

2  
3  
4  
5  
6  
7  
8  
9  
10  
11  
12  
13  
14  
15  
16  
17  
18  
19  
20  
21  
22  
23  
24

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION

RICARDO LICONA ESCORZA,



Petitioner,

v.

WARDEN, IRWIN COUNTY  
DETENTION CENTER; KRISTI  
NOEM, Secretary, U.S. Department of  
Homeland Security.

Respondents.

Case No.

**PETITION FOR WRIT OF  
HABEAS CORPUS**

## INTRODUCTION

1  
2  
3 1. Petitioner, Ricardo Licona Escorza, respectfully petitions this Court  
4 for a writ of habeas corpus to challenge his unlawful detention by the Department of  
5 Homeland Security.

6  
7 2. Petitioner has been detained since February 19, 2026 at the Irwin  
8 County Detention Center. DHS has refused to provide him any bond hearing based on  
9 a recently adopted legal interpretation asserting that individuals who entered the  
10 United States without inspection must be detained under 8 U.S.C. § 1225(b)(2) and  
11 are therefore categorically ineligible for release on bond.

12  
13 3. That interpretation is contrary to the text of the Immigration and  
14 Nationality Act, decades of agency practice, and recent federal court decisions—  
15 including decisions of this Court—holding that individuals apprehended inside the  
16 United States years after entry are detained under 8 U.S.C. § 1226(a) and are entitled  
17 to individualized custody determinations.

18  
19 4. Because immigration judges are refusing to exercise jurisdiction over  
20 custody determinations based on the Board of Immigration Appeals' decision in  
21 *Matter of Yajure Hurtado*, Petitioner has no administrative avenue to challenge his  
22 detention.

23  
24 5. Habeas corpus therefore provides the only meaningful mechanism to  
vindicate Petitioner's statutory and constitutional rights. Petitioner respectfully

2 requests that this Court order his immediate release, or in the alternative, set a  
3 reasonable bond, or at minimum, order a constitutionally compliant bond hearing.

#### 4 JURISDICTION

5 6. Petitioner is in the physical custody of Respondents. Petitioner is  
6 detained at the Irwin County Detention Center located in Ocilla, Georgia.

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

10 8. This Court may grant relief pursuant to 28 U.S.C. § 2241, the  
11 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C.  
12 § 1651.  
13

#### 14 VENUE

15 9. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S.  
16 484, 493- 500 (1973), venue lies in the United States District Court for the Middle  
17 District of Georgia, the judicial district in which Petitioner currently is detained.  
18

19 10. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e)  
20 because Respondent is employee, officer, and agency of the United States, and  
21 because a substantial part of the events or omissions giving rise to the claims  
22 occurred in the Middle District of Georgia.  
23  
24



2 14. Respondent, the Warden of the Irwin County Detention Center, is  
3 employed by Core Civic Group. He has immediate physical custody of Petitioner.  
4 He is sued in his official capacity.

5 15. 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. Enviar porfavor pasaporte

#### 11 **LEGAL FRAMEWORK**

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

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

19 18. 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.  
24

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

4 20. 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 21. 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 22. 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).

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

21  
22 23. On July 8, 2025, ICE— “in coordination with” DOJ—issued guidance  
23 declaring that all individuals who entered without inspection must now be detained  
24

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 24. 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**

25. This Court has already rejected the government's reading of § 1225(b)(2). In  
10 *J.A.M. v. Streeval*, Case No. 4:25-cv-342 (CDL), 2025 WL 3050094 (M.D. G.A. Nov.  
11, 2025), the Court held that § 1225(b)(2) applies only to noncitizens who are "seeking  
12 admission" in the context of an arrival inspection by an examining immigration officer.

16 26. 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.

21 27. Applying that interpretation, the Court concluded that § 1225(b)(2)  
22 does not apply to individuals like Petitioner, whose alleged inadmissibility is based  
23 on conduct occurring long after entry and not in connection with an arrival inspection.  
24

2 28. 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 29. 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.  
8

9 **FACTUAL BACKGROUND**

30. Petitioner is a native and citizen of Mexico who entered the United States  
approximately twenty-two (22) years ago without inspection (EWI). Since his arrival,  
Petitioner has remained continuously in the United States and has established his life in  
this country. During this time, he has developed strong ties to his community and  
has worked to support himself and his family. Petitioner has not departed the United  
States since his entry and has maintained continuous physical presence in the country.

31. Petitioner is the father of three (3) United States citizen children age  
twelve, nine and six years old. Petitioner has been a constant and stabilizing presence  
in his children's lives and has provided consistent financial, emotional, and parental  
support.

20 32. During his time in the United States, Petitioner has worked consistently  
21 in the construction industry, including remodeling and home improvement projects.  
22 He has been employed by various companies and has worked at multiple job sites,  
23 supporting himself and his family through honest labor. Through his steady  
24

2 employment over the years, Petitioner has demonstrated a strong work ethic and a  
3 commitment to contributing positively to his community.

33. Petitioner has had very limited contact with the criminal justice system. The only incident on his record stems from a citation for driving without a valid driver's license. This was an isolated, non-violent traffic-related matter that did not involve any allegations of harmful or dangerous conduct. The incident does not reflect a pattern of criminal behavior and does not suggest that Petitioner poses any risk to the community.

16 34. 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).

20 35. Petitioner's continued detention violates due process because it is based  
21 on an unlawful application of INA § 235 to an individual who was apprehended  
22 inside the United States long after entry and who is not seeking admission. Petitioner  
23

24

2 therefore falls squarely within the discretionary detention framework of INA §  
3 236(a), which entitles him to an individualized bond hearing.

4 36. 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 37. 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 38. 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

2 **CLAIMS FOR RELIEF**

3 **COUNT I**

4 **Violation of the INA**

5 39. Petitioner incorporates by reference the allegations of fact set forth in  
6 the preceding paragraphs.

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

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

18 **COUNT II**

19 **Violation of the Bond Regulations**

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

22 43. In 1997, after Congress amended the INA through IIRIRA, EOIR and  
23 the then-Immigration and Naturalization Service issued an interim rule to interpret  
24 and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and

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

12 45. 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 46. Petitioner repeats, re-alleges, and incorporates by reference each and  
18 every allegation in the preceding paragraphs as if fully set forth herein.

19 47. 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).  
24

2 48. Petitioner has a fundamental interest in liberty and being free from  
3 official restraint.

4 49. 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.

### 7 **REMEDY**

8 50. The equitable and flexible nature of habeas corpus provides this Court  
9 with broad authority to craft an appropriate remedy that fully addresses the statutory  
10 and constitutional violations presented in this case. Habeas corpus is fundamentally  
11 an equitable remedy, and courts exercising habeas jurisdiction possess significant  
12 discretion to fashion relief that effectively remedies unlawful detention. *See Velasco*  
13 *Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); *Schlup v. Delo*, 513 U.S. 298,  
14 319 (1995).

15  
16  
17 51. The habeas statute further directs that courts shall "dispose of the matter  
18 as law and justice require." 28 U.S.C. § 2243. The Supreme Court has emphasized  
19 that the statute does not limit the relief that may be granted in habeas proceedings  
20 and that federal courts retain broad remedial authority when unlawful detention is  
21 established. *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968).

22  
23  
24

2 52. Given the statutory and constitutional violations presented here, the  
3 Court should exercise its equitable authority to order relief that effectively remedies  
4 Petitioner's unlawful detention.

5 **Immediate Release**

6 53. Release from unlawful custody is the traditional and most appropriate  
7 remedy in habeas proceedings. The Supreme Court has long recognized that the  
8 central function of the writ of habeas corpus is to secure release from illegal  
9 detention. *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973).

10 54. Federal courts across the country have repeatedly ordered immediate  
11 release where immigration detention was imposed in violation of federal law or the  
12 Constitution. Numerous courts have recognized that release is particularly  
13 appropriate where detention rests on an unlawful statutory interpretation or where  
14 the detainee has been deprived of meaningful procedural safeguards. Courts ordering  
15 release in similar immigration detention cases include *Munoz Materano v. Arteta*,  
16 2025 WL 2630826 (S.D.N.Y. Sept. 12, 2025); *Chipantiza-Sisalema v. Francis*, 2025  
17 WL 1927931 (S.D.N.Y. July 13, 2025); *Rueda Torres v. Francis*, 2025 WL 3168759  
18 (S.D.N.Y. Nov. 13, 2025); *Cifuentes v. Soto*, 2025 WL 3771380 (D.N.J. Dec. 31,  
19 2025); *Gonzalez Centeno v. Lowe*, 2026 WL 94642 (M.D. Pa. Jan. 13, 2026); *Feisal*  
20 *O. v. Noem*, 2026 WL 92857 (D. Minn. Jan. 13, 2026); *Garcia Covarrubias v.*  
21  
22  
23  
24

2 *Holston*, 2026 WL 25970 (D. Nev. Jan. 5, 2026); and *Kenzhebaev v. Noem*, 2025  
3 WL 3737975 (W.D. Mich. Dec. 29, 2025).

4 55. Courts have further recognized that ordering a bond hearing may not  
5 adequately remedy constitutional violations where the detainee has already been  
6 deprived of liberty without due process. In *Qasemi v. Francis*, 2025 WL 3654098  
7 (S.D.N.Y. Dec. 17, 2025), the court concluded that a bond hearing would not  
8 sufficiently remedy the due process violation caused by detention without lawful  
9 procedures. Similarly, in *Noyola v. Bondi*, 2026 WL 607266 (W.D. Tex. Mar. 4,  
10 2026), the court determined that immediate release was the appropriate remedy for  
11 unlawful immigration detention.  
12

13 56. Because Petitioner's detention rests on an unlawful interpretation of the  
14 Immigration and Nationality Act and because he has been denied any meaningful  
15 opportunity to challenge his custody, immediate release is the most appropriate and  
16 effective remedy.  
17

18 **Custody Determination by the Habeas Court**

19 57. If the Court declines to order immediate release, the Court possesses  
20 authority to conduct its own custody determination within this habeas proceeding.  
21 Federal courts exercising habeas jurisdiction have repeatedly recognized their  
22 authority to determine whether continued detention is justified and to set appropriate  
23 conditions of release. Courts have explained that conducting a custody determination  
24

2 within the habeas proceeding may be more efficient and may better ensure  
3 compliance with constitutional requirements than delegating the determination back  
4 to the immigration court system. *See L.G.M. v. LaRocco*, 788 F. Supp. 3d 401  
5 (E.D.N.Y. 2025); *Flores-Powell v. Chadbourne*, 677 F. Supp. 2d 474 (D. Mass.  
6 2010); and *Ramirez v. Watkins*, 2010 WL 6269226 (S.D. Tex. 2010).

7  
8 58. Under this approach, the Court may determine whether the government  
9 can demonstrate that continued detention is justified based on danger to the  
10 community or risk of flight. If the government cannot meet its burden, the Court may  
11 order Petitioner released on recognizance or set a reasonable bond consistent with  
12 Petitioner's financial circumstances.

### 13 **Ineffectiveness of Immigration Court Bond Hearings**

14  
15 Although courts sometimes order immigration judges to conduct bond  
16 hearings, recent litigation across the country demonstrates that such hearings  
17 frequently fail to remedy unlawful detention. Federal courts have repeatedly  
18 documented systemic problems that undermine the effectiveness of such hearings.  
19 One recurring problem arises when the Department of Homeland Security appeals  
20 an immigration judge's bond grant and invokes the automatic stay regulation, which  
21 prevents release even after a judge has determined that bond is appropriate.  
22 Numerous courts have concluded that this practice raises serious due process  
23 concerns. *See Merchan-Pacheco v. Noem*, 2026 WL 88526 (D. Colo. Jan. 12, 2026);  
24

2 *M.P.L. v. Arteta*, 2025 WL 3288354 (S.D.N.Y. Nov. 25, 2025); and *Garvey v. Noem*,  
3 2026 WL 612302 (W.D. Mo. Mar. 4, 2026).

4 Courts have also documented cases in which immigration authorities imposed  
5 electronic monitoring or other restrictive conditions of release that were never  
6 ordered by any judge. Federal courts have repeatedly required such conditions to be  
7 removed. See *Gonzalez Centeno v. Lowe*, 2026 WL 196513 (M.D. Pa. Jan. 26,  
8 2026); *Diahn v. Lowe*, 2026 WL 84576 (M.D. Pa. Jan. 12, 2026); and *Montes*  
9 *Aguillon v. Bondi*, 2026 WL 531899 (W.D. Tex. Feb. 25, 2026).

11 Courts have additionally documented repeated failures to conduct timely bond  
12 hearings after federal courts ordered them. In *Bautista v. Santacruz*, the court  
13 observed that hundreds of detainees were forced to file individual habeas petitions  
14 because the government failed to provide bond hearings ordered in prior litigation.  
15 These enforcement problems illustrate why immediate release or a custody  
16 determination by the habeas court is often the most effective remedy for unlawful  
17 immigration detention.  
18

### 19 **Safeguards If a Bond Hearing Is Ordered**

20 If the Court determines that an immigration judge should conduct a bond  
21 hearing, that hearing must include procedural safeguards sufficient to satisfy due  
22 process. Courts have widely recognized that the government must bear the burden  
23 of justifying continued detention in court-ordered bond hearings. See *Hernandez-*  
24

2 *Fernandez v. Lyons*, 2025 WL 2976923 (W.D. Tex. Oct. 21, 2025); *Gomez v. Olson*,  
3 2025 WL 3768242 (N.D. Ill. Dec. 31, 2025).

4 Courts have further required that the government demonstrate danger or risk  
5 of flight by clear and convincing evidence, that the immigration judge consider the  
6 detainee's ability to pay any bond amount, and that the government be prohibited  
7 from invoking the automatic stay regulation if bond is granted. *See Lopez-Romero*  
8 *v. Lyons*, 2026 WL 92873 (D.N.M. Jan. 13, 2026); *Perez-Regalado v. Feeley*, 2026  
9 WL 36112 (D. Nev. Jan. 6, 2026).

11 These safeguards ensure that any custody determination meaningfully  
12 protects the constitutional liberty interests at stake.

### 13 **PRAYER FOR RELIEF**

14 WHEREFORE, Petitioner prays that this Court grant the following relief:  
15

- 16 a. Assume jurisdiction over this matter;
- 17 b. Order that Petitioner shall not be transferred outside the Middle  
18 District of Georgia while this habeas petition is pending;
- 19 c. Issue an Order to Show Cause ordering Respondents to show cause why  
20 this Petition should not be granted within three days;
- 21 d. Issue a Writ of Habeas Corpus requiring that Respondents release  
22 Petitioner or, in the alternative, set a reasonable bond or order a  
constitutionally compliant bond hearing
- 23 e. Declare that Petitioner's detention is unlawful;
- 24

- 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 other  
4 basis justified under law; and
- 5 g. Grant any other and further relief that this Court deems just and proper.

6 DATED this 18<sup>th</sup> day of March, 2026.

7  
8  
9  
10 ZAMBRANO LAW,

11 /s/ Shirley C. Zambrano  
12 Shirley C. Zambrano  
13 GA Bar Number: 741429  
14 1995 North Park Place, Suite 360  
15 Atlanta, GA 30339  
16 Phone: 770-769-5821  
17 Fax: 770-769-5810  
18 szambrano@zambranolaw.com

19  
20  
21  
22  
23  
24 *Counsel for Petitioner*

