

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

EBER VAZQUEZ HERNANDEZ,



Petitioner,

v.

JASON STREEVAL, Warden, Stewart
Immigration Detention Center

Respondent.

Case No. 4:26-cv-00326

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

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2 1. Petitioner Mr. Eber Vazquez Hernandez is in the physical custody of
3 Respondent at the Stewart 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.
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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). In *Yajure Hurtado*, the BIA determined
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that such 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. Respondent's 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 Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

8. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Stewart Detention Center located in Lumpkin, 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).

1 10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
2 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
3 § 1651.

4
5 **VENUE**

6 11. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
7 484, 493- 500 (1973), venue lies in the United States District Court for the Middle
8 District of Georgia, Columbus Division, the district where Petitioner is detained.

9 12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
10 because Respondent is an employee, officer, and agent of the United States, and
11 because a substantial part of the events or omissions giving rise to the claims
12 occurred in the Middle District of Georgia.

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14 **REQUIREMENTS OF 28 U.S.C. § 2243**

15 13. The Court must grant the petition for writ of habeas corpus or order
16 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief.
17 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return
18 “within three days unless for good cause additional time, not exceeding twenty days,
19 is allowed.” *Id.*

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21 14. Habeas corpus is “perhaps the most important writ known to the
22 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases
23 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)
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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 Mr. Eber Vazquez Hernandez is native and citizen of
8 Mexico who has been in immigration detention since January 31, 2026. After
9 arresting Petitioner, ICE did not set bond and Petitioner is unable to obtain review
10 of his custody by an Immigration Judge, pursuant to the Board’s decision in *Matter*
11 *of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

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

15 16 **LEGAL FRAMEWORK**

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

19 18. First, 8 U.S.C. § 1226 governs the detention of individuals placed in
20 standard removal proceedings under § 1229a. Noncitizens detained under § 1226(a)
21 are generally entitled to a custody redetermination before an Immigration Judge
22 unless they fall into the narrow mandatory-detention categories of § 1226(c).
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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.
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7 20. Third, 8 U.S.C. § 1231 governs detention of individuals who are subject
8 to final orders of removal.

9 21. This case turns on the proper application of § 1226(a) versus §
10 1225(b)(2) for a noncitizen like Petitioner—an individual who entered the United
11 States years ago, resided here, and was apprehended within the interior, *not* at a port
12 of entry.
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14 22. Historically, individuals who entered without inspection and were later
15 placed in § 1229a removal proceedings were treated as detained under § 1226, not §
16 1225. EOIR regulations following IIRIRA confirm that such individuals were not
17 considered “arriving” and therefore were eligible for bond hearings. *See* 62 Fed.
18 Reg. 10312, 10323 (Mar. 6, 1997).
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20 23. For decades, consistent with this regulatory framework and prior
21 immigration law, noncitizens who entered without inspection and were apprehended
22 inside the United States received custody redeterminations unless subject to §
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1 1226(c). *See* former 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229
2 (1996).

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

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

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

13 **This Court Has Rejected Respondents' Interpretation**

14 26. This Court has already rejected the government's reading of §
15 1225(b)(2). In *J.A.M. v. Streeval*, Case No. 4:25-cv-342 (CDL), 2025 WL 3050094
16 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL
17 3269947 (M.D. Ga. Nov. 24, 2025), this Court held that § 1225(b)(2) applies only
18 to noncitizens who are "seeking admission" in the context of an arrival inspection
19 by an examining immigration officer.

20 27. *J.A.M.* and *P.R.S.* explained that "seeking admission" requires an
21 affirmative act at or near the time of arrival to obtain legal entry, coupled with
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1 contemporaneous inspection. This Court rejected DHS's argument that individuals
2 apprehended years after entering the United States may be treated as if they were
3 seeking admission. *Id.* at 3.

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

9 **Courts Nationwide Have Rejected the Government's Theory**

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

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21 30. These courts uniformly conclude that Respondent's interpretation
22 contradicts the statutory text, structure, and decades of agency practice.

23 **Stewart Immigration Court's Continued Refusal to Exercise Jurisdiction**

1 31. Despite this Court's recent decisions, the Stewart Immigration Court
2 continues to decline jurisdiction over custody redeterminations for noncitizens like
3 Petitioner, based on the BIA's erroneous decision in *Matter of Yajure Hurtado*.

4 32. Because Petitioner has no administrative avenue to challenge his
5 custody, habeas corpus is the only remedy capable of addressing the ongoing
6 violation of federal law.
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8 **FACTUAL BACKGROUND**

9 33. Petitioner entered the United States in 2022 without inspection. Since
10 that time, he has established a life in the United States.

11 34. Petitioner is the primary financial support to his children.

12 35. Petitioner has no criminal history other than traffic violations for no
13 license.
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15 36. Petitioner, was transferred to DHS custody after being arrested for a
16 traffic violation of driving without a license in Tifton, Georgia.

17 37. Prior to his detention, Petitioner worked full-time as a construction
18 worker and has a history of steady employment. He is known as a hard-working
19 individual who supports her family and contributes to his community.
20

21 38. Petitioner poses no danger to the community and is not a flight risk. His
22 employment history, lack of criminal record, and consistent community involvement
23 demonstrate that he is an appropriate candidate for release under § 1226(a).
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1 39. Petitioner's continued detention also violates due process because it is
2 based on an unlawful statutory interpretation already rejected by this Court. In
3 *J.A.M. and P.R.S.*, this Court held that 8 U.S.C. § 1225(b)(2) applies only when a
4 noncitizen is "seeking admission" in the context of an arrival inspection by an
5 examining immigration officer. Petitioner, however, was apprehended inside the
6 United States years after his entry and therefore falls squarely within the detention
7 framework of § 1226(a), which entitles him to a bond hearing.

9 40. Nevertheless, ICE continues to detain Petitioner under § 1225(b)(2),
10 and the Stewart Immigration Court refuses to exercise jurisdiction to conduct a bond
11 hearing. Because Petitioner is a long-term resident with deep family ties, no criminal
12 history, his prolonged imprisonment without any opportunity for individualized
13 custody review violates the fundamental requirements of due process and reinforces
14 the necessity of habeas relief.

16 **CLAIMS FOR RELIEF**

17 **COUNT I**

18 **Violation of the INA**

19 41. Petitioner incorporates by reference the allegations of fact set forth in
20 the preceding paragraphs.

21 42. The mandatory detention provision at § 1225(b)(2) does not apply to
22 all noncitizens residing in the United States who are subject to the grounds of
23 inadmissibility. Relevant here, Section 1225(b)(2) does not apply to those who
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1 previously entered the country and have been residing in the United States prior to
2 being apprehended and placed in removal proceedings by Respondents. Such
3 noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), §
4 1226(c), or § 1231.

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6 43. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
7 continued detention and violates the INA.

8 **COUNT II**
9 **Violation of the Bond Regulations**

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

12 45. In 1997, after Congress amended the INA through IIRIRA, EOIR and
13 the then-Immigration and Naturalization Service issued an interim rule to interpret
14 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and
15 Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants
16 for admission, [noncitizens] who are present without having been admitted or
17 paroled (formerly referred to as [noncitizens] who entered without inspection) will
18 be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis
19 added). The agencies thus made clear that individuals who had entered without
20 inspection were eligible for consideration for bond and bond hearings before
21 Immigration Judges under 8 U.S.C. § 1226 and its implementing regulations.
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1 46. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy
2 and practice of applying § 1225(b)(2) to individual like Petitioner.

3 47. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
4 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
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6 **COUNT III**
7 **Violation of Due Process**

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

10 49. The government may not deprive a person of life, liberty, or property
11 without due process of law. U.S. CONST. AMEND. V. “Freedom from
12 imprisonment—from government custody, detention, or other forms of physical
13 restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*,
14 533 U.S. 678, 690 (2001).
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16 50. Petitioner has a fundamental interest in liberty and being free from
17 official restraint.

18 51. The government’s detention of Petitioner without a bond
19 redetermination hearing to determine whether he is a flight risk or danger to others
20 violates his right to due process.
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22 **PRAYER FOR RELIEF**

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

24 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 26th day of February, 2026.

/s/ Matthew K. Winchester

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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I represent Petitioner, Mr. Eber Vazquez Hernandez, 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 26th day of February, 2026.

/s/ Uriel N. Delgado

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