

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

NEHEMIAS REYNOSO JUAREZ,

Petitioner,

v.

WARDEN, in his official capacity as
Warden of the FOLKSTON ICE
PROCESSING CENTER; LADEON
FRANCIS, in his official capacity as
Field Office Director of Enforcement and
Removal Operations, Atlanta Field
Office, Immigration and Customs
Enforcement; KRISTI NOEM, in her
official capacity as Secretary, U.S.
Department of Homeland Security;
PAMELA BONDI, in her official
capacity as U.S. Attorney General,

Respondents.

CIVIL ACTION NO.: CV 526-315

**PETITION FOR WRIT OF
HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Nehemias Reynoso Juarez is in the physical custody of Respondents at the Folkston ICE Processing Center Annex located in Folkston, Georgia. 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. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act ("INA"). 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),

1 that allows for release on conditional parole or bond. That statute expressly applies
2 to people who, like Petitioner, are charged as inadmissible for having entered the
3 United States without inspection.

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

8 6. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he
9 be released immediately. In the alternative, Petitioner requests that Respondents
10 provide a new custody redetermination hearing under § 1226(a) within seven days
11 whereby the Immigration Judge does have jurisdiction over Petitioner's custody
12 redetermination request, or else release Petitioner at that time.

14 JURISDICTION

15 7. Petitioner is in the physical custody of Respondents. Petitioner is
16 detained at the Folkston ICE Processing Center Annex in Folkston, Georgia.

17 8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
18 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of
19 the United States Constitution (the Suspension Clause).

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

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies with the district court having jurisdiction over the custodian of the detainee. In the case at hand, venue is proper with the United States District Court for the Middle District of Georgia, the judicial district encompassing the Stewart Detention Center in Lumpkin, Georgia in Stewart County, Georgia.

11. 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

12. 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.*

13. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all

1 cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)
2 (emphasis added).

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4 **PARTIES**

5 14. Petitioner Nehemias Reynoso Juarez is alleged to be a citizen of the
6 Guatemala who entered the United States at an unknown location on an unknown
7 date. On or about February 10, 2026, Respondent was driving home when he was
8 stopped by police for having tinted windows. He was arrested for Driving without
9 a License, after which ICE detained him. Petitioner has been issued a Notice to
10 Appear charging him as having entered the United States without admission or
11 parole. Petitioner is currently detained at the Folkston ICE Processing Center
12 Annex in the custody, and under the direct control, of Respondents and their
13 agents. Petitioner has been in immigration detention since February 2025. After
14 arresting Petitioner, ICE did not set bond.
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16 15. Respondent Warden of the Folkston ICE Processing Center is
17 employed by CoreCivic as Warden of the Folkston ICE Processing Center where
18 Petitioner is detained. They have immediate physical custody of Petitioner. They
19 are sued in their official capacity.
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21 16. Respondent LaDeon Francis is the Director of the Atlanta Field
22 Office of ICE’s Enforcement and Removal Operations division. As such, LaDeon
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1 Francis is Petitioner's immediate custodian and is responsible for Petitioner's
2 detention and removal. He is named in his official capacity.

3 17. Respondent Kristi Noem is the Secretary of the Department of
4 Homeland Security. She is responsible for the implementation and enforcement of
5 the Immigration and Nationality Act (INA), and oversees ICE, which is
6 responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority
7 over Petitioner and is sued in her official capacity.
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9 18. Respondent Pamela Bondi is the Attorney General of the United
10 States. She is responsible for the Department of Justice, of which the Executive
11 Office for Immigration Review and the immigration court system it operates is a
12 component agency. She is sued in her official capacity.
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14 **LEGAL FRAMEWORK**

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

17 20. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in
18 standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a.
19 Individuals detained pursuant to § 1226(a) are generally entitled to a bond hearing
20 at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while
21 noncitizens who have been arrested, charged with, or convicted of certain crimes
22 are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).
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1 21. Second, the INA provides for mandatory detention of noncitizens
2 subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent
3 arrivals seeking admission referred to under § 1225(b)(2).

4 22. Last, the INA also provides for detention of noncitizens who have
5 been ordered removed, including individuals in withholding-only proceedings, *see*
6 8 U.S.C. § 1231(a)–(b).

7 23. This case concerns the detention provisions at §§ 1226(a) and
8 1225(b)(2).

9 24. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted
10 as part of the Illegal Immigration Reform and Immigrant Responsibility Act
11 (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009-546,
12 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended
13 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended
14 earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

15 25. Following the enactment of the IIRIRA, EOIR drafted new
16 regulations explaining that, in general, people who entered the country without
17 inspection were not considered detained under § 1225 and that they were instead
18 detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens;
19 Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
20 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
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1 26. Thus, in the decades that followed, most people who entered without
2 inspection and were placed in standard removal proceedings received bond
3 hearings, unless their criminal history rendered them ineligible pursuant to 8
4 U.S.C. § 1226(c). That practice was consistent with many more decades of prior
5 practice, in which noncitizens who were not deemed “arriving” were entitled to a
6 custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C.
7 § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that
8 § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).
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10 27. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new
11 policy that rejected well-established understanding of the statutory framework and
12 reversed decades of practice.
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14 28. The new policy, entitled “Interim Guidance Regarding Detention
15 Authority for Applicants for Admission,”¹ claims that all persons who entered the
16 United States without inspection shall now be subject to a mandatory detention
17 provision under § 1225(b)(2)(A). This interpretation of the statute applies
18 regardless of when a person is apprehended and affects those who have resided in
19 the United States for months, years, and even decades.
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¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 29. On September 5, 2025, the BIA adopted the same position in a
2 published decision, *Matter of Yajure Hurtado*. There, the Board held that all
3 noncitizens who entered the United States without admission or parole are subject
4 to mandatory detention under § 1225(b)(2)(A) and are therefore ineligible for bond
5 hearings.
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7 30. Since Respondents adopted their new policies, dozens of federal
8 courts have rejected their new interpretation of the INA's detention authorities.
9 Indeed, this Court has followed suit in numerous recent decisions, finding
10 Petitioners such as those similarly situated to the Petitioners in the consolidated
11 cases of *Villa v. Normand*, No. 5:25-CV-89, 2025 WL 3113200 (S.D. Ga. Oct. 16,
12 2025) are entitled to relief.
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14 31. Even before ICE or the BIA introduced these nationwide policies,
15 Immigration Judges in the Tacoma, Washington, immigration court stopped
16 providing bond hearings for persons who entered the United States without
17 inspection and who have since resided here. There, the U.S. District Court in the
18 Western District of Washington found that such a reading of the INA is likely
19 unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
20 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779
21 F. Supp. 3d 1239 (W.D. Wash. 2025).
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1 32. Subsequently, several courts have adopted the same reading of the
2 INA's detention authorities and rejected ICE and EOIR's new interpretation. Most
3 notably, the Central District of California declared that indefinite detention of
4 individuals such as Plaintiff is unlawful; and vacated the underlying DHS Policy
5 that the Government relied on to continue detaining individuals like Plaintiff. *See*
6 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d -
7 ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). Then, on February 18, 2026,
8 District Court Judge Sunshine Suzanne Sykes of the Central District of California
9 granted a motion to enforce its previous decision and further issued an order
10 vacating the Board of Immigration Appeal's decision in *Matter of Yajure Hurtado*.
11 *See Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2026 WL
12 468284 (C.D. Cal. Feb. 18, 2026). Petitioner filed a motion for bond before the
13 Stewart Immigration Court arguing that Petitioner is a class member of *Maldonado*
14 *Bautista* and the hearing was scheduled for March 12, 2025. Unfortunately, the
15 Ninth Circuit Court of Appeals temporarily stayed the district court's 12/18/25
16 declaratory judgment and 2/18/26 order pending a ruling on the government's
17 emergency motion for a stay pending appeal. Petitioner has therefore withdrawn
18 the request for bond hearing pending a decision in the present petition for writ of
19 habeas.
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1 33. Courts have uniformly rejected DHS's and EOIR's new interpretation
2 because it defies the INA. As the *Maldonado Bautista* court and others have
3 explained, the plain text of the statutory provisions demonstrates that § 1226(a),
4 not § 1225(b), applies to people like Petitioner.
5

6 34. Section 1226(a) applies by default to all persons "pending a decision
7 on whether the [noncitizen] is to be removed from the United States." These
8 removal hearings are held under § 1229a, to "decid[e] the inadmissibility or
9 deportability of a[] [noncitizen]."
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11 35. The text of § 1226 also explicitly applies to people charged as being
12 inadmissible. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such
13 people makes clear that, by default, such people are afforded a bond hearing under
14 subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress
15 creates 'specific exceptions' to a statute's applicability, it 'proves' that absent
16 those exceptions, the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp.
17 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559
18 U.S. 393, 400 (2010)); *see also* *Gomes*, 2025 WL 1869299, at *7.
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20 36. Section 1226 therefore leaves no doubt that it applies to people who
21 face charges of being inadmissible to the United States.

22 37. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry
23 or who recently entered the United States. The statute's entire framework is
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1 premised on inspections at the border of people who are “seeking admission” to the
2 United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained
3 that this mandatory detention scheme applies “at the Nation’s borders and ports of
4 entry, where the Government must determine whether a[] [noncitizen] seeking to
5 enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).
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7 38. Accordingly, the detention provision of § 1225(b)(2)(A) does not
8 apply to people like Petitioner, who have already entered and were residing in the
9 United States at the time they were apprehended.

10 11 **FACTS**

12 39. Petitioner has resided in the United States since approximately 2005
13 and lives in Calhoun, Georgia.

14 40. Petitioner is married and together they have three U.S. citizen
15 children. Petitioner’s wife lost both of her legs in or around 2016 and the digits on
16 both hands due to complications from surgery and mismanagement of medications.
17 Petitioner vowed to stay with her and has helped take care of her, their children,
18 and worked to support the family financially as well.

19 41. According to Petitioner, on or around February 10, 2026, he was
20 stopped for having tinted windows while driving home from work, arrested for
21 driving without a license, and taken in to DHS ICE custody. Petitioner is now
22 detained by DHS at the Folkston ICE Processing Center in Folkston, Georgia.
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1 42. The Petitioner maintains a fixed address as purchased his home in
2 Columbia, South Carolina in 2018 where he has lived with his wife and children
3 for over 8 years. Petitioner has significant ties to the community and is not a flight
4 risk.

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6 43. To the knowledge of undersigned counsel, Petitioner has not been
7 arrested for any dangerous or violent criminal violations. As such, Petitioner is not
8 a danger to the community.

9 44. Following Petitioner's arrest and transfer to the Folkston ICE
10 Processing Center, ICE issued a custody determination to continue Petitioner's
11 detention without an opportunity to post bond or be released on other conditions.
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13 45. Presently in practice, following grants of habeas relief, custody
14 redetermination proceedings frequently fail to provide the individualized analysis
15 contemplated by the Court's order, instead resulting in summary denials based on
16 generalized findings of flight risk. Without relief from this court, specifically in the
17 form of immediate release as requested, Petitioner faces the prospect of months, or
18 even years, in immigration custody, separated from his family and community.
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CLAIMS FOR RELIEF

COUNT I

Violation of the Immigration and Nationality Act

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

47. 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 for years 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.

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

COUNT II

Violation of the Bond Regulations

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

50. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret

1 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and
2 Detention of [Noncitizens],” the agencies explained that “[d]espite being
3 applicants for admission, [noncitizens] who are present without having been
4 admitted or paroled (formerly referred to as [noncitizens] who entered without
5 inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at
6 10323 (emphasis added). The agencies thus made clear that individuals who had
7 entered without inspection were eligible for consideration for bond and bond
8 hearings before Immigration Judges under 8 U.S.C. § 1226 and its implementing
9 regulations.
10

11 51. Nonetheless, EOIR has a policy and practice of applying § 1225(b)(2)
12 to individuals like Petitioner.
13

14 52. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
15 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
16

17 **COUNT III**

18 **Violation of Fifth Amendment Right to Due Process**

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

21 54. The government may not deprive a person of life, liberty, or property
22 without due process of law. U.S. Const. amend. V. “Freedom from
23 imprisonment—from government custody, detention, or other forms of physical
24

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

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

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

8 57. Petitioner has a right to a fair and impartial bond hearing

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11 **PRAYER FOR RELIEF**

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

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- 14 a. Assume jurisdiction over this matter;
 - 15 b. Order that Petitioner shall not be transferred outside the Southern
16 District Court of Georgia while this habeas petition is pending;
 - 17 c. Issue an Order to Show Cause ordering Respondents to show cause
18 why this Petition should not be granted within three days;
 - 19 d. Issue a Writ of Habeas Corpus requiring that Respondents
20 immediately release Petitioner; or, in the alternative, release Petitioner
21 if they do not provide Petitioner with a bond hearing pursuant to 8
22 U.S.C. § 1226(a) within seven days of the order;
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- 1 e. Declare that Petitioner's detention is unlawful.
- 2 f. Award Petitioner attorney's fees and costs under the Equal Access to
- 3 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any
- 4 other basis justified under law; and
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- 6 g. Grant any other and further relief that this Court deems just and
- 7 proper.
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10 It is RESPECTFULLY SUBMITTED this 12th day of March, 2026.

11
12 The Kennedy Immigration Firm, LLC
13 /s/Nikita B. Modi
14 Nikita B. Modi, Esq.
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PETITIONER'S EXHIBIT INDEX IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS

EXHIBIT	DESCRIPTION	PAGE(S)
A	Petitioner's passport biographic page	1
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It is RESPECTFULLY SUBMITTED this 12th day of March, 2026.

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