

UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JEFFERSON JOSUE RAMIREZ BUENO

Petitioner,

v.

TODD BLANCHE, *in his official capacity as
Attorney General of the United States;*

MARKWAYNE MULLIN, *in his official
capacity as Secretary of the Department of
Homeland Security,*

JASON STREEVAL, *in his official capacity
as Warden of Stewart Detention Center;*

TODD M. LYONS, *in his official capacity as
Director of United States Immigration and
Customs Enforcement;*

Respondents.

PETITION FOR A WRIT OF
HABEAS CORPUS

Case No. 4:26 cv 784

A#



INTRODUCTION

1. This petition challenges the unlawful detention of Petitioner Jefferson Josue Ramirez Bueno (“Mr. Ramirez Bueno”), a twenty four year old who has resided in the United States for more than two years. Petitioner was arrested on April 1, 2026, while he voluntarily appeared at his annual asylum check-in at ICE Charlotte facility. Petitioner was apprehended by ICE, and he has since been held at the Stewart Detention Center in Lumpkin, Georgia. [See Exh. A, ICE Locator Search Results]. The Department of Homeland Security (“DHS”) asserts that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b), despite Congress’s separate detention framework in 8 U.S.C. § 1226(a), which governs interior arrests and provides discretionary bond and immigration-judge (“IJ”) review.

2. DHS’s novel position—recently endorsed in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 220 (B.I.A. 2025) contradicts the Immigration and Nationality Act’s (INA) text, the canon against surplusage, longstanding administrative practice, and Due Process. It effectively erases section 236(a) of the INA, collapses Congress’s dual-track detention scheme, and imposes categorical detention on long-time residents like Mr. Ramirez Bueno who present no danger and are not flight risks.

3. The human consequences are immediate and severe. Mr. Ramirez Bueno is a son, a brother, a long-term partner and hardworking individual whose presence is vital to his household. Mr. Ramirez Bueno is the sole provider for his family. With Mr. Ramirez Bueno being forcibly detained, he is unable to work and provide the financial and emotional support his family relies on to survive. He also requires extensive medical treatment, as he suffers from seizures due to a brain tumor. The Constitution, the INA, and basic principles of fairness do

not permit this outcome. Petitioner respectfully requests immediate release or, at minimum, a prompt custody redetermination under § 236(a).

JURISDICTION & VENUE

4. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and where applicable Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). 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.

5. Federal courts also have federal question jurisdiction, through the APA, to “hold unlawful and set aside agency action” that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A). APA claims are cognizable on habeas. 5 U.S.C. § 703 (providing that judicial review of agency action under the APA may proceed by “any applicable form of legal action, including actions for declaratory judgments or writs of prohibitory or mandatory injunction or habeas corpus”). The APA affords a right of review to a person who is “adversely affected or aggrieved by agency action.” 5 U.S.C. § 702. Respondents’ continued detention of Petitioner up to and past the 90-day removal period has adversely and severely affected Petitioner’s liberty and freedom.

6. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained within this district at Stewart Detention Center.

PARTIES

7. Mr. Ramirez Bueno is a native and citizen of Venezuela who has a pending

Asylum and Withholding of Removal matter. He is currently detained at Stewart Detention Center.

8. Todd Blanche is the Attorney General of the United States. He oversees the immigration court system, which is housed within the Executive Office for Immigration Review (EOIR) and includes all IJs and the Board of Immigration Appeals (BIA). He is sued in her official capacity.

9. Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security (DHS). DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Mullin is the ultimate legal custodian of Petitioner. He is sued in his official capacity.

10. Jason Streeval is the Warden of Stewart Detention Center (“Stewart”), a county jail that contracts with ICE to detain non-citizens. He is responsible for overseeing Stewart’s administration and management. Mr. Stewart is Petitioner’s immediate custodian. He is sued in his official capacity.

11. Todd Lyons is the Director of the ICE Enforcement and Removal Operations (ERO) and is the federal agent charged with overseeing all ICE detention centers in Virginia, including Farmville. Mr. Lyons is a legal custodian of Petitioner. He is sued in his official capacity.

LEGAL FRAMEWORK

12. 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 690. 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).

13. 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”).

14. 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 v. Bondi*, 604 U.S. ___, 145 S. Ct. 1232, 1242 (2025).

15. 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)(1)(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 303. 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).

16. 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).

17. 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). Mr. Ramirez Bueno interior arrest should have been (and, on information and belief, was) effectuated pursuant to an I-200 warrant—placing him squarely within § 236(a).

18. 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.

19. Federal courts addressing DHS’ new theory have rejected it and ordered relief, concluding § 236(a) governs noncitizens “already in the country.”¹ Even under DHS’

¹ *See, e.g., Martinez v. Hyde*, No. CV 25-11613-BEM, 2025 WL 2084238, at *2, *6 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 WL 2267803, at *4–7 (S.D.N.Y. Aug. 8, 2025); *Gomes v. Hyde*,

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).

20. 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’ 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).

21. Because Mr. Ramirez Bueno was arrested in the interior and (on information and belief) under warrant authority, § 236(a) governs his detention. DHS’ attempt to shoehorn him 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.

STATEMENT OF FACTS

22. Petitioner is a native and citizen of Venezuela who entered the United States in or around December 2 of 2023.

No. 1:25-cv-11571-JEK, 2025 WL 1869299, at *4–7 (D. Mass. July 7, 2025); *Rodriguez v. Bostock*, No. 3:25-cv-05240-TMC, 2025 WL 1193850, at *11–16 (W.D. Wash. Apr. 24, 2025); *Pinchi v. Noem*, No. 25-cv-05632-RMI, 2025 WL 1853763, at *3 (N.D. Cal. July 4, 2025); *Valdez v. Joyce*, No. 25-cv-4627, 2025 WL 1707737, at *5 (S.D.N.Y. June 18, 2025); *Ercelik v. Hyde*, No. 1:25-cv-11007-AK, 2025 WL 1361543, at *15–16 (D. Mass. May 8, 2025); *Günaydin v. Trump*, No. 25-cv-01151, 2025 WL 1459154, at *10–11 (D. Minn. May 21, 2025); *Cuevas-Guzman v. Andrews*, No. 1:25-cv-00759, 2025 WL 2617256, at *7 (E.D. Cal. Aug. 2025); *Alvarez-Martinez v. Noem*, No. 5:25-cv-00876, 2025 WL 2598379, at *4–5 (W.D. Tex. Aug. 2025); *Pizarro Reyes v. Raycraft*, No. 2:25-cv-11641, 2025 WL 2609425, at *3 (E.D. Mich. Aug. 2025); *Rosado v. Figueroa*, No. 2:25-cv-02157-DLR, 2025 WL 2337099, at *5–7 (D. Ariz. Aug. 11, 2025); *Dos Santos v. Noem*, No. 1:25-cv-12052-JEK, 2025 WL 2370988, at *6–8 (D. Mass. Aug. 14, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411, at *4–6 (D. Minn. Aug. 15, 2025); *Romero v. Hyde*, No. 1:25-cv-11631-BEM, 2025 WL 2403827, at *3–5 (D. Mass. Aug. 19, 2025); *Benítez v. Noem*, No. 5:25-cv-02190-RGK-AS, slip op. at 3–5 (C.D. Cal. Aug. 26, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136, at *8–10 (W.D. La. Aug. 27, 2025).

23. Upon Petitioner's arrival to the United States, he underwent surgery to remove a brain tumor. It would have been extremely difficult to have that surgery performed in Venezuela.

24. On June 25, 2024, Petitioner filed an application for Asylum and for Withholding of Removal, which remains pending.

25. Petitioner was detained on April 1, 2026, while he voluntarily appeared at his annual asylum check-in at the ICE Charlotte facility. He was then transported to the Stewart Detention in Lumpkin, Georgia.

26. ICE has held Petitioner without bond, asserting he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2).

27. ICE's litigation stance reflects "interim guidance" issued July 8, 2025, reinterpreting detention authority to treat nearly all noncitizens present without admission as "arriving" and ineligible for bond. [Exh. B, Lyons Memo, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025)].

28. For nearly three decades, DHS and EOIR treated individuals arrested in the interior and present without admission as detained under § 1226(a), subject to IJ bond hearings unless § 1225(b)(1), § 1226(c), or § 1231 applied.

29. Petitioner's detention has inflicted severe hardship on his family. With Mr. Ramirez Bueno detained, he is unable to provide financial support to his family members that depend on him to survive. He is also unable to receive the necessary medical treatment that he requires.

30. Petitioner's ongoing detention severely impedes his ability to defend against removal, including gathering evidence and coordinating with counsel and witnesses.

31. Petitioner remains detained solely because DIIS misclassified his custody under § 1225(b) rather than § 1226(a), contrary to statutory text, constitutional principles, and historical practice.

CLAIMS FOR RELIEF

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

32. Petitioner repeats and incorporates by reference allegations 1 through 31 above as though set forth fully herein

33. 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.

34. Mr. Ramirez Bueno continued detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

35. 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 four years), Mr. Ramirez Bueno 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 690.

36. Respondents have deprived Mr. Ramirez Bueno of his liberty interest protected by the Fifth Amendment by detaining him since April 1, 2026.

37. Mr. Ramirez Bueno's detention is improper because he has been deprived of a true bond hearing. A hearing is if anything a right to be heard, and here the immigration judge considered it a foregone conclusion that he was ineligible for bond, without considering the law or entertaining his counsel's arguments. Like the accused in criminal cases, habeas is proper. *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).

38. Respondents' actions in detaining Mr. Ramirez Bueno without any legal justification violate the Fifth Amendment.

39. 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.

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

II. Violation of Immigration and Nationality Act

41. Petitioner repeats and incorporates by reference allegations 1 through 31 above as though set forth fully herein.

42. Petitioner was detained pursuant to “authority contained in section 236” of the INA; section 236 is codified at 8 U.S.C. § 1226. 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.

43. 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.

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

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

III. Fifth Amendment-Due Process-Denial of the Opportunity to Contest Mis-Inclusion in Mandatory Category of Detention

46. Petitioner repeats and incorporates by reference allegations 1 through 31 above as though set forth fully herein.

47. Mr. Ramirez Bueno has a vested liberty interest in preventing his removal because he is eligible for Asylum and Withholding of Removal 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).

48. 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.

IV. Administrative Procedure Act

49. Petitioner repeats and incorporates by reference allegations 1 through 31 above as though set forth fully herein.

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

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

52. In being denied the opportunity to return to his family and pursue Asylum and Withholding of Removal in a non-detained court setting where he is free to gather the necessary evidence, Mr. Ramirez Bueno 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 this case will proceed during that time while Petitioner remains in custody.

53. 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)(B) and 1003.19(h)(2)(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.

V. Suspension Clause Claim

54. Petitioner repeats and incorporates by reference allegations 1 through 31 above as though set forth fully herein.

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

56. 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). Mr. Ramirez Bueno satisfies these three requirements and may invoke the Suspension Clause.

57. First, although Mr. Ramirez Bueno is not a U.S. citizen or resident, he has lived here for over two years, and he qualifies for Asylum and Withholding of Removal because of his credible fears of returning to his home country of Venezuela. Mr. Ramirez Bueno has significant family connections in the United States, including his employment, his siblings, and his partner. All of which establishes a substantial legal relationship with the United States.

58. Mr. Ramirez Bueno satisfies the second factor because he was apprehended by DHS and remains detained in the United States.

59. Finally, there are no serious, practical obstacles to resolving this present matter. This Court is equipped to deciding whether Mr. Ramirez Bueno is entitled to the writ.

60. There is no adequate alternative to a habeas petition. The refusal of the immigration court to grant Mr. Ramirez Bueno 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 his constitutional rights. The BIA cannot adequately and expeditiously review these issues.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Declare that ICE's April 1, 2026, apprehension and detention of Mr. Ramirez Bueno was an unlawful exercise of authority because the ICE officer provided no reason that he presents a danger to the community or is flight risk;
- (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 Mr. Ramirez Bueno outside of the Northern District of Georgia while this matter is pending;
- (6) Grant the writ of habeas corpus ordering Respondents to release Mr. Ramirez Bueno on his own recognizance, parole, or reasonable conditions of supervision, or order the Respondents to conduct a bond hearing under which it correctly applies the statutes and no longer mis-classifies him as subject to mandatory detention.
- (7) Grant any other relief that this Court deems just and proper.

Respectfully submitted,

Dated: May 6, 2026

/s/ Helen L. Parsonage,
Helen L. Parsonage, Esq.
Elliot Morgan Parsonage, PLLC
328 N Spring St.
Winston-Salem, NC 27101
hparsonage@emplawfirm.com
NC Bar # 35492
GA Bar # 435330
Attorney for Petitioner

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: May 5 2026

Respectfully submitted,

//s/ Abigail Greene
Abigail Greene, Esq.
DC State Bar 90038435
EOIR ID HH291459
Tucker, Nong, & Associates PLLC
8133 Leesburg Pike, Suite 900
Vienna, VA 22182
(571) 389 4721
agreene@tuckerlawpllc.com
Attorney for Petitioner
