

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA

MEILIN LIZETH SOTO JIMENEZ,

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. 4:26-cv-333

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner MEILIN LIZETH SOTO JIMENEZ is in the physical custody of Respondents at the STEWART DETENTION CENTER. She 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 this allegation 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

1 conditional parole or bond. That statute expressly applies to people who, like Petitioner,
2 are charged as inadmissible 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. More importantly, the Government itself has made an abrupt about-face on
7 this issue. Respondents should be judicially estopped from asserting their current
8 interpretation of 8 U.S.C. § 1225(b)(2)(A), because they previously prevailed in litigation
9 after asserting the opposite interpretation. As explained in *New Hampshire v. Maine*, 532
10 U.S. 742 (2001), judicial estoppel applies when a party assumes a position in a legal
11 proceeding, succeeds in maintaining that position, and then adopts a contrary position in a
12 subsequent proceeding to gain an unfair advantage. Here, Respondents previously, and
13 successfully, argued that individuals who entered the United States without inspection were
14 subject to detention under § 1226(a), and not § 1225(b)(2)(A), and courts accepted that
15 position. Respondents now reverse course and assert that such individuals are subject to
16 mandatory detention under § 1225(b)(2)(A), thereby denying them bond hearings. This
17 shift in legal position undermines the integrity of the judicial process and imposes an unfair
18 detriment on Petitioners who relied on the prior interpretation. Accordingly, Respondents
19 should be estopped from asserting this inconsistent position.

20 8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released
21 unless Respondents provide a bond hearing under § 1226(a) within seven days.
22
23

JURISDICTION

9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the STEWART DETENTION CENTER in Folkston, GEORGIA.

10. 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).

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

VENUE

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

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

REQUIREMENTS OF 28 U.S.C. § 2243

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

15. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or

1 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application
2 for the writ usurps the attention and displaces the calendar of the judge or justice who
3 entertains it and receives prompt action from him within the four corners of the
4 application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

5 **PARTIES**

6 16. Petitioner MEILIN LIZETH SOTO JIMENEZ is a citizen of Honduras who has been in
7 immigration detention since the 4th of February 2026. Petitioner was arrested following a
8 traffic violation and transferred to the Stewart Detention Center, ICE did not set bond, and
9 Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board’s
10 decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Due to this
11 erroneous decision, it would be futile for Petitioner to apply to EOIR without the
12 intervention of this honorable Court.

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

20 18. Respondent Todd Lyons is named in his official capacity as the Acting Director of the
21 Immigration and Customs Enforcement (“ICE”). As the senior Official Performing the
22 duties of the Director of ICE, he is responsible for the administration and enforcement of
23 the immigration laws of the United States; routinely transacts business in the Southern

1 District of Georgia; is legally responsible for any effort to detain Petitioner; and as such is
2 a custodian of the Petitioner. His address is ICE, Office of the Principal Legal Advisor,
3 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.

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

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

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

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

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

LEGAL FRAMEWORK

24. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

25. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

26. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

27. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

28. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

29. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

30. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and

1 Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal
2 Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

3 31. Thus, in the decades that followed, most people who entered without inspection and were
4 placed in standard removal proceedings received bond hearings, unless their criminal
5 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was
6 consistent with many more decades of prior practice, in which noncitizens who were not
7 deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer.
8 See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting
9 that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

10 32. In *Jennings v. Rodriguez*, the Department of Homeland Security (DHS) explicitly
11 acknowledged that individuals who have already entered the United States and are not
12 apprehended within 100 miles of the border or within 14 days of entry are subject to
13 discretionary detention under 8 U.S.C. § 1226(a), not mandatory detention under §
14 1225(b). During oral argument on November 30, 2016, then-Solicitor General Ian
15 Gershengorn stated: “If they are not detained within 100 miles of the border or within 14
16 days... then they are under 1226(a) and not 1226(c)” and further clarified, in response to
17 a question concerning “an alien who has come into the United States illegally without
18 being admitted [and] who takes up residence 50 miles from the border,” the Government
19 responded, “The answer is they are held under 1226(a) and that they get a bond
20 hearing...” Transcript of Oral Argument at 7–8, *Jennings v. Rodriguez*, 583 U.S. ____
21 (2018) (No. 15-1204). DHS reiterated that such individuals “would be held under
22 1226(a)” and cited the administrative record to support that position. *Id.* These statements
23 reflect DHS’s prior litigation stance that § 1226(a) governs detention for noncitizens who

1 have entered and are residing in the United States, a position directly contrary to the
2 agency's current interpretation applying § 1225(b)(2)(A) to such individuals. Having
3 prevailed in *Jennings* after taking this position, they should be estopped from taking the
4 contrary position now simply because their political or litigation interests have changed.
5 Estoppel in this case is necessary to preserve the predictability inherent in the rule of law
6 and due process under the Fifth Amendment, as well as to protect the integrity of the
7 judicial system.

8 33. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected
9 well-established understanding of the statutory framework and reversed decades of
10 practice.

11 34. The new policy, entitled "Interim Guidance Regarding Detention Authority for
12 Applicants for Admission,"¹ claims that all persons who entered the United States
13 without inspection shall now be subject to mandatory detention provision under §
14 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects
15 those who have resided in the United States for months, years, and even decades.

16 35. On September 5, 2025, the BIA adopted this same position in a published decision,
17 *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
18 United States without admission or parole are subject to detention under § 1225(b)(2)(A)
19 and are ineligible for IJ bond hearings.

20 36. Since Respondents adopted their new policies, several federal courts have rejected their
21 new interpretation of the INA's detention authorities. Courts have likewise rejected
22 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 37. This Court has held in similar cases that petitioners present in the United States at the time
2 of their detention, who have not been lawfully admitted and are not attempting to be
3 lawfully admitted, like the Petitioner, are subject to detention under INA § 1226(a). *J.A.M.*
4 *v. Streeval*, No. 4:25-CV342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025).

5 38. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to
6 people like Petitioner, who were encountered at the border and released after a quasi-
7 judicial determination by an immigration official designating the Respondent an
8 Unaccompanied Minor. The Government's own designation of the Petitioner and releasing
9 her from ORR custody pursuant to 8 U.S.C. § 1226(a) reflects a discretionary, fact-based
10 determination that Petitioner was not subject to mandatory detention under §
11 1225(b)(2)(A). This quasi-judicial decision was made by DHS at the outset of proceedings,
12 based on the facts available to both parties and Petitioner's own admissions.

13 39. A growing number of federal courts have rejected ICE and EOIR's expanded interpretation
14 of the Immigration and Nationality Act's detention provisions, specifically in reference to
15 Unaccompanied Minors, like the Petitioner. These courts have consistently held that
16 Noncitizens previously released as Unaccompanied Minors and detained by ICE years later
17 were detained pursuant to § 1226(a), not § 1225(b)(2). Thus § 1226(a) governs the
18 detention authority applicable in these cases. For example, such courts in Florida,
19 Massachusetts, New Jersey, Virginia, Tennessee, and Maine have reached this conclusion.
20 *See Aguilar Merino v. Ripa*, No. 25-23845, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025);
21 *Oliviera Gomez v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *5–7 (D. Mass. July 7,
22 2025); *Doe v. Moniz*, No. 1:25-CV-12094-IT, 2025 WL 2576819, at *5 (D. Mass. Sept. 5,
23 2025); *Inlago Tocagon v. Moniz*, No. 25-CV-12453-MJJ, 2025 WL 2778023, at *4 (D.

1 *Mass. Sept. 29, 2025*); *Lopez Sarmiento v. Perry*, No. 25-CV-01644, 2025 WL 3091140
2 (*E.D. Va. Nov. 5, 2025*); *Patel v. Almodovar*, No. 25-15345, 2025 WL 3012323 (*D.N.J. Oct.*
3 *28, 2025*); *Godinez-Lopez v. Ladwig*, No. 25-CV-02962-SHL-ATC, 2025 WL 3047889
4 (*W.D. Tenn. Oct. 31, 2025*); *Maldonado v. Olson*, No. 25-CV-3142 (SRN/SGE), 2025 WL
5 2374411, at *12 (*D. Minn. Aug. 15, 2025*); *Aguilar Guerra v. Joyce*, No. 25-cv-00534-
6 SDN, 2025 WL 2999042 (*D. Me. Oct. 24, 2025*).

7 40. These decisions reflect a clear judicial consensus that the government's reliance on §
8 1225(b)(2) is misplaced in cases involving those whose immigration status lawfully falls
9 under § 1226(a).

10 41. Once released, Due Process requires that a person like the Petitioner receives a hearing
11 before a neutral decisionmaker to determine whether any re-detention is justified, and
12 whether the person is a flight risk or danger to the community.

13 14 **FACTS**

15 42. Mrs. Meilin Lizeth Soto Jimenez ("Ms. Soto") is a twenty-three-year-old citizen and
16 national of Honduras.

17 43. Ms. Soto fled Honduras seeking asylum and related protections from persecution in the
18 United States.

19 44. On or about April 22, 2019, Ms. Soto entered the United States at the age of 15 and was
20 designated an Unaccompanied Minor. *See Exhibit 1.*

21 45. On or around July 13, 2019, Ms. Soto was released to the custody of her Aunt in South
22 Carolina.

1 46. Following her release on July 13, 2019, Ms. Soto filed form I-589, Application for
2 Asylum and Withholding of Removal. This application remains pending.

3 47. Additionally, Ms. Soto has applied for and maintained lawful work authorization.

4 48. Ms. Soto's detention has inflicted profound harm on her mental health and physical strain
5 on her physical body.

6 49. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
7 Petitioner's bond request, and her unlawful detention cannot be litigated before that body,
8 who collaborated with the DHS – who is a party to these contested proceedings – to adopt
9 the DHS position wholesale, because such efforts would be futile.

10 50. As a result, Petitioner remains in detention. Without relief from this court, she faces the
11 prospect of months, or even years, in immigration custody, separated from her family and
12 community while her relief remains pending.

13 **CLAIMS FOR RELIEF**
14 **COUNT I**

15 **Violation of the INA**

16 51. Petitioner incorporates by reference the allegations of fact set forth in the preceding
17 paragraphs.
18

19 52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
20 noncitizens residing in the United States who are subject to the grounds of
21 inadmissibility.
22

23 53. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued
24 detention and violates the INA.
25
26

COUNT II
Violation of the Bond Regulations

54. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

55. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

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

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

COUNT III
Violation of Due Process

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

59. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody,

1 detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause
2 protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

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

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

6 **Judicial Estoppel**

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

9 63. The Government is judicially estopped from asserting that Petitioner is subject to
10 mandatory detention under 8 U.S.C. § 1225(b)(2)(A). In prior litigation,
11 including *Jennings v. Rodriguez*, the Government successfully argued that individuals who
12 entered without inspection and were not apprehended near the border or within 14 days
13 were subject to discretionary detention under § 1226(a), not mandatory detention under §
14 1225(b)(2)(A). See *Jennings v. Rodriguez*, No. 15-1204, Tr. of Oral Arg. at 7–8 (Nov. 30,
15 2016). Courts accepted that position. Now, the Government reverses course and asserts the
16 opposite interpretation to deny bond hearings. Under *New Hampshire v. Maine*, 532 U.S.
17 742 (2001), judicial estoppel applies where a party assumes a position, prevails, and then
18 adopts a contrary position to gain an unfair advantage. The Government’s reversal
19 undermines the integrity of the judicial process and prejudices Petitioners who relied on
20 the prior interpretation.

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 Middle 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 27th of February 2026.

/s/ Peter Tadeo, Esq.
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Attorney for Petitioner

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. On the basis of 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.

DATED this 27th of February 2026.

/s/ Peter Tadeo, Esq.
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