

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Angel Josue TENESACA JATIVA

Petitioner,

v.

Jason STREEVAL, Warden of Stewart
Detention Center; George STERLING Field
Office Director of Enforcement and Removal
Operations, Atlanta Field Office, Immigration
and Customs Enforcement;

Respondents.

Case No. 4:26-cv-783

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1
2 1. Petitioner Angel Josue Tenesaca Javita (A ) brings this petition for a
3 writ of habeas corpus as an individual unlawfully detained and stripped of bond jurisdiction by
4 an improvident and unlawful change in analysis as to who is “seeking admission” to the United
5 States. *See, Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

6 2. Petitioner is in the physical custody of Respondents at the Stewart Detention
7 Center in Lumpkin, Georgia. He now faces unlawful detention because the Department of
8 Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) have
9 refused to abide by longstanding precedent regarding bond jurisdiction. Contrary to the
10 assertions of DHS and EOIR, entrants to the United States without inspection are not properly
11 “applicants for admission,” such that all such individuals be detained without jurisdiction for the
12 courts to grant bond. Petitioner alleges that the continued classification of detention authority as
13 pursuant to 8 U.S.C. § 1225 for all individuals present without inspection or admission, is
14 erroneous and a violation of law.

15 3. The Executive Office for Immigration Review and its subagency, the Immigration
16 Court, and the Department of Homeland Security (DHS) have unlawfully ordered that
17 individuals similarly situated to Petitioner be denied the opportunity to be released on bond.

18 4. After apprehending Petitioner at a traffic stop, where Petitioner fully cooperated,
19 the local authorities immediately took him into custody and transferred him to DHS without any
20 change of circumstances, and without reason to believe that he was somehow a flight risk or
21 fleeing from them. Upon information and belief, DHS initially charged Petitioner as being
22 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who is present in the United States
23 without inspection, admission, or parole.
24

5. The Court should expeditiously grant this petition.

6. Respondent was not encountered while entering the United States. He was in the United States for some period of time, when thereafter, he was encountered by officials who placed him in removal proceedings as an individual present without inspection, admission or parole, who entered "at any time or place other than as designated by the Attorney General."

8. Immigration Judges have continued to remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), despite its flawed legal reasoning.

9. Because Respondents are detaining Petitioner in violation of the statutory framework under the Immigration and Nationality Act, the Court should accordingly order that within one day, Respondent DHS must release Petitioner.

10. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

11. Petitioner is in the physical custody of Respondents. Petitioner is detained at Stewart Detention Center.

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

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

VENUE

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

15. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Georgia.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court should grant the petition for writ of habeas corpus “forthwith,” as the legal issues have already been resolved in other matters of similarly situated individuals. This Court has specifically ordered Respondents to be accorded bond hearings in the case of those who entered the United States without inspection in the past, but were not encountered at entry. *J.A.M. v. Streeval*, No. 4:25-cv-342-CDL-AGH, Order 15 (M.D. Ga. Oct. 31, 2025), ECF No. 12.

17. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

18. Petitioner Angel Josue Teneseca Javita is a citizen of Ecuador who has been in immigration detention since approximately March 2026. Petitioner was detained by the local authorities and transferred to Immigration and Customs Enforcement officers, despite the fact that he cooperated with them and has relief pending before the Immigration Court, Executive Office for Immigration Review. Filing a motion for custody redetermination (bond) would be futile in this situation as the immigration judges with jurisdiction over the detention center where Petitioner is being held have continued to hold that *Matter of Yajure Hurtado* strips jurisdiction for bond redetermination from all entrants to the United States without inspection, and that the *Maldonado Bautista* class action order does not impact similarly situated Petitioners. Petitioner will undoubtedly be deemed an “applicant for admission” pursuant to DHS arguments. Petitioner has resided in the United States continuously and upon information and belief was not classified as an arriving alien at the time of the issuance of the Notice to Appear in his case.

19. Respondent Jason Streeval is employed by CCA as Warden of Stewart Detention Center, where Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official capacity.

20. Respondent George Sterling is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division. As such, George Sterling is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

CLAIM FOR RELIEF

Violation of the INA:

Request for Relief Pursuant to the Unlawful Legal Characterization of Petitioner's Detention

21. Petitioner is entitled to relief because Respondents are subjecting him to unlawful detention pursuant to 8 U.S.C. § 1225(b), when he is properly an individual detained pursuant to 8 U.S.C. § 1226(a).

22. At the outset, there is no statutory requirement of administrative exhaustion before immigration detention may be challenged in federal court by a writ of habeas corpus. *See* 8 U.S.C. § 1252(d)(1); *Garza-Garcia v. Moore*, 539 F. Supp. 2d 899, 904 (S.D. Tex. 2007) ("Under the INA exhaustion of administrative remedies is only required by Congress for appeals on final orders of removal."). The Supreme Court has recognized that exhaustion is not required where a plaintiff "may suffer irreparable harm if unable to secure immediate judicial consideration of his claim." *McCarthy v. Madigan*, 503 U.S. 140, 147 (1992). This is the case here, where Plaintiff raises constitutional and statutory claims that the agency cannot redress, and where each day that passes is one in which he is being unconstitutionally deprived of his liberty.

23. The Court has the authority to grant a writ of habeas corpus to a petitioner who demonstrates that he is being held in custody in violation of federal law. 28 U.S.C. § 2241(a), (c)(3); *see INS v. St. Cyr*, 533 U.S. 289, 301 (2001) ("[T]he writ of habeas corpus has served as a means of reviewing the legality of Executive detention, and it is in that context that its protections have been strongest."); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (noting that § 2241 habeas corpus proceedings are available to challenge the lawfulness of immigration-related detention).

1 24. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in
2 the preceding paragraphs as if fully set forth herein.

3 25. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to
4 mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights
5 under the INA.

6 26. U.S.C. § 1225 covers "inadmissible arriving aliens" who are "applicants for admission"
7 "present in the United States who [have] not been admitted." *Gomes v. Hyde*, No. 25-cv-
8 11571, 2025 WL 1869299, at *2 (D. Mass. July 7, 2025) (alteration in original; citation
9 and footnote call number omitted). Section 1225(a)(3) requires all applicants for
10 admission, including those "seeking admission," to be inspected by an immigration
11 officer, see 8 U.S.C. § 1225(a)(3); and certain applicants for admission may be subject to
12 removal proceedings under section 1225(b). 8 U.S.C. § 1225(a) – (b); see also *Dep't of*
13 *Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108–09 (2020) (citations omitted).
14 Relevant here, § 1225(b)(2) applies where an arriving alien is "seeking admission" into
15 the United States, and that provision mandates detention for aliens who are "applicants
16 for admission." 8 U.S.C. § 1225(b)(2)(A). "Because Section 1225 is mandatory, a
17 'noncitizen detained under Section 1225(b)(2) may be released only if he is paroled for
18 urgent humanitarian reasons or significant public benefit.'" *Barrera v. Tindall*, No. 25-
19 cv-541, 2025 WL 2690565, at *2 (W.D. Ky. Sept. 19, 2025) (quoting *Gomes*, 2025 WL
20 1869299, at *1).

21 27. On the other hand, § 1226 has historically "authorize[d] the Government to detain certain
22 aliens *already in the country* pending the outcome of removal proceedings[.]" *Jennings v.*
23 *Rodriguez*, 583 U.S. 281, 289 (2018) (emphasis added).

24 28. In addition, courts around the country have given no weight to *how* long noncitizen
residents entered the United States when rejecting Respondent's interpretation of
§ 1225(b)(2). *Garcia v. Noem, et. al.*, No. 1:25-CV-1271, 2025 WL 3017200, at *4

(W.D. Mich. Oct. 29, 2025); *Diaz v. Olson, et. al.*, No. 25 CV 12141, 2025 WL 3022170, at *5 (N.D. Ill. Oct. 29, 2025); *Rodriguez v. Noem, et. al.*, No. 1:25-CV-1196, 2025 WL 3022212, at *6 (W.D. Mich. Oct. 29, 2025), *Puga*, 2025 WL 2938369, *Lopez-Campos*, 2025 WL 2496379, at *8, *see also Rodriguez*, 779 F. Supp. 3d at 1256–61; *Singh v. Lewis*, No. 4:25 cv 96, 2025 WL 2699219, at *3–5 (W.D. Ky. Sept. 22, 2025); *Lopez Arevelo v. Ripa*, No. EP-25-CV-337, 2025 WL 2691828, at *7–12 (W.D. Tex. Sept. 22, 2025); *Campos Leon v. Forestal*, No. 1:25-cv-1114, 2025 WL 2694163, at *2–5 (S.D. Ind. Sept. 22, 2025); *Hasan v. Crawford*, No. 1:25-cv-1408, 2025 WL 2682255, at *5–9 (E.D. Va. Sept. 19, 2025); *Garcia Cortes v. Noem*, No. 1:25-cv-2677-CNS, 2025 WL 2652880, at *2–3 (D. Colo. Sept. 16, 2025); *Kostak v. Trump et al.*, No. 3:25-cv-01093, 2025 WL 2472136, at *2–4 (W.D. La. Aug. 27, 2025); *Romero*, 2025 WL 2403827, at *8–13 (D. Mass. Aug. 19, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142, 2025 WL 2374411, at *9–16 (D. Minn. Aug. 15, 2025); *dos Santos v. Noem*, No. 1:25-cv-12052, 2025 WL 2370988, at *6–9 (D. Mass. Aug. 14, 2025); *Lopez Benitez*, 2025 WL 2371588, at *3–9; *Rosado*, 2025 WL 2337099, at *6–11, report and recommendation adopted, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025).

29. Because Petitioner in this matter was not encountered *at entry*, he should not be detained pursuant to 1225(b). This is consistent with the charging document in the record before the Executive Office for Immigration Review. Rather, he should be entitled to release or, in the alternative, a bond hearing, pursuant to 1226.

30. Thus, Petitioner should expeditiously be ordered released or, in the alternative, at least accorded a bond hearing within seven days.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;

- 1 b. Issue a writ of habeas corpus requiring that within one day, requiring that
2 Respondents release Petitioner;
- 3 c. Alternatively, issue a writ of habeas corpus requiring Respondents to release
4 Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within
5 seven days;
- 6 d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
7 (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under
8 law; and
- 9 e. Grant any other and further relief that this Court deems just and proper.

10
11 DATED this 5th of May, 2026.

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