accordance with Law**  
**(5 U.S.C § 706(2)(A) and 8 U.S.C. § 1226)**

45. The allegations in the above paragraph are realleged and incorporated herein.

46. The INA authorizes only discretionary civil immigration detention, with individualized custody determinations under 8 U.S.C. § 1226(a).

47. Congress did not mandate unconditional, prolonged detention for immigrants like Petitioner who were arrested inside the United States and have substantial ties to the community. The categorical denial of bond in Petitioner's case, based solely on an agency's interpretation that classifies him as an arriving alien and thereby strips Immigration Judges of jurisdiction, exceeds the detention authority that Congress has granted.

48. It effectively places Petitioner in the category of mandatory detention without statutory basis, in contravention of the framework set forth by Congress in the INA.

49. Under the APA, a reviewing court must set aside agency action that is arbitrary, capricious, or not in accordance with law. 5 U.S.C. § 706(2)(A). An agency acts unlawfully when it fails to consider relevant factors, departs from the evidence before it, or applies a categorical rule that exceeds its statutory authority.

50. The categorical denial of bond consideration based solely on a jurisdictional interpretation rather than Petitioner's individual circumstances, is inconsistent with 8 U.S.C. § 1226(a) and exceeds the authority granted by Congress.

51. Respondent's continued detention of Petitioner is therefore unlawful under the Immigration and Nationality Act and the Administrative Procedure Act. Accordingly, habeas relief is warranted.

**PRAYER FOR RELIEF**

Wherefore, Petitioner seeks the same relief granted in Villa v. Normand, 5:25-cv-89, and related cases in with the Southern District of Georgia granted habeas relief for individuals unlawfully detained without a bond hearing under the same legal theory. As such, Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this Petition;
- B. Declare that Respondent's continued detention of Petitioner without an individualized bond hearing violates the Constitution and laws of the United States;
- C. Issue a Writ of Habeas Corpus ordering Respondent to release Petitioner immediately, or, in the alternative, to provide a prompt individualized bond hearing before an immigration judge authorized to order release;
- D. Prohibit Respondent from transferring Petitioner from this District without prior approval of the Court; and
- E. Grant any further relief this Court deems just and proper.

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Respectfully Submitted,  
This 16th day of February, 2026.

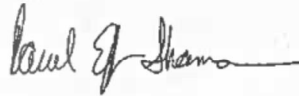
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**28 U.S.C. § 2242 VERIFICATION STATEMENT**

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. Based on those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

This 16th day of February, 2026.

A handwritten signature in black ink, appearing to read "Rachel Effron Sharma", with a long horizontal flourish extending to the right.

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