

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Jorge Abad MARTINEZ TORRES,
A#:

Case No.

Petitioner

**PETITION FOR WRIT OF
HABEAS CORPUS
UNDER 28 U.S.C. § 2241**

v.

KRISTEN SULLIVAN, Field Office Director
of Enforcement and Removal Operations,
Atlanta Field Office, Immigration and Customs
Enforcement; TODD M. LYONS, Acting
Director, U.S. Immigration & Customs
Enforcement; MARKWAYNE MULLIN,
Secretary, U.S. Department of Homeland
Security; U.S. DEPARTMENT OF
HOMELAND SECURITY; TODD BLANCHE,
U.S. Attorney General; AND DAREN K.
MARGOLIN, EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW; JASON
STREEVAL, Warden of Stewart Detention
Center in their official capacity;

Respondents.

INTRODUCTION

1
2 1. Petitioner JORGE ABAD MARTINEZ TORRES is in the physical custody of
3 Respondents at Stewart Detention Center in Lumpkin, Georgia. He now faces unlawful detention
4 because the Department of Homeland Security (DHS) and the Executive Office of Immigration
5 Review (EOIR) have concluded Petitioner is subject to mandatory detention.

6 2 Petitioner is charged with, inter alia, having entered the United States without
7 admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

8 3 Based on this allegation in Petitioner's removal proceedings, DHS denied
9 Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8,
10 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone
11 inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without
12 admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and
13 therefore ineligible to be released on bond.

14 4. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
15 Board) issued a precedent decision, binding on all immigration judges, holding that an
16 immigration judge has no authority to consider bond requests for any person who entered the
17 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
18 The Board determined that such individuals are subject to detention under 8 U.S.C. §
19 1225(b)(2)(A) and therefore ineligible to be released on bond.

20 5. Petitioner's detention on this basis violates the plain language of the Immigration
21 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
22 previously entered and are now residing in the United States. Instead, such individuals are
23 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
24

1 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
2 having entered the United States without inspection.

3 6. Respondents' new legal interpretation is plainly contrary to the statutory
4 framework and contrary to decades of agency practice applying § 1226(a) to people like
5 Petitioner.

6 7. Moreover, on November 20, 2025, the District Court granted partial summary
7 judgment on behalf of individual plaintiffs and on November 25, 2025, certified a Nationwide
8 class and extended declaratory judgment to the certified class *Maldonado Bautista vs Santacruz*,
9 No. 5:25-CV-01873-SSS-BFM, ---F.Supp.3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20,
10 2025) (order granting partial summary judgment to named Plaintiff-Petitioner's proposed
11 nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order
12 Granting Petitioner's Motion for Partial Summary Judgment).

13 8. The declaratory judgment held that the Bond Denial Class Members are detained
14 under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release or under bond §
15 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11. The Court issued a final
16 judgment in favor of the class on December 18, 2025.

17 9. Nonetheless, the EOIR and its subagency the Immigration Court and the DHS,
18 have blatantly refused to abide by the declaratory relief and have unlawfully ordered that class
19 members be denied the opportunity to be released on bond.

20 10. IJs have informed class members in bond hearings that they have been instructed
21 by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even
22 with respect to class members, and that instead IJs remain bound to follow the agency prior's
23 decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

1 11 Accordingly, Petitioner seeks a writ of habeas corpus ordering Respondents to
2 release him or, in the alternative, provide him with a bond hearing under § 1226(a) within seven
3 days.

4 JURISDICTION

5 12. Petitioner is in the physical custody of Respondents. Petitioner is detained at
6 Stewart Detention Center in Lumpkin, Georgia.

7 13. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28
8 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
9 Constitution (the Suspension Clause), because Petitioner is in custody under the authority of the
10 United States and challenges the legality of that detention.

11 14. This Court retains jurisdiction to review the legality of immigration detention
12 through the writ of habeas corpus. See *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018).

13 15. Sections 8 U.S.C. §1252(b)(9) and 8 U.S.C. §1252(g) do not strip this Court of
14 jurisdiction. Petitioner does not challenge any final order of removal, nor does Petitioner
15 challenge a decision to commence proceedings, adjudicate a removal case, or execute a removal
16 order. Instead, Petitioner challenges the legality and duration of continued immigration
17 detention.

18 16. The Supreme Court has explained that §1252(b)(9) does not channel all
19 immigration-related claims into a petition for review and does not bar habeas challenges to
20 detention. *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018). Likewise, §1252(g) is narrowly limited
21 to three discrete actions and does not apply to challenges to the legality of detention. *Reno v.*
22 *American-Arab Anti-Discrimination Comm.*, 525 U.S. 471 (1999).

PARTIES

22. Petitioner JORGE ABAD MARTINEZ TORRES is a citizen of MEXICO who has been in immigration detention since approximately April 23, 2026. Petitioner was detained due to a criminal charge related with a minor offense and transferred to Immigration Custody. ICE did not set bond and Petitioner is unable to obtain review of his custody by an IJ, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

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

24. Respondent Todd M. Lyons is the Acting Director of ICE, which is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens. Respondent Lyons has control over the actions of Respondent Sullivan and ICE in general. Respondent Lyons is a legal custodian of Petitioner and is sued in his official capacity.

25. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

26. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

1 27. Respondent Todd Blanche is the Attorney General of the United States. He is
2 responsible for the Department of Justice, of which the Executive Office for Immigration Review
3 and the immigration court system it operates is a component agency. He is sued in his official
4 capacity.

5 28. Respondent Executive Office for Immigration Review (EOIR) is the federal
6 agency responsible for implementing and enforcing the INA in removal proceedings, including
7 for custody redeterminations in bond hearings.

8 29. Respondent Jason Streeval is the Warden of the Stewart Detention Center, where
9 Petitioner is detained. He has immediate physical custody of Petitioner. He is sued in his official
10 capacity.

11 LEGAL FRAMEWORK

12 30. The INA prescribes three basic forms of detention for the vast majority of
13 noncitizens in removal proceedings.

14 31. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal
15 proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally
16 entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d),
17 while noncitizens who have been arrested, charged with, or convicted of certain crimes are
18 subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

19 32. Second, the INA provides for mandatory detention of noncitizens subject to
20 expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission
21 referred to under § 1225(b)(2).

22 33. Last, the INA also provides for detention of noncitizens who have been ordered
23 removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

1 34. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

2 35. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
3 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
4 104-208, Div. C, §§ 302-03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section
5 1226(a) was most recently amended last year by the Laken Riley Act, Pub. L. No. 119-1, 139
6 Stat. 3 (2025).

7 36. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining
8 that, in general, people who entered the country without inspection were not considered detained
9 under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited
10 Removal of Aliens; Detention and Removal of Aliens, Conduct of Removal Proceedings;
11 Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

12 37. Thus, in the decades that followed, most people who entered without inspection
13 and were placed in standard removal proceedings received bond hearings, unless their criminal
14 history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent
15 with many more decades of prior practice, in which noncitizens who were not deemed “arriving”
16 were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)
17 (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply
18 “restates” the detention authority previously found at § 1252(a)).

19 38. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
20 rejected well-established understanding of the statutory framework and reversed decades of
21 practice.

1 39. The new policy, entitled “Interim Guidance Regarding Detention Authority for
2 Applicants for Admission,”¹ claims that all persons who entered the United States without
3 inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The
4 policy applies regardless of when a person is apprehended, and affects those who have resided in
5 the United States for months, years, and even decades.

6 40. On September 5, 2025, the BIA adopted this same position in a published
7 decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the
8 United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are
9 ineligible for IJ bond hearings.

10 41. Since Respondents adopted their new policies, dozens of federal courts have
11 rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected
12 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

13 42. Even before ICE or the BIA introduced these nationwide policies, IJs in the
14 Tacoma, Washington, immigration court stopped providing bond hearings for persons who
15 entered the United States without inspection and who have since resided here. There, the U.S.
16 District Court in the Western District of Washington found that such a reading of the INA is
17 likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
18 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d
19 1239 (W.D. Wash. 2025).

20 43. Subsequently, court after court has adopted the same reading of the INA’s
21 detention authorities and rejected ICE and EOIR’s new interpretation. *See, e.g., Gomes v. Hyde*,
22 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,

23 ¹ Available at [https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-](https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission)
24 applications-for-admission.

1 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
 2 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
 3 2025), *report and recommendation adopted*, No. CV-25-02157-PHX DLR (CDB), 2025 WL
 4 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV 5937 (DEH), 2025
 5 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03147-SRN-SGE,
 6 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
 7 ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-
 8 BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH),
 9 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-
 10 BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-
 11 02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-
 12 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051
 13 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v.*
 14 *Raycraft*, No. 2:25-cv 12486 BRM EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025);
 15 *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3,
 16 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D.
 17 Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D.
 18 Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass.
 19 Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2
 20 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not §
 21 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL
 22 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-
 23 RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).
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1 44. Courts have uniformly rejected DHS's and EOIR's new interpretation because it
2 defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the
3 statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

4 45. Section 1226(a) applies by default to all persons "pending a decision on whether
5 the [noncitizen] is to be removed from the United States." These removal hearings are held under
6 § 1229a, to "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

7 46. The text of § 1226 also explicitly applies to people charged as being inadmissible,
8 including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph
9 (E)'s reference to such people makes clear that, by default, such people are afforded a bond
10 hearing under subsection (a). As the *Rodriguez Vazquez* court explained, "[w]hen Congress
11 creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions,
12 the statute generally applies." *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove*
13 *Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025
14 WL 1869299, at *7.

15 47. Section 1226 therefore leaves no doubt that it applies to people who face charges
16 of being inadmissible to the United States, including those who are present without admission or
17 parole.

18 48. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who
19 recently entered the United States. The statute's entire framework is premised on inspections at
20 the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A).
21 Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the
22 Nation's borders and ports of entry, where the Government must determine whether a[]
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24

1 [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281,
2 287 (2018).

3 49. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not
4 apply to people like Petitioner, who have already entered and were residing in the United States
5 at the time they were apprehended.

6 50. Finally, as mentioned above, on November 20, 2025, the District Court granted
7 partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified
8 a Nationwide class and extended declaratory judgment to the certified class *Maldonado Bautista*
9 *vs Santacruz*, No. 5:25-CV-01873-SSS-BFM, ---F.Supp.3d ----, 2025 WL 3289861, at *11 (C.D.
10 Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiff-Petitioner’s
11 proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment
12 from Order Granting Petitioner’s Motion for Partial Summary Judgment).

13 51. Despite this declaratory judgment holding that the Bond Denial Class members
14 are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on
15 bond under § 1225(b)(2)(A), class members are being blatantly refused bond hearings across the
16 country. *Maldonado Bautista*, 2025 WL 3289861, at *11.

17 **FACTS**

18 52. Petitioner is a native and citizen of MEXICO who entered the United States
19 without inspection on or about 2006, and never left. Since then, Petitioner has developed a
20 substantial family and community ties. He is the father of three (3) United States Citizen
21 children, two are still minors, and attending school.

53. On or about April 23, 2026, he was stopped and detained by ICE while driving to work with his coworkers. Petitioner is now detained at Stewart Detention Center in Lumpkin, GA.

54. DHS placed Petitioner in removal proceedings before the Stewart Immigration Court pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, inter alia, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

55. Petitioner has resided in the United States for approximately twenty years. He is the father of three U.S. citizen children under the age of 21. Petitioner has maintained stable employment for over 12 years, is the owner of his own company, and has consistently worked in the electrical field. Petitioner has paid taxes and is actively involved in his community. Petitioner has no criminal record. Petitioner is neither a flight risk nor a danger to the community.

56. Following Petitioner's arrest and transfer to Stewart Detention Center, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

57. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

58. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

64. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III
Violation of Due Process

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

66. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

67. Petitioner has a fundamental interest in liberty and being free from official restraint.

68. The government’s detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

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

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Middle District of Georgia while this habeas petition is pending;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

- e. Declare that Petitioner's detention is unlawful;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law, and
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 6th of May, 2026.

/s/ Lino R. Rodriguez

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

I represent Petitioner, JORGE ABAD MARTINEZ TORRES, and submit this verification on his behalf. I verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 6th day of May 2026.

Respectfully submitted,

//s//Lino R. Rodriguez

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