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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

LUIS MIGUEL SALAS HERNANDEZ,



Petitioner,

v.

JASON STREEVAL, WARDEN,
STEWART DETENTION CENTER

Respondent.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

1
2 **INTRODUCTION**

3 1. Petitioner, Mr. Luis Miguel Salas Hernandez is in the physical custody
4 of Respondent at the Stewart Detention Center. He now faces unlawful detention
5 because the Department of Homeland Security (DHS) and the Executive Office of
6 Immigration Review (EOIR) have concluded Petitioner is subject to mandatory
7 detention.
8

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

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

4 5. Petitioner’s detention on this basis violates the plain language of the
5 Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to
6 individuals like Petitioner who previously entered and are now residing in the United
7 States. Instead, such individuals are subject to a different statute, § 1226(a), that
8 allows for release on conditional parole or bond.
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10 6. Respondents’ new legal interpretation is plainly contrary to the
11 statutory framework, contrary to decades of agency practice applying § 1226(a), and
12 contrary to recent federal decisions—including decisions of this Court—holding that
13 § 1225(b)(2) applies only to individuals who are “seeking admission” in the context
14 of an arrival inspection by an examining immigration officer.
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16 7. Notably, Petitioner is a member of the certified class in *Lazaro*
17 *Maldonado Bautista v. Santacruz*, No. 5:25-cv-1873-SSS-BFM, 2025 WL 3288403
18 (C.D. Cal. Nov. 25, 2025), which rejected Respondents’ interpretation of §
19 1225(b)(2). Yet despite this class-wide decision, and despite this Court’s own
20 holdings, the Stewart Immigration Court continues to refuse to find jurisdiction to
21 conduct bond hearings for individuals like Petitioner—leaving habeas corpus as the
22 only available mechanism for judicial review of Petitioner’s detention.
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2 8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he
3 be released unless Respondents provide a bond hearing under § 1226(a) within seven
4 days.

5 JURISDICTION

6 9. Petitioner is in the physical custody of Respondents. Petitioner is
7 detained at the Stewart Detention Center located in Lumpkin, Georgia.

8
9 10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
10 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the
11 United States Constitution (the Suspension Clause).

12 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
13 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
14 § 1651.
15

16 VENUE

17 12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
18 484, 493- 500 (1973), venue lies in the United States District Court for the Middle
19 District of Georgia, the judicial district in which Petitioner currently is detained.

20 13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
21 because Respondent is employee, officer, and agency of the United States, and
22 because a substantial part of the events or omissions giving rise to the claims
23 occurred in the Middle District of Georgia.
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2 **REQUIREMENTS OF 28 U.S.C. § 2243**

3 14. The Court must grant the petition for writ of habeas corpus or order
4 Respondent to show cause “forthwith,” unless the petitioner is not entitled to relief.
5 28 U.S.C. § 2243. If an order to show cause is issued, Respondent must file a return
6 “within three days unless for good cause additional time, not exceeding twenty days,
7 is allowed.” *Id.*

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9 15. Habeas corpus is “perhaps the most important writ known to the
10 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases
11 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis
12 added). “The application for the writ usurps the attention and displaces the calendar
13 of the judge or justice who entertains it and receives prompt action from him within
14 the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir.
15 2000) (citation omitted).
16

17 **PARTIES**

18 16. Petitioner, Mr. Luis Miguel Salas Hernandez is native and citizen of
19 Mexico who has been in immigration detention since December 21, 2025. After
20 arresting Petitioner, ICE did not set bond and Petitioner is unable to obtain review
21 of his custody by an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*,
22 29 I. & N. Dec. 216 (BIA 2025).
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2 17. Respondent, the Warden of the Stewart Detention Center, is employed
3 by Core Civic Group. He has immediate physical custody of Petitioner. He is sued
4 in his official capacity.

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6 **LEGAL FRAMEWORK**

7 18. The Immigration and Nationality Act (“INA”) establishes several
8 detention schemes for noncitizens in removal proceedings.

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

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

18 21. Third, 8 U.S.C. § 1231 governs detention of individuals who are subject
19 to final orders of removal.
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21 22. This case turns on the proper application of § 1226(a) versus §
22 1225(b)(2) for a noncitizen like Petitioner—an individual who entered the United
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2 States years ago, resided here, and was apprehended within the interior, not at a port
3 of entry.

4 23. Historically, individuals who entered without inspection and were later
5 placed in § 1229a removal proceedings were treated as detained under § 1226, not §
6 1225. EOIR regulations following IIRIRA confirm that such individuals were not
7 considered “arriving” and therefore were eligible for bond hearings. *See* 62 Fed. Reg.
8 10312, 10323 (Mar. 6, 1997).

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10 24. For decades, consistent with this regulatory framework and prior
11 immigration law, noncitizens who entered without inspection and were apprehended
12 inside the United States received custody redeterminations unless subject to §
13 1226(c). *See* former 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229
14 (1996).

15 16 **The Government’s Recent Policy Shift**

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

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22 26. On September 5, 2025, the BIA adopted this new position in *Matter of*
23 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), holding that any noncitizen who
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2 entered without admission is subject to § 1225(b)(2)(A) and categorically barred
3 from a bond hearing.

4 **This Court Has Rejected Respondents’ Interpretation**

5 27. This Court has already rejected the government’s reading of §
6 1225(b)(2). In *J.A.M. v. Streeval*, Case No. 4:25-cv-342 (CDL), 2025 WL 3050094
7 (M.D. G.A. Nov. 1, 2025), the Court held that § 1225(b)(2) applies only to
8 noncitizens who are “seeking admission” in the context of an arrival inspection by
9 an examining immigration officer.
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11 28. The Court explained that “seeking admission” requires an affirmative
12 act at or near the time of arrival to obtain legal entry, coupled with contemporaneous
13 inspection. The Court rejected DHS’s argument that individuals apprehended years
14 after entering the United States may be treated as if they were seeking admission. *Id.*
15 at 3.
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17 29. Applying that interpretation, the Court concluded that § 1225(b)(2)
18 does not apply to individuals like Petitioner, whose alleged inadmissibility is based
19 on conduct occurring long after entry and not in connection with an arrival inspection.
20

21 **The Bautista Class Action Confirms Petitioner’s Eligibility for Bond**

22 30. Petitioner is also a member of the certified class in *Lazaro Maldonado*
23 *Bautista v. Santacruz*, No. 5:25-cv-1873-SSS-BFM, 2025 WL 3288403 (C.D. Cal.
24 Nov. 25, 2025), which likewise held that § 1225(b)(2) mandatory detention does not

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2 apply absent an arrival inspection. DHS has acknowledged in other litigation that it
3 is still “developing its decision” concerning the application of that ruling.

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

5 31. Federal courts across the country have agreed that § 1226(a)—not §
6 1225(b)—governs detention of individuals apprehended inside the United States,
7 even when they originally entered without inspection. *See, e.g., Rodriguez Vazquez*
8 *v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, 2025 WL
9 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, 2025 WL 2084238 (D.
10 Mass. July 24, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11,
11 2025); *Ramirez Clavijo v. Kaiser*, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025);
12 *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Pizarro*
13 *Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025).

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16 32. These courts uniformly conclude that Respondents’ interpretation
17 contradicts the statutory text, structure, and decades of agency practice.

18 **Stewart Immigration Court’s Continued Refusal to Exercise Jurisdiction**

19 33. Despite this Court’s binding precedent and the Bautista class decision,
20 the Stewart Immigration Court continues to decline jurisdiction over custody
21 redeterminations for noncitizens like Petitioner, based on the BIA’s erroneous
22 decision in *Matter of Yajure Hurtado*.
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2 34. Because Petitioner has no administrative avenue to challenge his
3 custody, habeas corpus is the only remedy capable of addressing the ongoing
4 violation of federal law

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6 **FACTUAL BACKGROUND**

7 35. Petitioner is a native and citizen of Mexico who entered the United
8 States in or about April 5, 2019 without inspection. He has resided continuously in
9 the United States for approximately seven (7) years and has built his entire adult life
10 in this country.

11 36. Petitioner worked as an independent contractor performing assigned
12 construction and mechanical jobs for various contractors. He was entrusted with
13 receiving specific work orders and completing projects independently from start to
14 finish. In addition to performing his own assignments, contractors frequently relied
15 on him to help secure additional workers when larger projects required extra labor,
16 reflecting the trust placed in his skills and reliability.

17 37. Although Petitioner incurred two DUI offenses, one in 2024 and
18 another in 2025, he has complied with all court-ordered requirements associated with
19 those matters, including any mandated classes, probationary terms, or other
20 conditions imposed by the state court.

21 38. In 2023, Petitioner was granted a bond in the amount of \$4,000, which
22 was duly posted, allowing him to remain at liberty while his case proceeded. His
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2 compliance with the conditions of that bond reflects his willingness to abide by court
3 directives and appear as required. Petitioner was not apprehended at or near the
4 border, was not seeking admission into the United States, and had been residing in
5 the interior of the country at the time of his most recent arrest.

6 39. Petitioner poses no flight risk and no danger to the community. His
7 thirty years of residence in the United States, provider of U.S. citizen children,
8 property in Georgia, consistent tax compliance, and lack of criminal history
9 overwhelmingly demonstrate that he is an appropriate candidate for release on bond
10 under INA § 236(a).

11
12 40. Petitioner’s continued detention violates due process because it is based
13 on an unlawful application of INA § 235 to an individual who was apprehended
14 inside the United States long after entry and who is not seeking admission. Petitioner
15 therefore falls squarely within the discretionary detention framework of INA §
16 236(a), which entitles him to an individualized bond hearing.

17
18 41. By continuing to detain Petitioner without bond while his immigration
19 case remains pending—despite his extensive equities, serious family hardship, and
20 lack of any disqualifying factors—Respondents are subjecting him to prolonged and
21 arbitrary imprisonment in violation of the Fifth Amendment’s Due Process Clause,
22 thereby necessitating habeas relief.

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2 42. Petitioner’s continued detention also violates due process because it is
3 based on an unlawful statutory interpretation already rejected by this Court and by a
4 certified nationwide class action. In *Villa v. Normand*, this Court held that 8 U.S.C.
5 § 1225(b)(2) applies only when a noncitizen is “seeking admission” in the context
6 of an arrival inspection by an examining immigration officer. Petitioner, however,
7 was apprehended inside the United States years after his entry and therefore falls
8 squarely within the detention framework of § 1226(a), which entitles him to a bond
9 hearing.
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11 43. Likewise, Petitioner is a member of the certified class in *Lazaro*
12 *Maldonado Bautista v. Santacruz*, which likewise held that § 1225(b)(2) mandatory
13 detention cannot apply absent an arrival inspection. Nevertheless, ICE continues to
14 detain Petitioner under § 1225(b)(2), and the Stewart Immigration Court refuses to
15 exercise jurisdiction to conduct a bond hearing.
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17 44. Because Petitioner is a long-term resident of the United States with
18 more than two decades of continuous presence, deep family and community ties, has
19 property interests in Georgia, and no criminal history beyond minor traffic offenses,
20 his continued and prolonged detention without any opportunity for individualized
21 custody review violates the fundamental requirements of due process and
22 underscores the urgent necessity of habeas relief.
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2 **CLAIMS FOR RELIEF**

3 **COUNT I**
4 **Violation of the INA**

5 45. Petitioner incorporates by reference the allegations of fact set forth in
6 the preceding paragraphs.

7 46. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
8 apply to all noncitizens residing in the United States who are subject to the grounds
9 of inadmissibility. As relevant here, it does not apply to those who previously
10 entered the country and have been residing in the United States prior to being
11 apprehended and placed in removal proceedings by Respondents. Such noncitizens
12 are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or
13 § 1231.
14

15 47. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
16 continued detention and violates the INA.
17

18 **COUNT II**
19 **Violation of the Bond Regulations**

20 48. Petitioner incorporates by reference the allegations of fact set forth in
21 preceding paragraphs.

22 49. In 1997, after Congress amended the INA through IIRIRA, EOIR and
23 the then-Immigration and Naturalization Service issued an interim rule to interpret
24 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and

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2 Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants
3 for admission, [noncitizens] who are present without having been admitted or
4 paroled (formerly referred to as [noncitizens] who entered without inspection) will
5 be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis
6 added). The agencies thus made clear that individuals who had entered without
7 inspection were eligible for consideration for bond and bond hearings before IJs
8 under 8 U.S.C. § 1226 and its implementing regulations.

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

12 51. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
13 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

15 **COUNT III**
16 **Violation of Due Process**

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

19 53. The government may not deprive a person of life, liberty, or property
20 without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—
21 from government custody, detention, or other forms of physical restraint—lies at the
22 heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690
23 (2001).

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2 54. Petitioner has a fundamental interest in liberty and being free from
3 official restraint.

4 55. The government's detention of Petitioner without a bond
5 redetermination hearing to determine whether he is a flight risk or danger to others
6 violates his right to due process.

7
8 **PRAYER FOR RELIEF**

9 WHEREFORE, Petitioner prays that this Court grant the following relief:

- 10 a. Assume jurisdiction over this matter;
- 11 b. Order that Petitioner shall not be transferred outside the Middle District
12 of Georgia while this habeas petition is pending;
- 13 c. Issue an Order to Show Cause ordering Respondents to show cause why
14 this Petition should not be granted within three days;
- 15 d. Issue a Writ of Habeas Corpus requiring that Respondents release
16 Petitioner or, in the alternative, provide Petitioner with a bond hearing
pursuant to 8 U.S.C. § 1226(a) within seven days;
- 17 e. Declare that Petitioner's detention is unlawful;
- 18 f. Award Petitioner attorney's fees and costs under the Equal Access to
19 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other
20 basis justified under law; and
- 21 g. Grant any other and further relief that this Court deems just and proper.

22 DATED this 19th day of February, 2026.

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Counsel for Petitioner

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3 **VERIFICATION PURSUANT TO 28 U.S.C. 2242**

4 I represent Petitioner, Mr. Luis Miguel Salas Hernandez, and submit this
5 verification on his behalf. I hereby verify that the factual statements made in the
6 foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my
7 knowledge.

8 DATED this 19th day of February, 2026.

9
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