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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JUANA FERMINA VELASQUEZ
GOMEZ,



Petitioner,

v.

JASON STREEVAL, Warden, Stewart
Detention Center

Respondent.

Case No. 4:26-cv-406

**PETITION FOR WRIT OF
HABEAS CORPUS**

1 **INTRODUCTION**

2 1. Petitioner Juana Fermina Velasquez Gomez is in the custody of
3 Respondent at the Stewart Detention Center. Petitioner faces unlawful detention
4 because the Department of Homeland Security and the Executive Office of
5 Immigration Review have concluded Petitioner is subject to mandatory detention.
6

7 2. Petitioner is charged with, inter alia, having entered the United States
8 without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

9 3. Based on this allegation in Petitioner’s removal proceedings, DHS
10 denied Petitioner release from immigration custody, consistent with a new DHS
11 policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement
12 (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e.,
13 those who entered the United States without admission or inspection—to be subject
14 to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for bond.
15

16 4. Similarly, on September 5, 2025, the Board of Immigration Appeals
17 (BIA or Board) issued a precedent decision, binding on all immigration judges,
18 holding that an immigration judge has no authority to consider bond requests for any
19 person who entered the United States without admission. *See Matter of Yajure*
20 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In *Yajure Hurtado*, the BIA determined
21 that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
22 therefore ineligible to be released on bond.
23
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1 10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
2 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the
3 United States Constitution (the Suspension Clause).

4 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
5 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.
6 § 1651.

8 VENUE

9 12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.
10 484, 493- 500 (1973), venue lies in the U.S. District Court for the Middle District of
11 Georgia, Columbus Division, the judicial district in which Petitioner is detained.

12 13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)
13 because Respondent is an employee, officer, and agent of the United States, and
14 because a substantial part of the events or omissions giving rise to the claims
15 occurred in the Middle District of Georgia.

17 REQUIREMENTS OF 28 U.S.C. § 2243

18 14. The Court must grant the petition for writ of habeas corpus or order
19 Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief.
20 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return
21 “within three days unless for good cause additional time, not exceeding twenty days,
22 is allowed.” *Id.*

1 15. Habeas corpus is “perhaps the most important writ known to the
2 constitutional law . . . affording as it does a *swift* and imperative remedy in all cases
3 of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)
4 (emphasis added). “The application for the writ usurps the attention and displaces
5 the calendar of the judge or justice who entertains it and receives prompt action from
6 him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120
7 (9th Cir. 2000) (citation omitted).

9 PARTIES

10 16. Petitioner Ms. Juana Fermina Velasquez Gomez is native and citizen
11 of Guatemala who has been in immigration detention since March 14, 2026. After
12 arresting Petitioner, ICE did not set bond and Petitioner is unable to obtain review
13 of her custody by an IJ, pursuant to the Board’s decision *Yajure Hurtado*, 29 I. & N.
14 Dec. 216 (BIA 2025).

16 17. Respondent Jason Streeval is employed by Core Civic Group as
17 Warden of the Stewart Detention Center, where Petitioner is detained. He has
18 immediate physical custody of Petitioner. He is sued in his official capacity.

20 LEGAL FRAMEWORK

21 18. The Immigration and Nationality Act (“INA”) establishes several
22 detention schemes for noncitizens in removal proceedings.

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

5
6 20. Second, 8 U.S.C. § 1225(b)(1)–(2) provides for mandatory detention of
7 certain individuals seeking admission who are inspected at the border and
8 determined not “clearly and beyond a doubt entitled to be admitted.” This detention
9 framework is tied to the process of arrival inspection performed by an examining
10 immigration officer.

11
12 21. Third, 8 U.S.C. § 1231 governs detention of individuals who are subject
13 to final orders of removal.

14 22. This case turns on the proper application of § 1226(a) versus §
15 1225(b)(2) for a noncitizen like Petitioner—an individual who entered the United
16 States years ago, resided here, and was apprehended within the interior, *not* at a port
17 of entry.

18
19 23. Historically, individuals who entered without inspection and were later
20 placed in § 1229a removal proceedings were treated as detained under § 1226, not §
21 1225. EOIR regulations following IIRIRA confirm that such individuals were not
22 considered “arriving” and therefore were eligible for bond hearings. *See* 62 Fed.
23 Reg. 10312, 10323 (Mar. 6, 1997).

1 24. For decades, consistent with this framework and prior immigration law,
2 noncitizens who entered without inspection and were apprehended inside the United
3 States received custody redeterminations unless subject to § 1226(c). *See* former 8
4 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229 (1996).

5
6 **The Government’s Recent Policy Shift**

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

11 26. On September 5, 2025, the BIA adopted this new position in *Matter of*
12 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), holding that any noncitizen who
13 entered without admission is subject to § 1225(b)(2)(A) and categorically barred
14 from a bond hearing.
15

16 **This Court Has Rejected Respondents’ Interpretation**

17 27. This Court has already rejected the government’s reading of §
18 1225(b)(2). In *J.A.M. v. Streeval*, Case No. 4:25-cv-342 (CDL), 2025 WL 3050094
19 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL
20 3269947 (M.D. Ga. Nov. 24, 2025), the Court held that § 1225(b)(2) applies only to
21 noncitizens who are “seeking admission” in the context of an arrival inspection by
22 an examining immigration officer.
23
24

1 28. *J.E.M.* and *P.R.S.* explained that “seeking admission” requires an
2 affirmative act at or near the time of arrival to obtain legal entry, coupled with
3 contemporaneous inspection. This Court rejected DHS’s argument that individuals
4 apprehended years after entering the United States may be treated as if they were
5 seeking admission. *Id.* at 3.

6
7 29. Applying that interpretation, *J.E.M.* and *P.R.S.* held that § 1225(b)(2)
8 does not apply to individuals like Petitioner, whose alleged inadmissibility is based
9 on conduct occurring long after entry and *not* in connection with an arrival
10 inspection.

11 **Courts Nationwide Have Rejected the Government’s Theory**

12
13 30. Federal courts across the country have agreed that § 1226(a)—not §
14 1225(b)—governs detention of individuals apprehended inside the United States,
15 even when they originally entered without inspection. *See, e.g., Rodriguez Vazquez*
16 *v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, 2025 WL
17 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, 2025 WL 2084238 (D.
18 Mass. July 24, 2025); *Rosado v. Figueroa*, 2025 WL 2337099 (D. Ariz. Aug. 11,
19 2025); *Ramirez Clavijo v. Kaiser*, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025);
20 *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Pizarro*
21 *Reyes v. Raycraft*, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025).

1 31. These courts uniformly conclude that Respondent's interpretation
2 contradicts the statutory text, structure, and decades of agency practice.

3 **Stewart Immigration Court's Continued Refusal to Exercise Jurisdiction**

4 32. Despite this Court's recent decisions, the Stewart Immigration Court
5 continues to decline jurisdiction over custody redeterminations for noncitizens like
6
7 Petitioner, based on the BIA's erroneous decision in *Matter of Yajure Hurtado*.

8 33. Because Petitioner has no administrative avenue to challenge her
9 custody, habeas corpus is the only remedy capable of addressing the ongoing
10 violation of federal law.

11 **FACTUAL BACKGROUND**

12 34. Petitioner entered the United States in 2007 without inspection or
13 admission. Since that time, she has established a life and family in the United States.
14

15 35. Petitioner has three United States citizen children in the United States.
16 Petitioner is a single mother raising her three United States children ages 15, 10, and
17 8 years old.

18 36. Petitioner's young children are all attending school. Since Petitioner's
19 detention, the children have been staying with various extended family members
20 awaiting the release of his mother.
21

22 37. Petitioner has no criminal history other than traffic violations for no
23 license in Floyd County, Georgia, on March 11, 2026.
24

1 38. Petitioner's ongoing detention imposes severe financial and emotional
2 hardship on her U.S. citizen family.

3 39. Prior to her detention, Petitioner worked full-time in a factory and has
4 a history of steady employment. She is known as a hard-working individual who
5 supports her family and contributes to her community.
6

7 40. Petitioner and her family regularly attend church, where she is known
8 as a peaceful, responsible, and respected member of her faith community.

9 41. Petitioner poses no danger to the community and is not a flight risk. Her
10 family ties, employment history, lack of criminal record, and consistent community
11 involvement demonstrate that she is an appropriate candidate for release under §
12 1226(a).
13

14 42. Petitioner's continued detention also violates due process because it is
15 based on an unlawful statutory interpretation already rejected by this Court and by a
16 certified nationwide class action. In *J.A.M. and P.R.S.* this Court held that 8 U.S.C.
17 § 1225(b)(2) applies only when a noncitizen is "seeking admission" in the context
18 of an arrival inspection by an examining immigration officer. Petitioner, however,
19 was apprehended inside the United States years after her entry and falls squarely
20 within the detention framework of § 1226(a), which entitles her to a bond hearing.
21

22 43. Nevertheless, ICE continues to detain Petitioner under § 1225(b)(2),
23 and the Stewart Immigration Court refuses to exercise jurisdiction to conduct a bond
24

1 hearing. Because Petitioner is a long-term resident with deep family ties, no criminal
2 history, including three young U.S. citizen children who depend on her, her
3 prolonged imprisonment without any opportunity for individualized custody review
4 violates the fundamental requirements of due process and reinforces the necessity of
5 habeas relief.
6

7 **CLAIMS FOR RELIEF**

8 **COUNT I** 9 **Violation of the INA**

10 44. Petitioner incorporates by reference the allegations of fact set forth in
11 the preceding paragraphs.

12 45. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
13 apply to all noncitizens residing in the United States who are subject to the grounds
14 of inadmissibility. As relevant here, it does not apply to those who previously
15 entered the country and have been residing in the United States prior to being
16 apprehended and placed in removal proceedings by Respondents. Such noncitizens
17 are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or
18 § 1231.
19

20 46. The application of § 1225(b)(2) to Petitioner unlawfully mandates her
21 continued detention and violates the INA.
22

23 **COUNT II** 24 **Violation of the Bond Regulations**

1
2 47. Petitioner incorporates by reference the allegations of fact set forth in
3 preceding paragraphs.

4 48. In 1997, after Congress amended the INA through IIRIRA, EOIR and
5 the then-Immigration and Naturalization Service issued an interim rule to interpret
6 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and
7 Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants
8 for admission, [noncitizens] who are present without having been admitted or
9 paroled (formerly referred to as [noncitizens] who entered without inspection) will
10 be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis
11 added). The agencies thus made clear that individuals who had entered without
12 inspection were eligible for consideration for bond and bond hearings before IJs
13 under 8 U.S.C. § 1226 and its implementing regulations.
14

15
16 49. Nonetheless, pursuant to *Yajure Hurtado*, EOIR has a policy and
17 practice of applying § 1225(b)(2) to individual like Petitioner.

18 50. The application of § 1225(b)(2) to Petitioner unlawfully mandates her
19 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
20

21 **COUNT III**
Violation of Due Process

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

1 52. The government may not deprive a person of life, liberty, or property
2 without due process of law. U.S. CONST. AMEND. V. “Freedom from
3 imprisonment—from government custody, detention, or other forms of physical
4 restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*,
5 533 U.S. 678, 690 (2001).
6

7 53. Petitioner has a fundamental interest in liberty and being free from
8 official restraint.

9 54. The government’s detention of Petitioner without a bond
10 redetermination hearing to determine whether she is a flight risk or danger to others
11 violates her right to due process.
12

13 **PRAYER FOR RELIEF**

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

- 15 a. Assume jurisdiction over this matter;
- 16 b. Order that Petitioner shall not be transferred outside the Southern
17 District of Georgia while this habeas petition is pending;
- 18 c. Issue an Order to Show Cause ordering Respondents to show cause why
19 this Petition should not be granted within three days;
- 20 d. Issue a Writ of Habeas Corpus requiring that Respondents release
21 Petitioner or, in the alternative, provide Petitioner with a bond hearing
22 pursuant to 8 U.S.C. § 1226(a) within seven days;
- 23 e. Declare that Petitioner’s detention is unlawful;
24

- 1 f. Award Petitioner attorney’s fees and costs under the Equal Access to
2 Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other
3 basis justified under law; and
4 g. Grant any other and further relief that this Court deems just and proper.

5 DATED this 16th day of March, 2026.

6 /s/ Matthew K. Winchester
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24

VERIFICATION PURSUANT TO 28 U.S.C. 2242

1
2 I represent Petitioner, Ms. Juana Fermina Velasquez Gomez, and submit this
3 verification on her behalf. I hereby verify that the factual statements made in the
4 foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my
5 knowledge.

6 DATED this 16th day of March, 2026.
7

8
9 /s/ Uriel N. Delgado

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