

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION**

JOSE AVILA MUNOZ,  
Petitioner,

vs.

JASON STREEVAL in his official  
capacity as Warden of Stewart County  
Detention Center; PAMELA BONDI,  
in her official capacity as the U.S.  
Attorney General; and U.S.  
DEPARTMENT OF HOMELAND  
SECURITY;  
Defendants.

Civil Action No.:


**HEARING REQUESTED**

**PETITION FOR *WRIT OF HABEAS CORPUS* BY AN ALIEN DETAINEE**

**To the Honorable Judges of this Court:**

Petitioner, JOSE AVILA MUNOZ, respectfully brings this Petition for *Writ of Habeas Corpus* seeking relief to remedy his unlawful detention.

**I. FACTUAL BACKGROUND**

1. Petitioner is a 35-year-old Mexican national who entered the United States on or about December of 2004 and has resided continuously here since then. He has a U.S. citizen child. His Alien Registration Number is 

2. On or about February 27, 2026, U.S. Immigration and Customs Enforcement (ICE) arrested Petitioner at the Hall County Detention Center in Gainesville, Georgia, following an arrest for driving without a license. He was transported to the Stewart County Detention Center (SCDC), where he remains.

3. On September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a precedential decision in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), reclassifying noncitizens present in the United States without lawful admission as “applicants for admission” under 8 U.S.C. § 1225(b)(2), thereby subjecting them to mandatory detention without bond hearings rather than classifying them under 8 U.S.C. § 1226(a), which affords the opportunity to seek bond. This marked a departure from decades of agency practice and settled judicial interpretation.

4. Petitioner is erroneously and unconstitutionally being denied the opportunity to seek bond based on Matter of Yajure Hurtado. At the time of his arrest by ICE, Petitioner was not seeking admission to the United States and, therefore, could not, as a matter of law, be classified as an applicant for admission under § 1225(b)(2).

5. Petitioner is seeking an order declaring § 1225(b)(2) inapplicable to him and mandating a § 1226(a) bond hearing.

6. Petitioner's detention is also in violation of his due process and other constitutional rights, as Petitioner has not been given notice and an opportunity to be heard about his detention and his detention serves no legitimate governmental interest.

7. Due to irreparable harm of continued detention without due process, he requests an order to show cause within three days under 28 U.S.C. § 2243 and reserves the right to seek a temporary restraining order under Fed. R. Civ. P. 65(b).

8. The Court should expeditiously grant this petition. Because Defendants are detaining Petitioner in violation of law, the Court should accordingly order that Defendants provide him with a bond hearing within 7 days or release him.

## **II. JURISDICTION AND VENUE**

9. This action arises under the United States Constitution and the Immigration and Nationality Act of 1952 (INA), 8 U.S.C. § 1101 *et seq.*

10. This Court has jurisdiction to grant a *writ of habeas corpus* under 28 U.S.C. § 2241, Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), and the Fifth Amendment's Due Process Clause. The Court also has federal question jurisdiction under 28 U.S.C. § 1331 and authority to issue declaratory and


injunctive relief under 28 U.S.C. §§ 2201–2202 and the All Writs Act, 28 U.S.C. § 1651.

11. Petitioner challenges only the statutory applicability of § 1225(b)(2), not its implementation or regulations. Thus, 8 U.S.C. § 1252(e)(3), which limits review of such implementation to the District of Columbia, does not apply. J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 3-4.

12. Similarly, 8 U.S.C. § 1252(g) does not bar review because Petitioner is not challenging the commencement, adjudication, or execution of his removal proceedings, but the lawfulness of his civil detention separate from those proceedings.

13. Petitioner is detained at the Stewart County Detention Center in Lumpkin, Georgia, which lies within the Middle District of Georgia, Columbus Division. Venue is therefore proper pursuant to 28 U.S.C. § 1391(b)–(e).

### III. PARTIES

14. Petitioner, Jose Avila Munoz, is a Mexican citizen currently detained by Defendants at the SCDC. His alien registration number is 

15. Defendant Jason Streeval is the Warden of the Stewart County Detention Center and is being sued in his official capacity. He is responsible for the operations of the SCDC and has control over Petitioner as his immediate custodian.

16. Defendant Pamela Bondi is the U.S. Attorney General and is being sued in her official capacity.

17. U.S. Department of Homeland Security (“DHS”) is a governmental agency of the United States. It is a legal custodian of Petitioner.

#### **IV. CLAIM FOR RELIEF – *WRIT OF HABEAS CORPUS***

18. The Constitution guarantees the right to a *writ of habeas corpus* to every individual detained within the United States, including immigration-related detention. Zadvydas v. Davis, 533 U.S. 678, 687 (2001). A *writ of habeas corpus* must be granted if the person is in custody in violation of the Constitution or federal law. 28 U.S.C. § 2241(c)(3) as is the case here, where Petitioner is being detained based on an incorrect application of federal law and in violation of his due process rights.

19. The Court should grant the petition right away, as the legal issues presented by this Petition have already been resolved by this Court in J.A.M. v. Streeval, 4:25-cv-00342-CDL-AGH (M.D. Ga. Nov. 1, 2025).

**A. Count 1: Unlawful Detention Under 8 U.S.C. § 1225(b)(2)**

20. Petitioner's detention violates the law because Defendants have improperly classified him as an alien "seeking admission" and subjected him to mandatory detention under 8 U.S.C. § 1225(b)(2), a provision that applies only to aliens seeking admission and not to individuals like Petitioner who have long been present in the United States. J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 7-10 (M.D. Ga. Nov. 1, 2025).

21. Two statutes primarily govern the detention of noncitizens in removal proceedings: 8 U.S.C. §§ 1225 and 1226. Section 1225 governs mandatory detention and applies to aliens who, inter alia, are "seeking admission" (emphasis added). Section 1226, by contrast, governs the detention of aliens already present in the United States and permits discretionary release on bond for those who are neither a flight risk nor a danger to the community.

22. At the time of his arrest on February 27, 2026, Petitioner was apprehended in the interior of the United States, was not arriving at the border, and was not seeking admission. His detention therefore falls within the scope of § 1226, not § 1225.

23. As a matter of statutory law, Defendants therefore lack authority to detain Petitioner under 8 U.S.C. § 1225(b)(2) and must provide him the procedural protections of § 1226(a), including a bond hearing.

24. Since the enactment of §§ 1225 and 1226 in 1996, Defendants have consistently applied the procedural safeguards of § 1226 to aliens who, like Petitioner, were apprehended in the interior of the United States.

25. In July of 2025, Defendants changed course abruptly and began alleging that all aliens who entered without being admitted or inspected are to be considered aliens seeking admission. On September 5, 2025, Defendants' new position was made binding upon Immigration Judges with the issuance of Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).

26. This interpretation, which is contrary to decades of precedent, clear statutory text, regulations, and the government's own long-standing practice, has already been rejected by district courts nationwide, including by this Honorable Court in J.A.M. v. Streeval, 4:25-cv-00342-CDL-AGH (M.D. Ga. Nov. 1, 2025).

27. Petitioner is entitled to a prompt, individualized bond hearing before an Immigration Judge at which the government bears the burden of proving that

continued detention is necessary to serve a legitimate purpose such as preventing flight or protecting the community.

28. Petitioner thus merits immediate relief in the form of release or a bond hearing with the Executive Office of Immigration Review (Immigration Court).

**B. Count 2: Unlawful Detention in Violation of Petitioner's Due Process Rights**

29. Petitioner's detention violates his substantial due process rights under the Fifth Amendment of the U.S. Constitution, which guarantees that no person shall be deprived of liberty without due process of law. Arbitrary, unreviewable civil detention is categorically unconstitutional. The Due Process Clause requires that any deprivation of Petitioner's liberty serve, at minimum, a legitimate purpose. *See Reno v. Flores*, 507 U.S. 292, 302-306 (1993)(explaining that infringements on fundamental liberty rights violate due process unless they are "narrowly tailored to serve a compelling state interest").

30. Civil detention is permissible only in narrow, non-punitive circumstances where the government demonstrates a legitimate and non-punitive governmental purpose supported by individualized findings that outweighs an individual's liberty interest. Here, Defendants have no special justification. Petitioner has no criminal record, poses no danger, and is not a flight risk. Continued incarceration under

these circumstances bears no reasonable relation to any legitimate governmental goal and therefore violates the substantive component of the Fifth Amendment's Due Process Clause.

31. Petitioner's detention also violates the procedural due process guarantees of the Fifth Amendment. The government has deprived him of liberty, the most fundamental of all interests, without providing any meaningful opportunity to contest that deprivation. He has received no hearing before a neutral decision-maker, no notice of the factual basis for his detention, and no chance to present evidence in his favor. Under Mathews v. Eldridge, 424 U.S. 319 (1976), such an absolute denial of process fails every prong of the balancing test: the private interest at stake is immense; the risk of erroneous deprivation is high where no procedure exists; and the government's burden in providing a bond hearing is minimal.

32. By refusing to provide even the minimal safeguards Congress built into § 1226(a), Defendants have acted in a manner that is arbitrary, capricious, and inconsistent with the basic promise of due process, that the government may not imprison a person first and ask questions later.

33. A *writ of habeas corpus* should issue requiring Defendants to provide Petitioner with a bond hearing in Immigration Court.

WHEREFORE, Petitioner prays this Honorable Court:

- (a) Assume jurisdiction over this matter;
- (b) Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action for *habeas corpus*;
- (c) Issue and order directing Defendants to show cause why a *writ* should not be granted;
- (d) Issue a *writ of habeas corpus* ordering Defendants to release Petitioner immediately unless they provide a bond hearing under § 1226(a) within 7 days;
- (e) grant such other and further relief as this Court deems proper under the circumstances; and
- (f) grant reasonable attorney's fees and costs of Court to Petitioner under the Equal Access to Justice Act.

Respectfully submitted this March 19, 2026.

/s/ Giovanna Andrea Holden  
Giovanna Andrea Holden  
Attorney for Petitioner  
Georgia Bar No. 514691  
Holden Law Firm  
311 Green Street, NW  
Gainesville, GA 30501  
678-865-4444/[gio@holdenfirm.com](mailto:gio@holdenfirm.com)