

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

Miguel Angel Perez Colmenares

Petitioner,

v.

LaDeon Francis, Atlanta Field Office Director
of ICE Enforcement and Removal Operations;
Warden / Facility Director, Folkston D. Ray
ICE Processing Center;
Todd Lyons, Acting Director U.S. Immigration
and Customs Enforcement;
Kristi Noem, Secretary, U.S. Department of
Homeland Security;
Pamela Bondi, U.S. Attorney General;
Department of Homeland Security (DHS);
and
Executive Office for Immigration Review
(EOIR),

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

8 U.S.C. § 2241

Agency number: A



INTRODUCTION

1. Petitioner Miguel Angel Perez Colmenares is a native and citizen of Venezuela who has resided in the United States since 2022 after entering without inspection to seek asylum in the United States. He is wrongly being held in detention without justification.

2. Petitioner was detained shortly after this entry to the United States and subsequently released. Petitioner was detained approximately three years later at a routine U.S Immigration and Customs Enforcement (“ICE”) check-in.

3. No reason for Petitioner’s detention has been given. He was not told why he was being detained at his ICE Check-In, nor has an I-213 been provided to Petitioner or Petitioner’s Counsel.

4. On February 13th, 2026, the Immigration Judge found that she lacked jurisdiction to grant a bond.

5. Accordingly, to vindicate Petitioner’s constitutional rights this Court should grant the instant petition for a writ of habeas.

6. Courts in this District routinely exercise *habeas* jurisdiction to review and correct the statutory basis for immigration detention where DHS relies on an inapplicable detention provision. *Villa v. Normand*, 5:25-cv-89, (S.D. Ga., 2025)

7. Furthermore, Petitioner is a class member in *Lazaro Maldonado Bautista et al.v. Ernesto Santacruz Jr et al.*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal., 2025), who is therefore eligible for Custody Redetermination.

8. Petitioner asks this Court to find that he was unlawfully detained and order his release.

9. Alternatively, Petitioner respectfully requests that this Court issue a writ of habeas corpus requiring Respondents to release Petitioner. In the alternative, Petitioner requests that this court order the Respondents to provide bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

10. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus) and 28 U.S.C. § 1331 (federal question).

11. Venue is proper because on information and belief, Petitioner is in the physical custody of Respondents. Petitioner is detained at the Folkston D Ray ICE Processing Center in Folkston, GA.

PARTIES

12. Petitioner, Miguel Angel Perez Colmenares, is a father of six minor children who has resided in the United States since October 2022.

13. Petitioner is a citizen and national of Venezuela who has been in immigration detention since December 16, 2025. Petitioner has pending applications for Asylum, Withholding of Removal, and relief under the Convention Against Torture. On information and belief, Petitioner was detained without cause by U.S. Immigration and Customs Enforcement agents in December 2025.

14. Respondent LaDeon Francis is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division is responsible for Petitioner's detention and removal.

15. Respondent Warden / Facility Director oversees the Folkston D. Ray ICE Processing Center and is Petitioner's immediate custodian.

16. 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 Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

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

18. 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.

19. 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.

20. All respondents are named in their official capacity.

CLAIM FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

21. On information and belief, Petitioner is currently being arrested and detained by federal agents without cause and in violation of his constitutional rights to due process of law.

COUNT TWO

Violation of 8 CFR § 1003.19 and Implementing Regulations

22. Respondents lack statutory authority to detain Petitioner under 8 U.S.C. § 1225(b)(2)(A).

23. Petitioner's detention is governed by 8 U.S.C. §1226(a) as he is similarly situated to those whose detention this Court and others have repeatedly found to be governed by 8 U.S.C. §1226(a), and he is not subject to mandatory detention under 8 U.S.C. §1225. *See Villa v. Normand*, 5:25-cv-89, (S.D. Ga., Nov. 14, 2025); *Gomez-Torres v. Francis, et al.* 5:26-cv-51 (S.D. Ga., Jan. 28, 2026); *Martinez Flores v. Sterling, et al.* 5:26-cv-25 (S.D. Ga., Jan. 29, 2026); *Padilla Limas v. Normand et al.*, 5:25-cv-00252 (S.D. Ga., Jan. 23, 2025); *Zambrano Viteri v. Lyons*, 5:25-cv-00245 (S.D. Ga., Jan. 22, 2026); *Romero Bautista v. Warden, et al.*, 5:25-cv-00220 (S.D. Ga., Dec. 30, 2026); *Ortiz v. Normand et al.*, 5:25-cv-00204 (S.D. Ga., Jan. 12, 2026); *Lopez Bautista v. Normand et al.*, 5:25-cv-00203 (S.D. Ga., Dec. 30, 2025); *Alejo Nunez v. Normand et al.*, 5:25-cv-00175 (S.D. Ga., Jan. 13, 2026); *J.S.L v. Normand et al.*, 5:25-cv-00156 (S.D. Ga., Dec. 23, 2025); *Nieto Almendares v. Warden*, 5:25-cv-00155 (S.D. Ga., Dec. 9,

2025); *Simon Diyes v. Warden*, 5:25-cv-00153 (S.D. Ga., Dec. 9, 2025); *Lopez v. Warden*, 5:25-cv-00151 (S.D. Ga., Dec. 9, 2025); *Munoz Navarro v. Warden*, 5:25-cv-00155 (S.D. Ga., Dec. 9, 2025); *Patel v. Sterling*, 5:25-cv-00146 (S.D. Ga., Dec. 3, 2025); *see also Lopez Benitez v. Francis*, 795 F. Supp. 3d 475, 483-91 (S.D.N.Y. 2025); *Jimenez v. FCI Berlin*, 799 F.Supp.3d 59 (D.N.H. 2025); *Barco Mercado v. Francis*, No. 25-CV-6582 (LAK), 2025 WL 3295903, at *4, n.22 (S.D.N.Y. Nov. 26, 2025) (noting the interpretation that § 1225 requires mandatory detention of all noncitizens living in the United States was rejected in 350 cases “decided by over 160 different judges sitting in about fifty different courts spread across the United States” and collecting cases in an Appendix A).

The Petitioner is Eligible for Immediate Release from Custody of Respondents.

24. Since Petitioner is being incorrectly detained under 8 U.S.C. § 1225(b) instead of § 1226(a), he is eligible to be immediately released from custody. *See Benitez v. Francis*, Case No. 25-cv-5937, 2025 U.S. Dist. LEXIS 157214, at *24-25, *33-34, *37-39, *41, *42-45 (S.D.N.Y. Aug. 8, 2025) (ordering the petitioner who was incorrectly detained under 8 U.S.C. § 1225(b) instead of § 1226(a) be immediately released from custody rather than ordering the petitioner to have a bond hearing in front of the immigration judge).

D. In The Alternative, Petitioner is Eligible for a Bond Hearing Under 8 U.S.C. §1226(a).

25. Petitioner’s detention is governed by 8 U.S.C. § 1226(a). As a member of the *Maldonado Bautista* class, Petitioner is eligible for release on bond.

26. Petitioner is aware that Immigration Judges across the country uniformly find that they do not have jurisdiction to conduct a bond hearing under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner applied for custody redetermination on 2/4/2026, but has yet to have a hearing scheduled. Exhaustion should not be required because the Executive Office of Immigration Review's (EOIR's) interpretation of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) is well-known and public. EOIR nationwide guidance, issued by an Assistant Chief Immigration Judge, instructs all immigration judges that Maldonado Bautista is not a nationwide injunction and does not vacate, stay, or enjoin *Matter of Yajure Hurtado*, and that the BIA decision remains binding precedent notwithstanding a federal declaratory judgment. *See: Practice Alert: EOIR Issues Nationwide Guidance on Maldonado Bautista*, AILA Doc. No. 26011404 (updated Jan. 16, 2026). Petitioner can be certain that the Immigration Court will find it does not have jurisdiction.

27. Therefore, if Petitioner is not released immediately, this Court must find that he is entitled to an individualized bond hearing as soon as practicable in order for his right to a bond hearing to be upheld. *See Villa v. Normand*, 5:25-cv-89, (S.D. Ga., Nov. 14, 2025).

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.

- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- d. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment.
- e. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- f. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 16th day of February, 2026.

/s/ Matthew O. Boles

Matthew Boles, Esq.

GA: 904287

LA: 37593

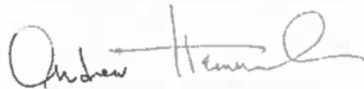
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Pro hac vice application forthcoming

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Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

Dated: February 16th, 2026

/s/ Matthew O. Boles

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