

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

FILED
U.S. DISTRICT COURT
BRUNSWICK DIV.

2025 MAR 19 P 2:20

HECTOR MAURO DE LA ROSA
Also known as ANDRES DE LA ROSA MONREAL

CLERK Kjm
U.S. DISTRICT COURT

Pro Se Petitioner
v.

Civil No.: 5:26 cv 346
DHS File No.: A# [REDACTED]
PETITION FOR WRIT OF HABEAS
CORPUS UNDER 28 USC Section 2241

PAM BONDI,
United States Attorney General;

KRISTI NOEM,
Secretary of DHS;

TODD M. LYONS,
Director of ICE;

SEAN ERVIN
Field Office Director
ICE, Atlanta

WARDEN, FOLKSTON D. RAY ICE PROCESSING CENTER;
and all other persons having custody of Petitioner,
Respondents.

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PRELIMINARY STATEMENT

¶ 1. Petitioner Hector Mauro De la Rosa seeks a writ of habeas corpus under 28 U.S.C. § 2241 challenging his unlawful civil immigration detention. Petitioner is a member of the certified class in *Maldonado Bautista v. Noem*, in which the federal district court held that noncitizens arrested in the interior after entry without inspection are detained under 8 U.S.C. § 1226(a) and are entitled to bond hearings.

INTRODUCTION

¶ 2. Petitioner has resided in the United States for over ten years and has strong family ties, including U.S. citizen children and a U.S. citizen sponsor prepared to provide housing and financial support. Despite these equities, DHS has classified Petitioner under 8 U.S.C. § 1225(b) and denied bond jurisdiction.

JURISDICTION AND VENUE

¶ 3. This Court has jurisdiction pursuant to 28 U.S.C. §§ 2241 and 1331, and venue is proper in the Southern District of Georgia because Petitioner is detained at the Folkston D. Ray ICE Processing Center, 3262 Hwy 252 East, Folkston, GA 31537.

LEGAL FRAMEWORK

- ¶ 4. *Zadvydas v. Davis*, 533 U.S. 678 (2001) — Due Process applies to all persons.
- ¶ 5. *Demore v. Kim*, 538 U.S. 510 (2003) — Detention must serve limited purposes.
- ¶ 6. *Jennings v. Rodriguez*, 583 U.S. 281 (2018) — Distinction between § 235(b) and § 236(a).
- ¶ 7. *Mathews v. Eldridge*, 424 U.S. 319 (1976) — Procedural due process balancing test.
- ¶ 8. *Boumediene v. Bush*, 553 U.S. 723 (2008) — Suspension Clause protections.
- ¶ 9. *Clark v. Martinez*, 543 U.S. 371 (2005) — Constitutional avoidance doctrine.
- ¶ 10. *INS v. St. Cyr*, 533 U.S. 289 (2001) — Preservation of habeas review.

II. FACTUAL BACKGROUND

- ¶ 11. Petitioner entered the United States without inspection and was not apprehended upon arrival or near the border.
- ¶ 12. Petitioner resided in the interior of the United States for many years and lives with his wife and US citizen children, before being arrested by ICE.

¶ 13. Petitioner has multiple United States citizen children, and his continued detention imposes severe hardship on his family.

¶ 14. Petitioner's spouse and children have medical and caregiving needs documented in the record submitted in support of bond.

¶ 15. Petitioner has a United States citizen sponsor who is prepared to provide stable housing and financial support if Petitioner is released.

¶ 16. Petitioner has strong community ties, including a work history and letters attesting to his good moral character and non-dangerousness.

III. PETITIONER IS A MEMBER OF THE CERTIFIED BOND ELIGIBLE CLASS

¶ 17. On November 25, 2025, the United States District Court for the Central District of California certified the Bond Eligible Class in *Maldonado Bautista v. Noem*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.). The class includes noncitizens who: (1) entered without inspection; (2) were not apprehended upon arrival; and (3) were not subject to mandatory detention under § 1226(c), § 1225(b)(1), or § 1231 at the time of initial custody determination.

¶ 18. Petitioner satisfies each element of that definition. On December 18, 2025, the district court held that individuals arrested in the interior after entry without inspection are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2), and are entitled to bond hearings. The court further vacated DHS's July 8, 2025 Interim Guidance and rejected continued reliance on *Matter of Yajure-Hurtado*.

¶ 19. Petitioner's Membership in the Certified Bond Eligible Class

¶ 20. Petitioner entered the United States without inspection (“EWI”) and was not apprehended upon arrival at or near the border.

¶ 21. Instead, Petitioner lived in the interior of the United States for an extended period before being arrested by ICE.

¶ 22. . Petitioner was arrested in the interior of the United States and placed into removal proceedings.

¶ 23. At the time of DHS’s initial custody determination, Petitioner was not subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

¶ 24. Petitioner is therefore a member of the certified “Bond Eligible Class” as defined by the United States District Court for the Central District of California in Maldonado Bautista v. Noem, Case No. 5:25-cv-01873-SSS-BFM (Order Granting Class Certification, Nov. 25, 2025), which certified:

¶ 25. “All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.”

¶ 26. Petitioner squarely satisfies each element of that definition:

- (1) He entered without inspection;
- (2) He was not apprehended upon arrival; and
- (3) He is not subject to § 1226(c), § 1225(b)(1), or § 1231 mandatory detention.

¶ 27. On December 18, 2025, and subsequently enforced on February 18, 2026, the district court held that individuals in this class who were arrested in the interior after entry without inspection are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2), and are entitled to bond consideration and immigration judge custody redetermination hearings.

¶ 28. The district court further vacated the Government's reliance on *Matter of Yajure-Hurtado* as contrary to law under the Administrative Procedure Act and clarified that the executive branch may not continue denying bond hearings to Bond Eligible Class members.

¶ 29. Despite falling within the certified class and the scope of the federal court's judgment, Petitioner has been denied bond jurisdiction solely on the basis of *Matter of Yajure-Hurtado* and DHS's position that he is detained under § 1225(b)(2).

¶ 30. Respondents' continued detention of Petitioner without a bond hearing directly contravenes the statutory interpretation and vacatur orders entered in *Maldonado Bautista*, and violates the Due Process Clause of the Fifth Amendment

¶ 31. Respondents' continue to provide individuals like Petitioner and Petitioner himself a bond hearing and this action and inaction constitutes direct noncompliance with the federal judgment in *Maldonado Bautista*.

IV. LEGAL FRAMEWORK

¶ 32. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Freedom from physical restraint lies at the core of the liberty

protected by the Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Immigration detention is constitutionally permissible only to prevent flight or danger to the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

¶ 33. Congress established two detention regimes: § 1225(b) for arriving or recently apprehended entrants, and § 1226(a) for interior arrests. *Jennings v. Rodriguez*, 583 U.S. 281, 297–303 (2018), distinguishes these statutory provisions. Where a noncitizen is arrested in the interior, § 1226(a) governs and authorizes release on bond.

¶ 34. After *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), courts must independently interpret statutes without Chevron deference. Thus, agency reliance on *Matter of Yajure-Hurtado* cannot override judicial interpretation.

MEMORANDUM OF LAW

¶ 35. Under *Maldonado Bautista v. Noem* (C.D. Cal. Dec. 18, 2025), individuals arrested in the interior after entry without inspection are detained under § 1226(a) and entitled to bond hearings. The decision vacated DHS guidance and rejected reliance on *Matter of Yajure-Hurtado*. Petitioner falls squarely within the certified class definition.

IV. PETITIONER IS A CERTIFIED BOND

¶ 36. Federal courts have already determined that noncitizens who entered without inspection but were later arrested in the interior are detained under 8 U.S.C. § 1226(a),

not § 1225(b)(2), and are entitled to bond hearings. See *Maldonado Bautista v. Noem*, Case No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025; Feb. 18, 2026)

¶ 37. Petitioner falls squarely within the certified Bond Eligible Class definition and is entitled to the same statutory protections.

V. LEGAL FRAMEWORK: DUE PROCESS CLAUSE

¶ 38. The Fifth Amendment’s Due Process Clause applies to “all persons” within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Id.* at In the immigration context, detention is constitutionally justified only to prevent flight or protect the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

¶ 39. Congress created two distinct detention regimes. Section 235(b) governs inspection and limited mandatory detention of arriving aliens or those apprehended shortly after entry; § 236(a) governs interior arrests on warrant, authorizing detention pending a removal decision with discretionary release on bond.. See *Jennings v. Rodriguez*, 583 U.S. 281, 297, 302–03 (2018) (describing § 235(b) as “primarily” for those seeking entry and § 236(a) as applying to aliens “already in the United States” and arrested “on warrant”).

¶ 40. . The Laken Riley Act confirms Congress preserved § 236(a)’s discretionary bond regime for most inadmissible entrants arrested in the interior by adding a narrow new mandatory-detention category under § 236(c)(1)(E) (pairing inadmissibility under 8 U.S.C. § 1182(a)(6)(A), (6)(C), or (7) with specified crimes). If § 235(b) already mandated detention for all inadmissible entrants, § 236(c)(1)(E) would be redundant—an outcome courts must avoid. See *Corley v. United States*, 556 U.S. 303, 314 (2009); *Van Buren v. United States*, 593 U.S. 374, 393 (2021). Congress legislated against decades of agency practice applying § 236(a) to interior arrests, and courts presume amendments harmonize with that practice. *Monsalvo Velázquez v. Bondi*, 604 U.S. ____ (2025).

¶ 41. . On December 18, 2025, the United States District Court for the Central District of California granted partial summary judgment and entered final judgment in *Maldonado Bautista v. Noem*, Case No. 5:25-cv-01873-SSS-BFM, holding that similarly situated noncitizens who entered without inspection but were later arrested and detained in the interior are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2), and are entitled to bond consideration and an immigration-judge custody redetermination hearing. The court also vacated DHS’s July 8, 2025 “Interim Guidance Regarding Detention Authority for Applicants for Admission” under the APA.

¶ 42. In addressing the Government’s reliance on *Matter of Yajure-Hurtado*, the *Maldonado Bautista* court observed that *Yajure-Hurtado*’s core holding cannot be squared with its statutory analysis, and explained that, after *Loper Bright*, courts must exercise independent judgment rather than defer to agency interpretations; accordingly, *Yajure-Hurtado*’s legal conclusion is “no longer controlling.” Although not binding in

this District, Maldonado Bautista is persuasive authority confirming that DHS's categorical "no-bond" position is contrary to the INA's structure and due process.

¶ 43. On September 5, 2025, the BIA in *Matter of Yajure-Hurtado* adopted DHS's position that immigration judges lack bond jurisdiction for noncitizens present without admission because they are "applicants for admission" detained under § 235(b)(2)(A) for the duration of proceedings. 29 I. & N. Dec. at 220 (relying on *Jennings*, 583 U.S. at 300). But *Jennings* construed statutory text and explicitly left open constitutional challenges. *Id.* at Moreover, the Supreme Court has since overruled *Chevron* deference; courts must independently interpret the INA rather than deferring to agency readings. *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385–86 (2024).

¶ 44. Longstanding agency materials confirm that individuals encountered inside the country without admission were treated under § 236(a) and were "eligible for bond and bond redetermination." *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10,312, 10,323 (Mar. 6, 1997). DHS itself historically limited the "applicant for admission" designation to encounters within a short time and distance from the border. See *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 121, 130 n.2 (2020) (describing DHS's 2004 14-day/100-mile policy for expedited removal).

¶ 45. Arrest authority reinforces this divide: warrantless arrests are narrowly permitted under 8 U.S.C. § 1357(a) (INA § 287(a)); otherwise, interior arrests proceed on warrant (Form I-200) and fall under § 236(a). See *Matter of Mariscal-Hernandez*, 28 I. & N. Dec. 666, 668–71 (B.I.A. 2022) (equating "reason to believe" with probable cause; warrantless arrests are exceptional). Petitioner's interior arrest should have been (and, on information

and belief, was) effectuated pursuant to an I-200 warrant—placing his squarely within § 236(a).

¶ 46. Statutes must be read “with a view to their place in the overall statutory scheme,” giving effect to every clause and word. *Gundy v. United States*, 588 U.S. 128, 141 (2019) (quotation omitted); *United States ex rel. Polansky v. Exec. Health Res., Inc.*, 599 U.S. 419, 432 (2023). DHS’s view collapses §§ 235 and 236, nullifies § 236(c)(1)(E), and contradicts the INA’s structure.

¶ 47. Federal courts addressing DHS’s new theory have rejected it and ordered relief, concluding § 236(a) governs noncitizens “already in the country.” Even under DHS’s classification, constitutional avoidance and due process require meaningful review of whether mandatory detention actually applies (a Joseph-type inquiry), and courts must preserve habeas for unlawful detention. See *Jennings*, 583 U.S. at 303; *Clark v. Martinez*, 543 U.S. 371, 380–82 (2005); *INS v. St. Cyr*, 533 U.S. 289, 314 (2001).

¶ 48. The equities here underscore the *Mathews v. Eldridge* balance: (1) Petitioner’s profound liberty and family interests; (2) the high risk of erroneous deprivation from DHS’s categorical no-bond stance (and the value of individualized hearings); and (3) minimal governmental burden to provide the longstanding process Congress preserved. See 424 U.S. 319, 333, 335 (1976).

¶ 49. Because Petitioner was arrested in the interior and (on information and belief) under warrant authority, § 236(a) governs his detention. DHS’s attempt to shoehorn his into § 235(b)(2) is contrary to the statutory text, structure, and constitutional principles. He is

entitled to release or, at minimum, a prompt bond hearing before an IJ applying the correct legal standard.

VI. CLAIMS FOR RELIEF

FIRST CAUSE OF ACTION

¶ 50. Violation of the Due Process Clause of the Fifth Amendment of the United States Constitution

¶ 51. Petitioner repeats and incorporates by reference all allegations above as though set forth fully herein.

¶ 52. The Due Process Clause asks whether the government's deprivation of a person's life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived Petitioner of his liberty.

¶ 53. Petitioner's continued detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

¶ 54. The Due Process Clause of the Fifth Amendment to the U.S. Constitution provides that "[n]o person shall...be deprived of life, liberty, or property without due process of law." As a noncitizen who shows well over "two years" physical presence in the United States (indeed he has over twenty (20) years), Petitioner is entitled to Due Process Clause protections against deprivation of liberty and property. See *Zadvydas*, 533 U.S. at 693 ("[T]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent."). Any deprivation of this fundamental liberty interest must be accompanied not only by

adequate procedural protections, but also by a “sufficiently strong special justification” to outweigh the significant deprivation of liberty. *Id.* at

¶ 55. Petitioner’s detention is improper because he has been denied an individualized bond hearing. On January 27, 2026, the Oakdale Immigration Court denied Petitioner’s Motion for Bond, stating that “The Court is without jurisdiction to set a bond in this case,” and citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). (Exhibit U).

¶ 56. . Petitioner’s detention is improper because he has been deprived of a bond hearing. A hearing is, if anything, a right to be heard, and here the immigration judge treated his as ineligible for bond, without considering the law or entertaining arguments that § 236(a) governs.

¶ 57. . See *Moore v. Dempsey*, 261 U.S. 86 (1923); *Johnson v. Zerbst*, 304 U.S. 458 (1938); *Burns v. Wilson*, 346 U.S. 137, 154 (1953).

¶ 58. Respondents’ actions in detaining Petitioner without any legal justification violate the Fifth Amendment.

¶ 59. The government’s detention of Petitioner is unjustified. Respondents have not demonstrated that Petitioner needs to be detained. See *Zadvydas*, 533 U.S. at 690 (finding immigration detention must further the twin goals of (1) ensuring the noncitizen’s appearance during removal proceedings and (2) preventing danger to the community). There is no credible argument that Petitioner cannot be safely released back to his community and family.

¶ 60. 409 For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

SECOND CAUSE OF ACTION

¶ 61. Violation of Immigration and Nationality Act

¶ 62. Petitioner re-alleges and incorporates by reference the paragraphs above.

¶ 63. Petitioner was detained pursuant to "authority contained in section 236" of the INA; section 236 is codified at 8 U.S.C. § Despite this, DHS finds that he is detained subject to 8 U.S.C. § 1225(b)(2) and the IJ lacks jurisdiction under Matter of Yajure Hurtado on the same basis.

¶ 64. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. Mandatory detention does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a) and are eligible for release on bond, unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

¶ 65. . Respondents have wrongfully adopted a policy and practice of arguing all noncitizens, such as Petitioner, are subject to mandatory detention under § 1225(b)(2).

¶ 66. The unlawful application of § 1225(b)(2) to Petitioner violates the INA.

THIRD CAUSE OF ACTION

¶ 67. Fifth Amendment – Due Process

¶ 68. Denial of Opportunity to Contest Mis-Inclusion in Mandatory Category of Detention

¶ 69. . Petitioner re-alleges and incorporates by reference the paragraphs above.

¶ 70. Petitioner has a vested liberty interest in preventing his removal because he is eligible for immigration relief and is entitled to pursue that relief outside of detention by showing he is neither a danger to the community nor a flight risk under 8 U.S.C. §1226(a).

¶ 71. . For all of the above reasons, Respondents' attempts to detain Petitioner without a meaningful opportunity to be heard violate his Procedural Due Process rights under the Fifth Amendment.

FOURTH CAUSE OF ACTION

ADMINISTRATIVE PROCEDURE ACT

¶ 72. . Petitioner re-alleges and incorporates by reference the paragraphs above.

¶ 73. Respondents' continued efforts to deny his bond violate the INA, Administrative Procedures Act (APA), and the U.S. Constitution.

¶ 74. As set forth in Count Two and Three, federal regulations and case law provide the procedure for a respondent in removal proceedings like his to seek a bond redetermination by an IJ.

¶ 75. In being denied the opportunity to return to his family, and pursue immigration relief in a non-detained court setting where he is free to gather the necessary evidence, Petitioner would be deprived of the right to freedom to lawfully pursue his rights in this civil matter. The Government's "no-review" provisions are a violation of his procedural and substantive due process and without any statutory authority. There is no time-frame or procedure for requesting DHS to itself review its custody decision, and removal proceedings in his case will proceed during that time while he remains in custody.

¶ 76. The actions by Respondents would improperly alter the substantive rules concerning mandatory custody status without the required notice-and-comment period and would be in violation of the INA and its regulations. These actions by Respondents violate the APA. Under the APA, this Court may hold unlawful and set aside an agency action which is "contrary to constitutional right, power, privilege or immunity." 5 U.S.C. § 706(2)(B). The regulations at 8 C.F.R. §§ 1003.19(h)(1)(i)(B) and 1003.19(h)(2)(i)(B) providing no review of DHS custody decision for arriving aliens in removal proceedings are in violation of substantive and procedural due process as guaranteed by the Fifth Amendment to the United States Constitution. It is ultra vires because it exceeds the authority granted ICE by Congress at 8 U.S.C. § 1226(a). For these reasons, this Honorable Court should hold that Petitioner is detained under § 236(a), not § 235(b), and order his immediate release or, in the alternative, direct the Immigration Court to conduct a custody redetermination hearing under § 236(a) in which Petitioner has a meaningful opportunity to show that he is not a danger or flight risk. Any contrary reliance on Matter of Yajure-Hurtado would unlawfully misapply the statute and deprive Petitioner of his rights under the INA, the APA, and the Due Process Clause.

FIFTH CAUSE OF ACTION

STAY OF REMOVAL CLAIM

¶ 77. Petitioner re-alleges and incorporates by reference the paragraphs above.

¶ 78. The denial of a bond hearing, followed by removal of Petitioner from the United States would cause his irreversible harm and injury because he is mis-classified by the Government as subject to mandatory detention.

¶ 79. The Court should grant the stay of Petitioner's removal to protect his statutory rights under the INA and the APA.

SIXTH CAUSE OF ACTION

SUSPENSION CLAUSE CLAIM

¶ 80. Petitioner re-alleges and incorporates by reference the paragraphs above.

¶ 81. If 8 U.S.C. § 1252 stripped the Court jurisdiction from this matter, it would be unconstitutional as applied because it would deny Petitioner the opportunity for meaningful review of the unlawfulness of his detention and removal.

¶ 82. To invoke the Suspension Clause, a petitioner must satisfy a three-factor test: "(1) the citizenship and status of the detainee and the adequacy of the process through which that status determination was made; (2) the nature of the sites where apprehension and then detention took place; and (3) the practical obstacles inherent in resolving the prisoner's entitlement to the writ." *Boumediene v. Bush*, 553 U.S. 723, 766 (2008).

Petitioner satisfies these three requirements and may invoke the Suspension Clause.

¶ 83. First, although Petitioner is not a U.S. citizen or resident, he has lived here for over twenty (20) years, and he qualifies for immigration relief. Petitioner has significant family connections in the United States, including his U.S. citizen fiancé and other ties described above. All of which establishes a substantial legal relationship with the United States.

¶ 84. Petitioner satisfies the second factor because he was apprehended by DHS and remains detained in the United States.

¶ 85. Finally, there are no serious, practical obstacles to resolving this present matter. This Court is equipped to deciding whether Petitioner is entitled to the writ.

¶ 86. There is no adequate alternative to a habeas petition. The refusal of the immigration court to grant Petitioner the right to show he is mis-classified and that he is not subject to mandatory detention, without proper notice or due process, deprives him of constitutional rights. The BIA cannot adequately and expeditiously review these issues.

SEVENTH CAUSE OF ACTION

INJUNCTIVE RELIEF

¶ 87. Petitioner re-alleges and incorporates herein by reference each and every allegation contained in the above paragraphs of this Petition.

¶ 88. This Court has the discretion to enter a temporary restraining order and a preliminary injunction. See *Haitian Refugee Center v. Nelson*, 872 F.2d 1555, 1561-1562 (11th Cir. 1989). “To be entitled to a preliminary injunction, the applicants must show (1) a substantial likelihood that they will prevail on the merits, (2) a substantial threat that

they will suffer irreparable injury if the injunction is not granted, (3) their substantial injury outweighs the threatened harm to the party whom they seek to enjoin, and (4) granting the preliminary injunction will not disserve the public interest.” *Tex. Med. Providers Performing Abortion Servs. v. Lakey*, 667 F.3d 570, 574 (5th Cir. 2012). All four elements must be demonstrated to obtain injunctive relief. *Id.*

¶ 89. Respondents’ actions have caused Petitioner harm that warrants immediate relief.

SUPPLEMENTAL JURISDICTIONAL STATEMENT – IMMEDIATE CUSTODIAN DOCTRINE

90. Petitioner is currently confined at the Folkston D. Ray ICE Processing Center in Folkston, Georgia. Under the immediate custodian rule articulated in *Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004), the proper respondent in a § 2241 habeas action is the person with day-to-day control over the detainee. Accordingly, the Warden of the Folkston D. Ray ICE Processing Center is the proper primary respondent. This Court has territorial jurisdiction because Petitioner is confined within the Southern District of Georgia, Waycross Division. Habeas jurisdiction attaches at the time of filing and is not defeated by subsequent transfers. See *Ex parte Endo*, 323 U.S. 283 (1944).

SUPPLEMENTAL ARGUMENT – PERSUASIVE AUTHORITY OF MALDONADO BAUTISTA

THE GOVERNMENT’S POSITION CANNOT BE RECONCILED WITH THE STRUCTURE OF THE INA

91. In *Maldonado Bautista v. Noem*, Case No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025; Feb. 18, 2026), a federal district court conducted a comprehensive statutory analysis and concluded that noncitizens who entered without inspection but were later arrested in the interior are detained under 8 U.S.C. § 1226(a), not § 1225(b)(2),

and are therefore entitled to bond hearings. The court vacated agency guidance relying on *Matter of Yajure-Hurtado* and emphasized that, after *Loper Bright Enterprises v. Raimondo*, courts must independently interpret statutes without Chevron deference. Although not binding in this Circuit, the reasoning in *Maldonado Bautista* is highly persuasive and consistent with Supreme Court precedent distinguishing § 1225(b) from § 1226(a), including *Jennings v. Rodriguez*. This Court should adopt the reasoning of *Maldonado Bautista* because it aligns with the INA's text, structure, and constitutional avoidance principles recognized by the Eleventh Circuit.

MOTION/REQUEST TO PREVENT TRANSFER PENDING HABEAS REVIEW
Petitioner respectfully moves this Court for an order prohibiting Respondents from transferring him outside the Southern District of Georgia while this habeas petition is pending. Federal courts possess authority to enjoin transfers that would interfere with habeas jurisdiction or impede meaningful review. A transfer during the pendency of this action would risk mootness arguments, delay judicial review, and impose substantial prejudice on Petitioner. The balance of equities favors maintaining the status quo because Petitioner seeks only to preserve this Court's jurisdiction and ensure orderly adjudication of his statutory and constitutional claims. Petitioner therefore respectfully requests that the Court issue an order directing Respondents to refrain from transferring him absent prior notice to the Court and Petitioner.

VII. RELIEF SOUGHT

WHEREFORE, Petitioner respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Declare that Petitioner is detained under § 236(a), not § 235(b), and order his immediate release or, in the alternative, direct the Immigration Court to conduct a custody redetermination hearing under § 236(a) (or, at minimum, a Joseph-type inquiry);
- (3) Issue an order directing Respondents to show cause why the writ should not be granted;
- (4) Order Respondents to file with the Court a complete copy of the administrative file from the Department of Justice and the Department of Homeland Security;
- (5) Enjoin ICE from transferring Petitioner outside of the Southern District of Georgia while this matter is pending;
- (6) Grant any other relief that this Court deems just and proper.

PRAYER FOR EXPEDITED CONSIDERATION

Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests expedited consideration. Each day of unlawful detention inflicts irreparable harm on Petitioner.

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Hector Mauro De la Rosa declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Respectfully submitted,

Hector M dela Rosa

Hector Mauro De la Rosa

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CERTIFICATE OF SERVICE

I certify that a copy of this Petition was served upon the United States Attorney's Office and all Respondents as required by law.

Respectfully submitted,

Hector M dela Rosa

Hector Mauro De la Rosa

A# 

Pro Se Petitioner

Date: _____

DEAR CLERK

Enclosed please find:

1. the Original pro se Petition for Writ of Habeas Corpus , under 28 U.S.C. §2241 filed by immigration detainee, Hector Mauro De la Rosa (A# ) and
- 2.2 COPY of the petition (to be sent back in the prepaid postage envelope)
- 3.\$5 (money order filing fee payable to Clerk, U.S. District Court

PLEASE FILE THE ORIGINAL WITH THE COURT
AND TIME STAMP THE COPY AND RETURN IN
THE ENVELOPE INCLUDED IN THIS PACKAGE.