

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

ROSALIA RODRIGUEZ GUTIERREZ,

A# 

Petitioner,

v.

JASON STREEVAL, Warden of Stewart
Detention Center,

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; and

PAMELA BONDI, U.S. Attorney General.

Respondents.

Civile Action No.:

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. Petitioner ROSALIA RODRIGUEZ GUTIERREZ (“Petitioner”) brings this petition for a writ of habeas corpus. SHE is a non-citizen who has been residing in the United States since 2005. She entered the United States undetected in 2005 and has resided continuously within the borders of the United States since then. Petitioner was apprehended by immigration officials in the interior on or about March 20, 2026 and removal proceedings were initiated.

(Exhibit A, Notice to Appear) Petitioner has not engaged in any disqualifying criminal activity.

2. Under the Immigration and Nationality Act (“INA”), individuals arrested in the interior and placed in § 240 removal proceedings are detained, if at all, under 8 U.S.C. § 1226(a), with a right to a custody redetermination by an Immigration Judge (“IJ”).

3. DHS and the BIA assert that because Petitioner was never formally admitted, he is an “applicant for admission” subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and ineligible for bond. That position contravenes the statute, the implementing regulations, decades of pattern & practice, and a judge of this Court rejected the same theory recently in ordering a § 1226(a) bond hearing for another Folkston detainee. *J.A.M. v. Streeval et al*, No. 4:25-cv-342 (M.D. Ga. Nov. 1, 2025).

4. Courts have also rejected the Government’s position on a class-wide basis as well. In *Maldonado Bautista v. Santacruz*, the Central District of California granted partial summary judgment declaring that 8 U.S.C. § 1226(a)—not § 1225(b)(2)—governs detention for long-present interior arrestees placed directly into § 240 proceedings, and days later certified a nationwide Bond-Eligible Class and ordered access to § 236(a) bond hearings for class members. *See Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (partial summary judgment); *id.* (Nov. 25, 2025) (class certification and injunctive

relief). Despite the federal court order, DHS counsel and immigration judges at Stewart Immigration Court continue to follow *Yajure*.

5. Petitioner seeks a writ of habeas corpus directing Respondents to provide Petitioner a prompt, individualized bond hearing before a neutral adjudicator under § 1226(a) (within 7 days), at which the Government bears the burden to show by clear and convincing evidence that he is a danger or flight risk, or, in the alternative, an order for his immediate release under reasonable conditions. He also seeks an order prohibiting transfer outside this District during the pendency of these proceedings.

II. JURISDICTION

6. 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).

7. 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.

III. VENUE

8. Pursuant to *Braden v. 9th 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. **(Exhibit B, ICE Detainee Locator)**

9. 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.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved by this Court in *J.A.M. v. Streeval et al*, No. 4:25-cv-342 (M.D. Ga. Nov. 1, 2025).

11. The Central District of California in *Maldonado Bautista v. Santacruz* has additionally issued a nationwide class certification declaring that class members, including Petitioner, are for all eligible class-members, including Petitioner, are eligible to have an individualized bond hearing. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20 & 25, 2025).

12. On February 18, 2026, District Court Judge Sunshine Suzanne Sykes of the Central District of California granted Plaintiffs' motion to enforce in *Maldonado Bautista v. Santacruz* and issued an order vacating the Board's decision in *Matter of Yajure Hurtado*.

13. From February 18, 2026 to March 6, 2026, immigration judges conducted bond hearings for *Maldonado Bautista* class members.

14. On March 6, 2026, the government appealed the February 18, 2026 order on the *Maldonado Bautista* Plaintiff's motion to enforce and filed a motion for an emergency stay of the February 18, 2026 order. The Ninth Circuit Court of Appeals granted the government's temporary stay. It was reported that immigration judges stopped hearing immigration bonds for *Maldonado Bautista* class members on March 6, 2026. (**Exhibit C, Ninth Circuit Temporary Stay dated 3/6/2026**)

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 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and

receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

V. PARTIES

16. Petitioner ROSALIA RODRIGUEZ GUTIERREZ is a citizen of Mexico who entered the United States undetected in 2005 and was arrested in the interior on or about March 20, 2026. Respondent has been detained at the Stewart Detention Center since March 20, 2026. After Petitioner was arrested, ICE did not set bond. To date, Petitioner, remains detained at the Stewart Detention Center.

17. Respondent JASON STREEVAL is employed by The GEO Group, Inc. as Warden of the Stewart Detention Center, where Petitioner is detained. Respondent JASON STREEVAL has immediate physical custody of Petitioner. Respondent JASON STREEVAL is sued in his official capacity.

18. Respondent Ladeon Francis is the Director of the Atlanta Field Office of ICE’s Enforcement and Removal Operations division. As such, Ladeon Francis is Petitioner’s immediate custodian and is responsible for Petitioner’s detention and removal. He is named in his official capacity.

19. 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.

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

21. 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.

22. 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.

VI. EXHAUSTION AND FUTILITY

23. No statute imposes an exhaustion requirement for habeas petitions under 28 U.S.C. § 2241 in this context. Any prudential exhaustion is excused because Immigration Judges are bound by *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and have been declining bond jurisdiction for entrants without inspection, rendering any motion futile.

24. On January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that: “*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*.” (**Exhibit D, January 13, 2026 Email from Chief Immigration Judge Teresa Riley**). In the January 13, 2026 email, Immigration judges are instructed to follow the BIA’s decision in *Matter of Yajure Hurtado* as binding precedent. Accordingly, guidance from the Chief Immigration Judge states that the *Maldonado Bautista v. Santacruz* “declaratory judgment” is not binding and does not have the authority to compel specific action.

25. The question presented is purely legal and urgent, and Petitioner faces ongoing deprivation of physical liberty absent judicial intervention. It is Petitioner’s position that *Maldonado Bautista v. Santacruz* is binding and that futility is further underscored. No. 5:25-cv-

01873-SSS-BFM (C.D. Cal. Nov. 20 & 25, 2025). *Maldonado Bautista v. Santacruz* has already required § 236(a) bond access for similarly situated interior arrestees nationwide, reinforcing that the Government's § 1225(b)(2) position is unlawful and is currently being ignored by DHS counsel and immigration judges. *Id.*

VII. STATEMENT O FACTS

26. Petitioner is a Mexican national born on [REDACTED], 1984. Petitioner entered the United States undetected on or about 2005 and has resided continuously in the interior of the United States since 2005.

27. Petitioner is mother to two young U.S. Citizen child. Without Petitioner, the U.S. Citizen children remain in an untenable position.

28. Prior to Petitioner's detention, Petitioner resided in Senola, Georgia, and has had stable employment.

29. Petitioner has no disqualifying criminal convictions and is not a danger to the community. Specifically, Petitioner has no criminal convictions.

30. On or about March 20, 2026, DHS placed petitioner in removal proceedings under 8 U.S.C. § 1228 (INA § 240) by filing a Notice to Appear (NTA) charging Petitioner as removable under 8 U.S.C. § 1182(a)(6)(A)(i) (INA § 212(a)(6)(A)(i)) and under 8 U.S.C. § 1182(a)(7)(A)(i) (INA § 212(a)(7)(A)(i)) **Exhibit A (Notice to Appear)**

31. Petitioner is not a flight risk, given Petitioner's many long-standing community ties.

32. On March 20, 2026, ICE apprehended Petitioner following Petitioner's automobile accident during which she inadvertently struck an unattended vehicle. ICE

transported Petitioner to the Stewart Detention Center and has kept Petitioner detained without a bond hearing at the Stewart Detention Center.

33. DHS has never processed Petitioner for § 235 admission or expedited removal under § 235(b)(1).

34. Petitioner has not requested a custody redetermination, because DHS and the BIA have taken the position that he is categorically ineligible for bond because Petitioner is an “applicant for admission” under § 235(b)(2)(A). Requesting a custody redetermination would be futile. Upon information and belief, if an IJ hearing occurred, the IJ would invoke *Yajure* and ignore *Maldonado Bautista*.

VIII. LEGAL FRAMEWORK

35. Section 236(a) of the INA, 8 U.S.C. § 1226(a), governs discretionary civil immigration detention for “any alien” arrested and detained pending a decision on removal, unless § 236(c) applies. It authorizes release on bond and gives Immigration Judges custody redetermination authority by regulation. See 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a).

36. Section 236(a) of the INA, 8 U.S.C. § 1226(a), governs discretionary civil immigration detention for “any alien” arrested and detained pending a decision on removal, unless § 236(c) applies. It authorizes release on bond and gives Immigration Judges custody redetermination authority by regulation. See 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a).

37. Section 235(b)(2) of the INA, 8 U.S.C. § 1225(b)(2), governs detention in the inspection context and the classes designated for expedited removal—settings that occur at or near the border and, by regulation, only for individuals described in published Federal Register notices. See 8 C.F.R. § 235.3(b)(1)–(2). Interior expedited removal is limited to certain encounters and, at most, to those who cannot show two years’ continuous presence. 84 Fed. Reg.

35,409 (July 23, 2019). Individuals—like Petitioner—who were arrested in the interior long after entry and placed in § 240 proceedings are detained, if at all, under § 1226(a).

38. In *J.A.M. v. Streeval et al*, No. 4:25-cv-342 (M.D. Ga. Nov. 1, 2025), the court rejected the government’s *Yajure* theory and held that § 1226(a) governs interior arrests charged into § 240, not § 1225(b)(2). The court concluded that “aliens who are found in the country unlawfully and are arrested, an immigration officer or immigration judge has the discretion, after considering all the circumstances, not to detain such aliens and instead grant them release on bond” subject to exceptions for mandatory detainees delineated in 8 U.S.C. § 1226(c). *Id.* at 10. The court found *Matter of Yajure Hurtado* “unpersuasive,” aligned with the already large and still growing district-court consensus, and concluded the petitioner is entitled to discretionary bond under § 1226(a).

39. The same statutory reading has now been adopted in class-wide relief. In *Maldonado Bautista v. Santacruz*, the court held that detention for interior arrests charged into § 240 is governed by § 1226(a) and not § 1225(b)(2), and it directed that class members be afforded individualized bond hearings before an immigration judge under § 236(a) on a prompt timeline. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (partial summary judgment); *id.* (Nov. 25, 2025) (class certification). That class relief confirms the statute’s two-track structure: § 235 governs the inspection/expedited-removal track; § 236(a) governs detention during § 240 removal proceedings for long-present interior arrestees.

IX. CAUSES OF ACTION

COUNT ONE

STATUTORY CLAIM (Detention Governed by INA § 236(a))

40. Petitioner incorporates paragraphs 1 through 39 as if fully set out herein.

41. Section 235(b)(2)(A) does not govern Petitioner's detention because he was not encountered during inspection and is not within any class designated for expedited removal by published notice. Reading § 1225(b)(2)(A) to govern all never admitted noncitizens regardless of when and where they were arrested would nullify Congress's express two-year limit on interior expedited removal and collapse the statute's two-track scheme. Under § 1226(a) and its implementing regulations, Petitioner is entitled to a prompt bond hearing before a neutral adjudicator.

COUNT TWO
PROCEDURAL DUE PROCESS (U.S. Const. amend. V)

42. Petitioner incorporates paragraphs 1 through 39 as if fully set out herein.

43. Prolonged civil detention without a neutral bond hearing violates procedural due process. If Respondents' position categorically forecloses any IJ bond review for interior arrestees like Petitioner, it denies a meaningful opportunity to be heard and invites arbitrary confinement. At minimum, due process requires a prompt bond hearing at which the Government bears the burden to justify detention by clear and convincing evidence.

COUNT THREE
SUBSTANTIVE DUE PROCESS (U.S. Const. amend. V)

44. Petitioner incorporates paragraphs 1 through 39 as if fully set out herein.

45. Civil detention must remain reasonably related to its purposes of ensuring appearance and protecting the community. Detaining Petitioner without any individualized assessment, solely on a categorical theory rejected by this Court days ago, bears no reasonable relation to any legitimate aim and is excessive in relation to its purposes.

PRAYER FOR RELIEF

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

- 1.) Assume jurisdiction over this matter;
- 2.) Issue a writ of habeas corpus directing Respondents to release Petitioner immediately or to provide Petitioner a bond hearing under 8 U.S.C. § 1226(a) before an Immigration Judge within 7 days of the Court's order, with the Government bearing the burden to establish that Petitioner is a danger to the community or a flight risk, and to consider alternatives to detention (consistent with *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025));
- 3.) Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of these proceedings;
- 4.) Order Respondents to answer the petition within 3 business days; and
- 5.) Grant such other relief as the Court deems just and proper.

Respectfully submitted this 9th day of March, 2026.

//Eszter Bardi//

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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.

Respectfully submitted this 9th day of March, 2026.

//Eszter Bardi//

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CERTIFICATE OF COMPLIANCE

I hereby certify that the document to which this certificate is attached has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1 for documents prepared by computer.

Respectfully submitted this 9th day of March, 2026.

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