

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

ADELMO LOPEZ MONZON

Petitioner,

v.

Warden, Folkston ICE Processing Center,
George STERLING Field Office Director of
Enforcement and Removal Operations, Atlanta
Field Office, Immigration and Customs
Enforcement,

Respondents.

Case No. 5:26-cv-325

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner Adelmo Lopez Monzon brings this petition for a writ of habeas corpus
3 as an individual unlawfully detained and stripped of bond jurisdiction by an improvident and
4 unlawful change in analysis as to who is “seeking admission” to the United States. *See, Matter of*
5 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

6 2. Petitioner is in the physical custody of Respondents at the Folkston ICE
7 Processing Center. He now faces unlawful detention because the Department of Homeland
8 Security (DHS) and the Executive Office for Immigration Review (EOIR) have refused to abide
9 by longstanding precedent regarding bond jurisdiction. Contrary to the assertions of DHS and
10 EOIR, entrants United States without inspection are not properly “applicants for admission,”
11 such that all such individuals be detained without jurisdiction for the courts to grant bond.
12 Respondent alleges that the continued classification of detention authority as pursuant to 8
13 U.S.C. § 1225 for all individuals present without inspection or admission, is erroneous and a
14 violation of law.

15 3. The Executive Office for Immigration Review and its subagency, the Immigration
16 Court, and the Department of Homeland Security (DHS) have unlawfully ordered that Petitioner
17 be denied the opportunity to be released on bond.

18 4. After apprehending Petitioner, the DHS placed him in removal proceedings
19 pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under 8 U.S.C.
20 § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

21 5. The Court should expeditiously grant this petition.

22 6. Respondent was not encountered at a port of entry at any time, and thus, he is not
23 “seeking admission” to the United States.
24

7. Respondents are bound by the statutory authority of the Immigration and Nationality Act. The holding in *Yajure Hurtado* is plainly erroneous, as not all individuals who entered without inspection are also “seeking admission.” Nevertheless, Respondents continue to disregard a growing number of District Court decisions, and to subject Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond.

8. Immigration Judges have continued remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), despite its flawed legal reasoning.

9. Because Respondents are detaining Petitioner in violation of the statutory framework under the Immigration and Nationality Act, the Court should accordingly order that within one day, Respondent DHS must release Petitioner.

10. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

11. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Folkston ICE Processing Center.

12. 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).

13. 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

14. 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 Southern District of Georgia, the judicial district in which Petitioner currently is detained.

15. 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 Southern District of Georgia.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved for individuals similarly situated to Petitioner. This Court has specifically ordered Respondents to accord bond hearings to similarly situated individuals, who have entered the United States without inspection in the past, but were not encountered at entry. *Aguirre Villa v. Normand*, 5:25-cv-89 (S.D.G.A. Nov 4 2025).

17. 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

18. Petitioner Adelmo Lopez Monzon is a citizen of Guatemala who has been in immigration detention since December 2025. Petitioner was detained in Marion, South Carolina

1 on suspicion solely of being undocumented. Petitioner filed a bond motion during the presence
2 of the *Maldonado Class* and vacature of *Yajure Hurtado*, however, that case was vacated in the
3 days preceding the bond hearing, and ultimately, on March 13, 2026, the Immigration Judge
4 found that *Yajure Hurtado* was binding precedent, and denied bond on jurisdiction alone.
5 Petitioner was deemed an “applicant for admission” pursuant to DHS arguments. Petitioner has
6 resided in the United States since approximately September 2022, and until now, was never
7 encountered by immigration agents.

8 19. Respondent Warden of the Folkston ICE Processing Center is the custodian of the
9 location in which Petitioner is detained. He has immediate physical custody of Petitioner. He is
10 sued in his official capacity.

11 20. Respondent George Sterling is the Director of the Atlanta Field Office of ICE’s
12 Enforcement and Removal Operations division. As such, George Sterling is Petitioner’s
13 immediate custodian and is responsible for Petitioner’s detention and removal. He is named in
14 his official capacity.

15 21. The Executive Office for Immigration Review (EOIR) is the federal agency
16 responsible for implementing and enforcing the INA in removal proceedings, including for
17 custody redeterminations in bond hearings.

18 **CLAIM FOR RELIEF**

19 **Violation of the INA:**

20 **Request for Relief Pursuant to the Unlawful Legal Characterization of Petitioner’s
Detention**

21 **A. Petitioner is entitled to relief because Respondents are subjecting him to unlawful**
22 **detention pursuant to 8 U.S.C. § 1225(b), when he is properly an individual detained**
23 **pursuant to 8 U.S.C. § 1226(a).**
24

1 22. At the outset, there is no statutory requirement of administrative exhaustion
2 before immigration detention may be challenged in federal court by a writ of habeas corpus. *See*
3 8 U.S.C. § 1252(d)(1); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007)
4 (“Under the INA exhaustion of administrative remedies is only required by Congress for appeals
5 on final orders of removal.”). The Supreme Court has recognized that exhaustion is not required
6 where a plaintiff “may suffer irreparable harm if unable to secure immediate judicial
7 consideration of her claim.” *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). This is the case
8 here, where Plaintiff raises constitutional and statutory claims that the agency cannot redress, and
9 where each day that passes is one in which she is being unconstitutionally deprived of his liberty.

10 23. The Court has the authority to grant a writ of habeas corpus to a petitioner who
11 demonstrates that he is being held in custody in violation of federal law. 28 U.S.C. § 2241(a),
12 (c)(3); *see INS v. St. Cyr*, 533 U.S. 289, 301 (2001) (“[T]he writ of habeas corpus has served as a
13 means of reviewing the legality of Executive detention, and it is in that context that its
14 protections have been strongest.”); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (noting that §
15 2241 habeas corpus proceedings are available to challenge the lawfulness of immigration-related
16 detention).

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

19 25. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is
20 subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner’s statutory
21 rights under the INA.

22 26. U.S.C. § 1225 covers “inadmissible arriving aliens” who are “applicants for
23 admission” “present in the United States who [have] not been admitted.” *Gomes v. Hyde*, No.
24 25-cv-11571, 2025 WL 1869299, at *2 (D. Mass. July 7, 2025) (alteration in original; citation
and footnote call number omitted). Section 1225(a)(3) requires all applicants for admission,
including those “seeking admission,” to be inspected by an immigration officer, *see* 8 U.S.C. §

1 1225(a)(3); and certain applicants for admission may be subject to removal proceedings under
2 section 1225(b). 8 U.S.C. § 1225(a) – (b); see also *Dep’t of Homeland Sec. v. Thuraissigiam*,
3 591 U.S. 103, 108–09 (2020) (citations omitted). Relevant here, § 1225(b)(2) applies where an
4 arriving alien is “seeking admission” into the United States, and that provision mandates
5 detention for aliens who are “applicants for admission.” 8 U.S.C. § 1225(b)(2)(A). “Because
6 Section 1225 is mandatory, a ‘noncitizen detained under Section 1225(b)(2) may be released
7 only if he is paroled for urgent humanitarian reasons or significant public benefit.’” *Barrera v.*
8 *Tindall*, No. 25-cv-541, 2025 WL 2690565, at *2 (W.D. Ky. Sept. 19, 2025) (quoting *Gomes*,
2025 WL 1869299, at *1).

9 27. On the other hand, § 1226 has historically “authorize[d] the Government to detain
10 certain aliens *already in the country* pending the outcome of removal proceedings[.]” *Jennings v.*
11 *Rodriguez*, 583 U.S. 281, 289 (2018) (emphasis added).

12 28. In addition, courts around the country have given no weight to *how* longtime
13 noncitizen residents entered the United States when rejecting Respondent’s interpretation of
14 § 1225(b)(2). *Garcia v. Noem, et. al.*, No. 1:25-CV-1271, 2025 WL 3017200, at *4 (W.D. Mich.
15 Oct. 29, 2025); *Diaz v. Olson, et. al.*, No. 25 CV 12141, 2025 WL 3022170, at *5 (N.D. Ill. Oct.
16 29, 2025); *Rodriguez v. Noem, et. al.*, No. 1:25-CV-1196, 2025 WL 3022212, at *6 (W.D. Mich.
17 Oct. 29, 2025); *Puga*, 2025 WL 2938369; *Lopez-Campos*, 2025 WL 2496379, at *8; *see also*
18 *Rodriguez*, 779 F. Supp. 3d at 1256–61; *Singh v. Lewis*, No. 4:25-cv-96, 2025 WL 2699219, at
19 *3–5 (W.D. Ky. Sept. 22, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337, 2025 WL 2691828,
20 at *7–12 (W.D. Tex. Sept. 22, 2025); *Campos Leon v. Forestal*, No. 1:25-cv-1774, 2025 WL
21 2694763, at *2–5 (S.D. Ind. Sept. 22, 2025); *Hasan v. Crawford*, No. 1:25-cv-1408, 2025 WL
22 2682255, at *5–9 (E.D. Va. Sept. 19, 2025); *Garcia Cortes v. Noem*, No. 1:25-cv-2677-CNS,
23 2025 WL 2652880, at *2–3 (D. Colo. Sept. 16, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-
24 01093, 2025 WL 2472136, at *2–4 (W.D. La. Aug. 27, 2025); *Romero*, 2025 WL 2403827, at
*8–13 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142, 2025 WL 2374411,

1 at *9–16 (D. Minn. Aug. 15, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052, 2025 WL 2370988,
2 at *6–9 (D. Mass. Aug. 14, 2025); *Lopez Benitez*, 2025 WL 2371588, at *3–9; *Rosado*, 2025 WL
3 2337099, at *6–11, report and recommendation adopted, 2025 WL 2349133 (D. Ariz. Aug. 13,
4 2025).

5 29. Because Petitioner in this matter was not encountered *at entry*, he should not be
6 detained pursuant to 1225(b). Rather, he should be entitled to release or, in the alternative, a
7 bond hearing, pursuant to 1226.

8 30. Thus, Petitioner should expeditiously be ordered released or, in the alternative, at
9 least accorded a bond hearing within seven days.

10 **PRAYER FOR RELIEF**

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

- 12 a. Assume jurisdiction over this matter;
- 13 b. Issue a writ of habeas corpus requiring that within one day, requiring that
14 Respondents release Petitioner;
- 15 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
16 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
17 seven days;
- 18 d. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
19 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
20 law; and
- 21 e. Grant any other and further relief that this Court deems just and proper.

22 DATED this 16th of March, 2026.

23

24

H.L. Page

Helen L. Parsonage, Esq.
Elliot Morgan Parsonage, PLLC
328 N Spring St.
Winston-Salem, NC 27101
hparsonage@emplawfirm.com
NC Bar # 35492
GA Bar # 435330
Attorney for Petitioner

/s/ Mary Lynn A. Tedesco
MARY LYNN ANNA TEDESCO, ESQ.
TEDESCO LEGAL PC
marylynn@tedescoimmigration.com
1515 MOCKINGBIRD LANE, STE 400
CHARLOTTE NC 28209
PHONE: 980-999-1253
Attorney for Petitioner, Pro Hac Vice pending