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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

BENJAMIN IBARRA-DEL CARMEN,

A 

Petitioner,

v.

JASON STREEVAL, Warden, Stewart
Detention Center

Respondent.

Case No. 4:26-cv-407

**PETITION FOR WRIT OF
HABEAS CORPUS**

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INTRODUCTION

1. Petitioner Benjamin Ibarra-Del Carmen is in the custody of Respondents at the Stewart Detention Center. Petitioner faces unlawful detention because the Department of Homeland Security and the Executive Office of Immigration Review 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 for 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). In *Yajure Hurtado*, the BIA determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

1 5. Petitioner’s detention on this basis violates the plain language of the
2 Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to
3 individuals like Petitioner who previously entered and are now residing in the United
4 States. Instead, such individuals are subject to a different statute, § 1226(a), that
5 allows for release on conditional parole or bond.
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7 6. Respondent’s new legal interpretation is plainly contrary to the
8 statutory framework, contrary to decades of agency practice applying § 1226(a), and
9 contrary to recent federal decisions—including decisions of this Court—holding that
10 § 1225(b)(2) applies only to individuals who are “seeking admission” in the context
11 of an arrival inspection by an examining immigration officer.
12

13 7. Thus, Petitioner seeks habeas corpus requiring that he be released
14 unless Respondent provides a bond hearing under § 1226(a) within seven days.
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JURISDICTION

16 8. Petitioner is in the custody of Respondent. Petitioner is detained at the
17 Stewart Detention Center located in Lumpkin, Georgia.
18

19 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas
20 corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the
21 United States Constitution (the Suspension Clause).
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1 (emphasis added). “The application for the writ usurps the attention and displaces
2 the calendar of the judge or justice who entertains it and receives prompt action from
3 him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120
4 (9th Cir. 2000) (citation omitted).
5

6 **PARTIES**

7 15. Petitioner Benjamin Ibarra-Del Carmen is native and citizen of Mexico
8 who has been in immigration detention since February 16, 2026. After arresting
9 Petitioner, ICE did not set bond and Petitioner is unable to obtain review of his
10 custody by an Immigration Judge, pursuant to the Board’s decision in *Matter of*
11 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
12

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

17 **LEGAL FRAMEWORK**

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

20 18. First, 8 U.S.C. § 1226 governs the detention of individuals placed in
21 standard removal proceedings under § 1229a. Noncitizens detained under § 1226(a)
22 are generally entitled to a custody redetermination before an Immigration Judge
23 unless they fall into the narrow mandatory-detention categories of § 1226(c).
24

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

7 20. Third, 8 U.S.C. § 1231 governs detention of individuals who are subject
8 to final orders of removal.

9 21. This case turns on the proper application of § 1226(a) versus §
10 1225(b)(2) for a noncitizen like Petitioner—an individual who entered the United
11 States years ago, resided here, and was apprehended within the interior, *not* at a port
12 of entry.
13

14 22. Historically, individuals who entered without inspection and were later
15 placed in § 1229a removal proceedings were treated as detained under § 1226, not §
16 1225. EOIR regulations following IIRIRA confirm that such individuals were not
17 considered “arriving” and therefore were eligible for bond hearings. *See* 62 Fed.
18 Reg. 10312, 10323 (Mar. 6, 1997).
19

20 23. For decades, consistent with this regulatory framework and prior
21 immigration law, noncitizens who entered without inspection and were apprehended
22 inside the United States received custody redeterminations unless subject to §
23
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1 1226(c). *See* former 8 U.S.C. § 1252(a) (1994); H.R. Rep. No. 104-469, pt. 1, at 229
2 (1996).

3 **The Government’s Recent Policy Shift**

4
5 24. On July 8, 2025, ICE—“in coordination with” DOJ—issued guidance
6 declaring that all individuals who entered without inspection must now be detained
7 under § 1225(b)(2)(A), regardless of when they entered the United States or whether
8 they were ever inspected by an immigration officer.

9
10 25. On September 5, 2025, the BIA adopted this new position in *Matter of*
11 *Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), holding that any noncitizen who
12 entered without admission is subject to § 1225(b)(2)(A) and categorically barred
13 from a bond hearing.

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

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

22
23 27. *J.A.M.* and *P.R.S.* explained that “seeking admission” requires an
24 affirmative act at or near the time of arrival to obtain legal entry, coupled with

1 contemporaneous inspection. This Court rejected DHS’s argument that individuals
2 apprehended years after entering the United States may be treated as if they were
3 seeking admission. *Id.* at 3.

4
5 28. Applying that interpretation, this Court concluded that § 1225(b)(2)
6 does not apply to individuals like Petitioner, whose alleged inadmissibility is based
7 on conduct occurring long after entry and *not* in connection with an arrival
8 inspection.

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

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

19
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21 30. These courts uniformly conclude that Respondent’s interpretation
22 contradicts the statutory text, structure, and decades of agency practice.

23 **Stewart Immigration Court’s Continued Refusal to Exercise Jurisdiction**

1 31. Because Petitioner has no administrative avenue to challenge his
2 custody, habeas corpus is the only remedy capable of addressing the ongoing
3 violation of federal law.
4

5 **FACTUAL BACKGROUND**

6 32. Petitioner last entered the United States in 2020 without inspection or
7 admission. Since that time, he has established a life and family in the United States.

8 33. Petitioner is the father of two United States Citizen children ages 14,
9 and 23 years old.

10 34. The 14-year-old is attending Middle School.

11 35. Petitioner is the primary financial support for his family.

12 36. Petitioner has no criminal history other pending citation for traffic
13 violation(s). On February 7, 2026, was cited and arrested by the Lake City, Georgia
14 police department. Upon paying the city bond, Petitioner was picked up by DHS.
15

16 37. Petitioner has a pending VAWA (Violence Against Woman Act)
17 application with USCIS and via this application derived work authorization for
18 employment in the United States.
19

20 38. Petitioner's ongoing detention imposes severe financial and emotional
21 hardship on his U.S. citizen family.
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1 39. Prior to his detention, Petitioner worked full-time as a cab driver and
2 has a history of steady employment. He is known as a hard-working individual who
3 supports her family and contributes to his community.
4

5 40. Petitioner poses no danger to the community and is not a flight risk. His
6 family ties, employment history, lack of criminal convictions, and consistent
7 community involvement demonstrate that he is an appropriate candidate for release
8 under § 1226(a).

9 41. Petitioner's continued detention also violates due process because it is
10 based on an unlawful statutory interpretation already rejected by this Court and by a
11 certified nationwide class action. In *J.A.M. and P.R.S.*, this Court held that 8 U.S.C.
12 § 1225(b)(2) applies only when a noncitizen is "seeking admission" in the context
13 of an arrival inspection by an examining immigration officer. Petitioner, however,
14 was apprehended inside the United States years after his entry and therefore falls
15 squarely within the detention framework of § 1226(a), which entitles him to a bond
16 hearing.
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18 42. Nevertheless, ICE continues to detain Petitioner under § 1225(b)(2),
19 and the Stewart Immigration Court refuses to exercise jurisdiction to conduct a bond
20 hearing. Because Petitioner is a long-term resident with deep family ties, no criminal
21 history of convictions, his prolonged imprisonment without any opportunity for
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1 individualized custody review violates the fundamental requirements of due process
2 and reinforces the necessity of habeas relief.

3
4 **CLAIMS FOR RELIEF**

5 **COUNT I**
6 **Violation of the INA**

7 43. Petitioner incorporates by reference the allegations of fact set forth in
8 the preceding paragraphs.

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

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

19 **COUNT II**

20 **Violation of the Bond Regulations**

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

12
13 48. Nonetheless, pursuant to *Yajure Hurtado*, EOIR has a policy and
14 practice of applying § 1225(b)(2) to individual like Petitioner.

15 49. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
16 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
17

18 **COUNT III**
Violation of Due Process

19 50. Petitioner repeats, re-alleges, and incorporates by reference each and
20 every allegation in the preceding paragraphs as if fully set forth herein.
21

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

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

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

5 53. The government’s detention of Petitioner without a bond
6 redetermination hearing to determine whether he is a flight risk or danger to others
7 violates his right to due process.
8

9 **PRAYER FOR RELIEF**

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

- 11 a. Assume jurisdiction over this matter;
- 12 b. Order that Petitioner shall not be transferred outside the Middle District
13 of Georgia while this habeas petition is pending;
- 14 c. Issue an Order to Show Cause ordering Respondents to show cause why
15 this Petition should not be granted within three days;
- 16 d. Issue a Writ of Habeas Corpus requiring that Respondents release
17 Petitioner or, in the alternative, provide Petitioner with a bond hearing
18 pursuant to 8 U.S.C. § 1226(a) within seven days;
- 19 e. Declare that Petitioner’s detention is unlawful;
- 20 f. Award Petitioner attorney’s fees and costs under the Equal Access to
21 Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other
22 basis justified under law; and
- 23 g. Grant any other and further relief that this Court deems just and proper.

24 DATED this 16th day of March, 2026.

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