

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

ALAN HERNANDEZ MORALES,

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Petitioner,

v.

WARDEN, FOLKSTON ICE
PROCESSING CENTER; KRISTI
NOEM, Secretary, U.S. Department of
Homeland Security.

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Mr. Alan Hernandez Morales is in the physical custody of Respondents at the Folkston Annex ICE Processing Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and 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, DHS denied Petitioner release from immigration custody, 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. Similarly, 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

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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 Folkston Annex ICE Processing Center located in Folkston, 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 Southern
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 Southern District of Georgia.
24

REQUIREMENTS OF 28 U.S.C. § 2243

14. The Court must grant the petition for writ of habeas corpus or order Respondent 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, Respondent 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 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).

PARTIES

16. Petitioner, Mr. Alan Hernandez Morales is native and citizen of Mexico who has been in immigration detention since February 10, 2026. After arresting Petitioner, ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

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2 17. Respondent, the Warden of the Folkston ICE Processing Center, is
3 employed by Core Civic Group. He has immediate physical custody of Petitioner.
4 He is sued in his official capacity.

5 18. Respondent Kristi Noem is the Secretary of the Department of
6 Homeland Security. She is responsible for the implementation and enforcement of
7 the Immigration and Nationality Act (INA), and oversees ICE, which is responsible
8 for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner
9 and is sued in her official capacity.
10

11 **LEGAL FRAMEWORK**

12 19. The Immigration and Nationality Act ("INA") establishes several
13 detention schemes for noncitizens in removal proceedings.
14

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

19 21. Second, 8 U.S.C. § 1225(b)(1)–(2) provides for mandatory detention of
20 certain individuals seeking admission who are inspected at the border and
21 determined not "clearly and beyond a doubt entitled to be admitted." This detention
22 framework is tied to the process of arrival inspection performed by an examining
23 immigration officer.
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2 22. Third, 8 U.S.C. § 1231 governs detention of individuals who are subject
3 to final orders of removal.

4 23. This case turns on the proper application of § 1226(a) versus §
5 1225(b)(2) for a noncitizen like Petitioner—an individual who entered the United
6 States years ago, resided here, and was apprehended within the interior, not at a port
7 of entry.
8

9 24. Historically, individuals who entered without inspection and were later
10 placed in § 1229a removal proceedings were treated as detained under § 1226, not §
11 1225. EOIR regulations following IIRIRA confirm that such individuals were not
12 considered “arriving” and therefore were eligible for bond hearings. *See* 62 Fed. Reg.
13 10312, 10323 (Mar. 6, 1997).
14

15 25. For decades, consistent with this regulatory framework and prior
16 immigration law, noncitizens who entered without inspection and were apprehended
17 inside the United States received custody redeterminations unless subject to §
18 1226(c). *See* former 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229
19 (1996).
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21 **The Government’s Recent Policy Shift**

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

4 27. On September 5, 2025, the BIA adopted this new position in *Matter of*
5 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), holding that any noncitizen who
6 entered without admission is subject to § 1225(b)(2)(A) and categorically barred
7 from a bond hearing.
8

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

10 28. This Court has already rejected the government's reading of §1225
11 (b)(2). In *Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 *(S.D. Ga. Nov. 4,
12 2025), the Court held that § 1225(b)(2) applies only to noncitizens who are "seeking
13 admission" in the context of an arrival inspection by an examining immigration
14 officer.
15

16 29. The Court explained that "seeking admission" requires an affirmative
17 act at or near the time of arrival to obtain legal entry, coupled with contemporaneous
18 inspection. The Court rejected DHS's argument that individuals apprehended years
19 after entering the United States may be treated as if they were seeking admission. *Id.*
20 at 3.
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22 30. Applying that interpretation, the Court concluded that § 1225(b)(2)
23 does not apply to individuals like Petitioner, whose alleged inadmissibility is based
24 on conduct occurring long after entry and not in connection with an arrival inspection.

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

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

10 33. Petitioner is a native and citizen of Mexico who first entered the United
11 States in 2003. He resided in the United States continuously until 2020 and was a
12 recipient of Deferred Action for Childhood Arrivals (DACA), which was later
13 terminated following a DUI. After the termination of his DACA, Petitioner departed
14 the United States and remained outside the country for approximately six (6) months.
15 He re-entered the United States on or about February 10, 2020, without inspection
16 (EWI). Since that time, Petitioner has remained continuously in the United States
17 and has not departed the country.
18

19 34. Petitioner is the father of one (1) United States citizen children age
20 seven years old. Petitioner has been a constant and stabilizing presence in his
21 children's lives and has provided consistent financial, emotional, and parental
22 support.
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2 35. Petitioner has been consistently employed for several years remodeling
3 homes, supporting his family through lawful employment. He has paid taxes and
4 contributed to the local economy, further demonstrating his long-standing
5 integration into the community and commitment to meeting his civic responsibilities.

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7 36. Petitioner has had limited contact with the criminal justice system.
8 When he was approximately eighteen (18) years old, Petitioner was arrested for a
9 DUI offense, which resulted in the termination of his Deferred Action for Childhood
10 Arrivals (DACA) status. Several years later, in 2020, Petitioner was again arrested
11 for a DUI-related charge; however, that case was ultimately dismissed. Aside from
12 these incidents, Petitioner has not engaged in any criminal conduct. These isolated
13 events occurred years apart and did not involve allegations of violence, harm to
14 others, or any conduct suggesting that Petitioner poses a danger to the community.

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16 37. Petitioner poses no flight risk and no danger to the community. His
17 years of residence in the United States, provider of U.S. citizen children and
18 consistent tax compliance, overwhelmingly demonstrate that he is an appropriate
19 candidate for release on bond under INA § 236(a).

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21 38. Petitioner's continued detention violates due process because it is based
22 on an unlawful application of INA § 235 to an individual who was apprehended
23 inside the United States long after entry and who is not seeking admission. Petitioner
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2 therefore falls squarely within the discretionary detention framework of INA §
3 236(a), which entitles him to an individualized bond hearing.

4 39. By continuing to detain Petitioner without bond while his immigration
5 case remains pending—despite his extensive equities, serious family hardship, and
6 lack of any disqualifying factors—Respondents are subjecting him to prolonged and
7 arbitrary imprisonment in violation of the Fifth Amendment’s Due Process Clause,
8 thereby necessitating habeas relief.

9
10 40. Petitioner’s continued detention also violates due process because it is
11 based on an unlawful statutory interpretation already rejected by this Court and by a
12 certified nationwide class action. In *Villa v. Normand*, this Court held that 8 U.S.C.
13 § 1225(b)(2) applies only when a noncitizen is “seeking admission” in the context
14 of an arrival inspection by an examining immigration officer. Petitioner, however,
15 was apprehended inside the United States years after his entry and therefore falls
16 squarely within the detention framework of § 1226(a), which entitles him to a bond
17 hearing.

18
19 41. Because Petitioner is a long-term resident of the United States with
20 more than five years of continuous presence, deep family and community ties, his
21 continued and prolonged detention without any opportunity for individualized
22 custody review violates the fundamental requirements of due process and
23 underscores the urgent necessity of habeas relief.
24

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

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

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

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

COUNT II

Violation of the Bond Regulations

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

46. 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

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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.
9

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

12 48. 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
14

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

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

19 50. 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 51. Petitioner has a fundamental interest in liberty and being free from
3 official restraint.

4 52. 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.
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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 Southern
12 District 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 11th day of March, 2026.
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VERIFICATION PURSUANT TO 28 U.S.C. 2242

I represent Petitioner, Mr. Alan Hernandez Morales, 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 11th day of March, 2026.

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