

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

JOSE WILVER VELASCO ARCO,

A#



Petitioner,

CIVIL CASE NO:3:26-cv-1116

v.

RONNIE WOODALL, Warden of
Baker County Institution; Detention
Center, MARKWAYNE MULLIN,
Secretary, U.S. Department of
Homeland Security; U.S.
DEPARTMENT OF HOMELAND
SECURITY; TODD BLANCHE,
Acting U.S. Attorney General;
EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; KELLY
WALKER, Acting Field Office
Director of Enforcement and
Removal Operations, Miami Field
Office, Immigration and Customs
Enforcement

Respondent.

_____/

PETITION FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)

1. JURISDICTION

This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody within this District at the Baker County Correctional Institution; Detention Center in violation of the Constitution and laws of the United States.

2. PARTIES

Petitioner: JOSE WILVER VELASCO ARCO, A#  currently detained at Baker County Correctional Institution; Detention Center, Sanderson, Florida since December, 2025. Petitioner is a citizen of Mexico.

Respondents: RONNIE WOODALL, Warden of Baker County Correctional Institution; Detention Center, KELLY WALKER, Acting Field Office Director of Enforcement and Removal Operations, Miami Field Office, Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; TODD BLANCHE, Acting U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW;.

3. CUSTODY AND DETENTION

Petitioner was arrested for allegedly driving without a valid license. Petitioner does not have lawful status in the United States and has been detained by U.S. Immigration and Customs Enforcement (ICE) at the Baker County Correctional Institution; Detention Center since December. 2025. ICE did not set a bond.

4. FACTUAL BACKGROUND

Petitioner entered the U.S. through the Sonora and Arizona border on/about August/September 2007 and was not apprehended upon arrival.

Petitioner is currently scheduled for an Individual Hearing before an Immigration Judge seeking relief under INA § 240A(b) Cancellation of Removal for Non-Permanent Residents on May 19, 2026. Petitioner does not currently have a removal order. Petitioner was denied bond on January 29, 2026 and April 7, 2026. See attached Orders.

5. GROUNDS FOR RELIEF

Petitioner is not properly subject to mandatory detention under Immigration law. Petitioner is unlawfully detained because he is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Rather, Petitioner's detention is governed by 8 U.S.C. § 1226(a), which authorizes detention during removal proceedings but also permits release on bond after an individualized custody determination. Under controlling habeas principles, this Court must independently determine which statutory provision applies and should not simply accept the agency's characterization of Petitioner's custody. *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) requires courts to exercise independent judgment in interpreting statutes, and therefore this Court must decide for itself whether the INA places Petitioner in mandatory detention.

The Middle District of Florida recently addressed the same statutory question in *Maldonado v. Field Off. Dir.*, No. 2:26-CV-00277-SPC-DNF, 2026 WL 507720 (M.D. Fla. Feb. 24, 2026), and granted habeas relief. In that case, the court held that a noncitizen detained after a traffic-related arrest and held without an opportunity for bond was detained under § 1226(a), not § 1225(b)(2), and was therefore entitled to an individualized bond hearing. The court explained that the distinction between those statutes is dispositive because § 1225(b)(2) mandates detention, while § 1226(a) permits bond review by an immigration judge. Petitioner's case presents the same legal issue, and the same result should follow here.

Petitioner was arrested for allegedly driving without a valid license and has remained detained at Baker County Detention Center since December 2025 without bond. Petitioner is not currently subject to a final order of removal, and is scheduled for a future individual hearing seeking relief from removal. Those facts show that his custody is part of ongoing removal proceedings, not post-order detention, and the government has offered no lawful basis for treating him as subject to mandatory detention under § 1225(b)(2).

The agency's reliance on *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), does not change the result. Although the BIA has taken a contrary position, this Court is not bound to defer to an agency construction where Congress has not clearly spoken, and therefore, the federal court must

independently interpret the INA. After *Loper Bright*, the Court must decide the meaning of the statute itself, and if the agency's interpretation conflicts with the Court's reading of the INA, the Court should reject it in favor of their own interpretation. Here, the more persuasive reading is the one adopted in the Middle District of Florida's prior decision in *Maldonado*: Petitioner is detained under § 1226(a), not § 1225(b)(2), and is entitled to a bond hearing under § 1226(a) or release.

6. EXHAUSTION OF REMEDIES

After Petitioner was arrested, ICE did not set bond, and Petitioner requested review of his custody by an IJ. Petitioner was denied bond on January 29, 2026 by an IJ at the Orlando Immigration Court because he was deemed an "applicant for admission" under 8 U.S.C. § 1225(b)(2)(A) and also under *Matter of Yajure Hurtado* 29 I&N Dec. 216, 220-28 (BIA 2025). The order also referenced the declaratory relief issued in *Maldonado Bautista* referencing a "universal injunction that binds individuals who are not parties to that action, and the power to issue such relief likely exceeds the equitable authority that Congress has granted to the federal courts."

Petitioner attempted a bond hearing again on April 7, 2026 and was denied simply stating "lack of jurisdiction."

Petitioner has also shown that exhaustion should be excused because further administrative review would be futile. Petitioner already sought bond

review and was denied, first with classification under the *Matter of Yajure-Hurtado*, and then on jurisdictional grounds, leaving no meaningful administrative path likely to provide relief before the continued detention becomes more prolonged and prejudicial. Where the agency has already taken the position that it lacks jurisdiction or that mandatory detention applies, exhaustion is not required because it would serve no practical purpose.

Any appeal to the BIA or other avenue to obtain a bond would be futile as each hearing was presided over by the same IJ and the IJ believes the case falls under 1225 and *Matter of Yajure*. Furthermore any appeal to the BIA would drag out the detention further. As such, this habeas is warranted.

7. RELIEF REQUESTED

WHEREFORE, Petitioner requests the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day Respondents release Petitioner;
- c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C § 1226(a) within seven days;
- d. Grant any other relief that the Court deems just and proper.

PROOF OF SERVICE

I HEREBY CERTIFY that a copy of the foregoing will be emailed to Gregory Kehoe, Esquire, U.S. Attorney for the Middle District of Florida Jacksonville Division at gregory.kehoe@usdoj.gov when the court stamped copy is received by Petitioner's office.

Respectfully submitted on May
4th, 2026,

By:/s/Laura L. Sterling, Esquire

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