

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA

JOSEFER GERARDO MENDOZA,

Petitioner,

v.

LADEON FRANCIS, Field Office  
Director of Enforcement and Removal  
Operations, Atlanta Field Office,  
TODD LYONS, in his official capacity  
as Acting director of Immigration and  
Customs Enforcement;  
KRISTI NOEM, Secretary, U.S.  
Department of Homeland Security; U.S.  
DEPARTMENT OF HOMELAND  
SECURITY;  
PAMELA BONDI, U.S. Attorney  
General; EXECUTIVE OFFICE FOR  
IMMIGRATION REVIEW;  
JASON STREEVAL, Warden of  
STEWART DETENTION CENTER,

Respondents.

Case No. 26-cv-330

**PETITION FOR WRIT OF  
HABEAS CORPUS**

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## INTRODUCTION

1. Petitioner JOSEFER GERARDO MENDOZA is in the physical custody of Respondents at the STEWART DETENTION CENTER. He now faces unlawful detention because the Department of Homeland Security (DHS), in direct collaboration with the adjudicative body with jurisdiction over immigrants (the Executive Office of Immigration Review) (EOIR) have concluded Petitioner is subject to mandatory detention.

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

3. Based on these allegations in Petitioner's removal proceedings consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. On September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined 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

1 or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible  
2 for having entered the United States without inspection.

3 6. Respondents' new legal interpretation is plainly contrary to the statutory  
4 framework and contrary to decades of agency practice applying § 1226(a) to people like  
5 Petitioner.

6 7. Further, Petitioner was designated an Unaccompanied Child ("UAC") when he  
7 entered the United States on March 12, 2021, at fifteen years old. As such the Trafficking Victims  
8 Protection Reauthorization Act ("TVPRA") controls the detention of UACs and does not mandate  
9 detention. This is true for persons like the Petitioner, who *age out*, and are still afforded certain  
10 protections upon their transfer to ICE custody. *Garcia Ramierz v. U.S. Immigration and Customs*  
11 *Enforcement*, -- F. Supp. 3d --, No. 18-508 (RC) 2025 WL 3563183, at \* 2 (D.D.C. Dec. 12, 2025.)  
12 Those protections require all persons who have *aged out* to be considered for placement in the  
13 least restrictive setting. *Lopez v. Sessions*, No. 18 Civ. 4189 (RWS), 2018 WL 2932726, at \*9–10  
14 (S.D.N.Y. June 12, 2018) (holding that individuals who age out while on physical release but in  
15 legal custody of HHS are entitled to TVPRA protections); *F.S.S.M. v. Wofford*, No. 1:25-cv-  
16 01518-TLN-AC, Slip Op., 2025, WL 3526671, at \*4–5 (E.D. Cal. Dec. 9, 2025) (holding that the  
17 petitioner who aged out was subject to the TVPRA, not § 1225(b)(2)).

18 8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released  
19 from ICE custody.

### 20 JURISDICTION

21 9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the  
22 STEWART DETENTION CENTER in Lumpkin, Georgia.

23 10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. §

1 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the  
2 Suspension Clause).

3 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act,  
4 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

### 5 VENUE

6 12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500  
7 (1973), venue lies in the United States District Court for the MIDDLE DISTRICT OF  
8 GEORGIA, the judicial district in which Petitioner currently is detained.

9 13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because  
10 Respondents are employees, officers, and agencies of the United States, and because a  
11 substantial part of the events or omissions giving rise to the claims occurred in the MIDDLE  
12 DISTRICT OF GEORGIA.

### 13 REQUIREMENTS OF 28 U.S.C. § 2243

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

18 15. Habeas corpus is “perhaps the most important writ known to the constitutional law . . .  
19 affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.”  
20 *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the  
21 attention and displaces the calendar of the judge or justice who entertains it and receives prompt  
22 action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120  
23 (9th Cir. 2000) (citation omitted).

**PARTIES**

1  
2 16. Petitioner JOSEFER GERARDO MENDOZA is a citizen of Honduras who has been in  
3 immigration detention since December 27, 2025. After arresting Petitioner he was transferred to  
4 the Stewart Detention Center, ICE did not set bond and Petitioner is unable to obtain review of his  
5 custody by an IJ, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec.  
6 216 (BIA 2025). Due to this erroneous decision, it would be futile for Petitioner to apply to EOIR  
7 without the intervention of this honorable Court.

8 17. Respondent LADEON FRANCIS is the Director of the Atlanta Field Office of ICE's  
9 Enforcement and Removal Operations division; however, on information and belief, the DHS is  
10 rotating their Field Office Director without publishing a schedule of rotation. As such, LADEON  
11 FRANCIS or his unknown, unannounced provisional replacement is Petitioner's immediate  
12 custodian and is responsible for Petitioner's detention and removal. He or his acting counterpart is  
13 named in his or her official capacity. Respondent Francis's address is 180 Ted Turner Dr Se, Ste  
14 522. Atlanta GA 30303.

15 18. Respondent Todd Lyons is named in his official capacity as the Acting Director of the  
16 Immigration and Customs Enforcement ("ICE"). As the senior Official Performing the duties of  
17 the Director of ICE, he is responsible for the administration and enforcement of the immigration  
18 laws of the United States; routinely transacts business in the Southern District of Georgia; is legally  
19 responsible for any effort to detain Petitioner; and as such is a custodian of the Petitioner. His  
20 address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900,  
21 Washington DC 20536-5900.

22 19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is

1 responsible for the implementation and enforcement of the Immigration and Nationality Act  
2 (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate  
3 custodial authority over Petitioner and is sued in her official capacity. Respondent Noem's address  
4 is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther  
5 King Jr Ave Se Washington DC 20528-0525.

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

8 21. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible  
9 for the Department of Justice, of which the Executive Office for Immigration Review and the  
10 immigration court system it operates is a component agency. She is sued in her official capacity.  
11 Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW,  
12 Washington, DC 20530-0001.

13 22. Respondent Executive Office for Immigration Review (EOIR) is the federal agency  
14 responsible for implementing and enforcing the INA in removal proceedings, including for custody  
15 redeterminations in bond hearings.

16 23. Respondent, Warden Jason Streeval, is employed by the private, for-profit detention  
17 corporation contracted by the Government as an agent to confine immigrants at Stewart Detention  
18 Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued  
19 in his official capacity. Respondent Warden's address is Warden, Stewart Detention Center, 1116 S  
20 Washington Ave, Lumpkin, GA 39862.

21 **STATEMENT OF FACTS**

22 24. Petitioner Josefer Gerardo Mendoza ("Mr. Mendoza") is a nine-teen year-old citizen from  
23 Honduras.

1 25. Mr. Mendoza entered the United States on March 12, 2021, when he was fifteen years old  
2 and was designated an unaccompanied minor child upon his entry into the United States.

3 26. He was released to the custody of his maternal grandmother, Elsa Rapato Mendoza De  
4 Gutierrez.

5 27. In November of 2024, Mr. Mendoza filed form I-589 Application for Asylum and  
6 Withholding of Removal with the United States Citizenship and Immigration Services (“USCIS”).

7 28. This petition remains pending.

8 29. On December 24, 2025, Petitioner was arrested for driving under the influence. This case  
9 remains pending. He was subsequently taken into ICE custody where he remains detained.

10 30. As Mr. Mendoza’s immigration detention was unlawful from the outset he now seeks  
11 immediate release from custody.

12  
13 **LEGAL FRAMEWORK**

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15 31. Three key laws and agreements govern the federal government's treatment and custody of  
16 unaccompanied immigrant children: the 1997 Flores Settlement Agreement; the Homeland  
17 Security Act of 2002; and the Trafficking Victims Protection Reauthorization Act.

18 32. The Flores Settlement Agreement arose from a lawsuit filed by a group of immigrant  
19 children challenging their detention and seeking to be released to family members and/or sponsors  
20 within the United States. *See Flores v. Sessions*, 862 F.3d 863, 869 (9th Cir. 2017) (discussing the  
21 history of the Flores litigation); *see also Flores v. Sessions*, Case No. CV 85-4544-DMG (C.D.  
22 Cal., July 9, 2018) (affirming the terms of the Flores Settlement Agreement). In 1997, the plaintiff  
23 children entered into a consent decree with the federal government that created a nationwide policy  
24 governing the custody and release of immigrant children by immigration authorities and applies to

1 this case. *Flores v. Reno*, No. CV 85-4544, Settlement Agreement ("Flores Settlement  
2 Agreement"), Among other things, the Agreement requires: (a) release without unnecessary delay,  
3 (b) release to an adult caregiver, with parents, legal guardians, and other family members given  
4 priority, and (c) placement in the "least restrictive setting" appropriate to the minor's needs. *Flores*  
5 *Settlement Agreement*, at 11 and 14.

6 33. At the time of the Flores Settlement Agreement, a single agency – the Immigration  
7 and Naturalization Service (INS) – administered the custody, detention, and deportation of  
8 immigrant children. In 2002, Congress passed the Homeland Security Act (HSA), which abolished  
9 the INS, created a new Department of Homeland Security, and transferred all functions related to  
10 the care and custody of unaccompanied immigrant children to ORR, a sub-department of the  
11 Department of Health and Human Services. *See* Pub. L. 107-296, 116 Stat. 2153 (Nov. 25, 2002).  
12 Section 462 of the HSA extended the key terms of the Flores Settlement Agreement to all  
13 unaccompanied immigrant children, including the requirement that ORR place such children in  
14 the least restrictive setting. *Id.*

15 34. In 2008, Congress further strengthened protections for unaccompanied children  
16 through the Trafficking Victims Protection Reauthorization Act ("TVPRA"). *See* Pub. L. 110-  
17 457, 122 Stat. 5044 (Dec. 23, 2008). The TVPRA requires federal officials to screen these  
18 unaccompanied children for certain vulnerabilities, including whether they are victims of  
19 trafficking and whether they fear persecution in their home countries. *See* 8 U.S.C. § 1232(a)(4).  
20 The TVPRA also enacted procedures for ensuring "safe and secure placements" for these children.  
21 *See* 8 U.S.C. § 1232(c)(1). Like the Flores Settlement Agreement, the TVPRA mandates that an  
22 unaccompanied child "shall be promptly placed in the least restrictive setting that is in the best  
23 interest of the child." 8 U.S.C. § 1232(c)(2)(A).

1           35. In 2013, Congress enacted a statutory provision to address the placement of  
2 unaccompanied immigrant children, like Petitioner, who have turned 18 and been transferred out  
3 of ORR and into ICE custody. *See* Violence Against Women Act in 2013, Pub. L. 113-4, 127 Stat.  
4 156, (codified at 8 U.S.C. § 1232(c)(2)(B) (March 7, 2013). That provision, which was codified  
5 as Section 1232(c)(2)(B), requires that ICE "shall consider placement" of such 18-year-olds "in  
6 the least restrictive setting available after taking into account the alien's danger to self, danger to  
7 the community, and risk of flight." *Id.* (emphasis added).

8           36. Section 1232(c)(2)(B) further requires that such children "shall be eligible to  
9 participate in alternative to detention programs, utilizing a continuum of alternatives based on the  
10 alien's need for supervision, which may include placement . . . with an individual or an  
11 organizational sponsor, or in a supervised group home." *Id.*

12           37. When Congress amended Section 1232, it chose to extend the foregoing protections  
13 afforded by the TVPRA to unaccompanied children to those immigrant children who turn 18 and  
14 are transferred into ICE's custody. *See* Pub. L. 113- 4, § 1261. The 2013 Amendment to the  
15 TVPRA is an expression of Congressional intent to continue the protection of vulnerable young  
16 people past the age of 18.

17           38. But, unlike ORR that has multiple non-detention options for placing a child, ICE  
18 maintains, and places all immigrant children who turn 18 into only one type of placement—adult  
19 detention. In doing so, ICE does not comply with any of the requirements of Section 1232(c)(2)(B).  
20 It does not make a determination as to, or place 18-year-olds in, "the least restrictive setting  
21 available after taking into account the alien's danger to self, danger to the community, and risk of  
22 flight." *Id.* Nor does it make available to such immigrants "alternative to detention programs,

1 utilizing a continuum of alternatives" that include placement "with an individual or an  
2 organizational sponsor, or in a supervised group home." *Id.*

3 39. Petitioner clearly fits in the statutorily defined group of immigrant children turned-  
4 adults to whom Congress granted additional procedural safeguards in 8 U.S.C. § 1232(c)(2)(B).

5 **Respondents Have Violated Their Legal Duty**  
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7 40. As a member of the statutorily defined group of immigrant children turned adult,  
8 Petitioner, is particularly vulnerable, and his due process rights have been violated by not affording  
9 him the "least restrictive setting" after taking into account "the danger he posed to himself, to the  
10 community, and risk of flight." 8 U.S.C. § 1232(c)(2)(B). Such determination should have been  
11 made prior to his transfer to an adult detention facility. His prolonged detention is inflicting  
12 devastating trauma at a tender age. This grievous harm caused by Petitioner's prolonged detention  
13 at the hands of the government is ongoing, as are the violations of Petitioner's constitutional,  
14 statutory, and other legal rights.

15 41. ICE's ongoing and prolonged detention of Petitioner bears no reasonable relation  
16 to any government purpose. Petitioner has committed no crime disqualifying him from relief nor  
17 warranting ignoring current precedent that mandates placement "in the least restrictive setting  
18 available after taking into account the alien's danger to self, danger to the community, and risk of  
19 flight." 8 U.S.C. § 1232(c)(2)(B).

20 42. Petitioner is enduring unlawful and prolonged detention and should be promptly  
21 released from custody.  
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1 ***CLAIMS FOR RELIEF***

2 **FIRST CLAIM FOR RELIEF**  
3 **HABEAS CORPUS**

4 43. As set forth above, Respondents are holding Petitioner in federal custody, in  
5 violation of the Flores Settlement Agreement, federal statutes, and the U.S. Constitution.

6 44. Accordingly, Petitioner seeks a writ of habeas corpus compelling Respondents to  
7 release him from custody

8 **SECOND CLAIM FOR RELIEF**  
9 **VIOLATION OF FIFTH AMENDMENT RIGHT TO SUBSTANTIVE DUE PROCESS**

10 45. Petitioner repeats, re-alleges, and incorporates by reference each and every  
11 allegation in the preceding paragraphs as if dully set forth herein.

12 46. The substantive component of the Due Process Clause of the Fifth Amendment to  
13 the United States Constitution protects Petitioner's liberty interests. Petitioner has a substantive  
14 liberty interest and is suffering grave harm due to his prolonged, unjustified and unlawful  
15 detention.

16 47. Respondents' policies and actions, as set forth above, have infringed upon  
17 Petitioner's substantive liberty interest in being free from confinement. These policies and actions  
18 have caused a period of prolonged confinement in detention facilities without any government  
19 need, resulting in grave harm to an adolescent.

20 **THIRD CLAIM FOR RELIEF**  
21 **VIOLATION OF FIFTH AMENDMENT RIGHT TO PROCEDURAL DUE PROCESS**  
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23 48. Petitioner repeats, re-alleges, and incorporates by reference each and every  
24 allegation in the preceding paragraphs as if dully set forth herein.

1 49. The procedural component of the Due Process Clause of the Fifth Amendment to  
2 the United States Constitution prevents the United States from depriving Petitioner of liberty  
3 without procedural protections.

4 50. Respondents' policies and actions, as set forth above, have deprived Petitioner of  
5 freedom from confinement without providing notice, a right to counsel, an opportunity to  
6 respond including an opportunity to present and confront evidence, a neutral decision-maker, a  
7 written decision, and a right of appeal.

8 **FOURTH CLAIM FOR RELIEF**  
9 **VIOLATION OF SECTION 235 OF THE TRAFFICKING VICTIMS PROTECTION**  
10 **REAUTHORIZATION ACT, 8 U.S.C. § 1232**  
11

12 51. Petitioner repeats, re-alleges, and incorporates by reference each and every  
13 allegation in the preceding paragraphs as if dully set forth herein.

14 52. Respondents have a non-discretionary duty to promptly place Petitioner in the  
15 least restrictive setting that is in his best interests under the TVPRA. 8 U.S.C. § 1232(c)(2)(A).

16 53. Respondents have failed to act promptly.

17 54. Respondents have arbitrarily and unlawfully failed to place Petitioner in the least  
18 restrictive setting that is in his best interests.

19 **PRAYER FOR RELIEF**

20 Petitioner prays that the Court assume jurisdiction over this Petition and Complaint and  
21 grant the following relief:

22 I. Issue a Writ of Habeas Corpus compelling Respondents to release Petitioner.

23 II. A declaration that Respondents have violated Petitioner's constitutional and  
24 statutory rights.

1 III. An award of attorney's fees and costs to the extent permitted by law,  
2 including but not limited to the Equal Access to Justice Act, 5 U.S.C. § 504,  
3 28 U.S.C. § 2412; and

4 IV. Any other relief the Court deems just and proper.  
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9 DATED this 26th of February 2026.

10 /s/ Peter Tadeo, Esq.  
11 Peter Tadeo, Esq.  
12 Georgia Bar No. 505253  
13 Tadeo and Silva Law  
14 P.O. Box 921249  
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2 **28 U.S.C. § 2242 VERIFICATION STATEMENT**  
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4 I am submitting this verification on behalf of the Petitioner because I am the Petitioner's  
5 attorney. I have discussed with Petitioner's family members and have reviewed various documents  
6 for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing  
7 Petition and that the facts and statements made in this Petition and Complaint are true and correct  
8 to the best of my knowledge or belief pursuant to 28 USC § 2242.

9  
10 DATED this 26th of February 2026.

11 /s/ Peter Tadeo, Esq.  
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