

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

LINO HERNÁNDEZ RAYA

Petitioner

V.

Case No.

Agency File



WARDEN, Stewart Detention Center;

MARKWAYNE MULLIN, Secretary of the
United States Department of Homeland
Security;

FIELD OFFICE DIRECTOR, Atlanta Field Office,
U.S. Immigration and Customs Enforcement,;

Respondents

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

Petitioner, Lino Hernández Raya, by and through undersigned Counsel,
files this Complaint for Injunctive, Declaratory and Mandamus Relief and
alleges as follows;

INTRODUCTION

Mr. Lino Hernández Raya, a citizen and native of Venezuela is currently
in Immigration and Customs Enforcement (“ICE”) detention at the Stewart

Detention Center in Lumpkin, Georgia, which is under the jurisdiction of the Atlanta Field Office. He has been held in ICE custody since March 28, 2026.

JURISDICTION

1. This action arises under the Constitution of the United States of America, 28 U. S. C. § 2241 et seq. (habeas corpus), the Immigration and Nationality Act (INA), 8 U. S. C. § 1101 et seq., Title 8 of the Code of Federal Regulations, and the Administrative Procedure Act (APA), 5 U. S. C. §§ 555(b), 701, et seq.
2. The Court has jurisdiction over this case under 28 U. S. C. § 2241 (habeas corpus), and § 1331 (federal question).
3. The Court may grant relief pursuant to the U.S. Const., art. I, § 9, cl. 2 (Suspension Clause), 28 U. S. C. § 1651 (All Writs Act), 28 U. S. C. §§ 2201–02 (declaratory relief), 28 U. S. C. § 2241 (habeas corpus), and 5 U. S. C. §§ 701 et seq. (Administrative Procedure Act).

VENUE

4. Venue is proper in this district under 28 U.S.C. §§ 1391(e)(1) and & 2241 because (1) “a substantial part of the events or omissions giving rise to the claim occurred” and (2) this is the district where “the custodian can be reached by service of process.” *Rasul v. Bush*, 542 U.S. 466, 478-79 (2004).

PARTIES

5. The Petitioner, **Lino Hernández Raya** is currently detained by the respondents at the Stewart Detention Center in Lumpkin, Georgia. The petitioner is under direct control of the respondents and their agents.
6. The Respondent, **Warden, Stewart Detention Center** is sued in his official capacity as the direct custodian of the Petitioner. In this capacity, he has jurisdiction and supervisory authority over the detention center in which the petitioner is held, is authorized to release the petitioner and is the immediate custodian of the plaintiff.
7. The Respondent, **Markwayne Mullin** is sued in his official capacity as the Secretary of the Department of Homeland Security (DHS). Because ICE is a subagency for the DHS, Secretary Mullin is a legal custodian of the petitioner.
8. The Respondent, **Field Office Director** is sued in her official capacity as the Field Office Director for the U.S. Immigration and Customs Enforcement (ICE) Atlanta Field Office. In this capacity, she has jurisdiction and supervisory authority over the detention center in which the petitioner is held, is authorized to release the petitioner and is the immediate custodian of the plaintiff.

EXHAUSTION OF REMEDIES

9. No exhaustion is required for the petitioner's habeas claim because "Section 2241 itself does not impose an exhaustion requirement,"

Santiago-Lugo v. Warden, 785 F. 3d 467, 474 (CA11 2015),” and because “a petitioner need not exhaust his administrative remedies ‘where the administrative remedy will not provide relief commensurate with the claim,’ ” *Boz v. United States*, 248 F. 3d 1299, 1300 (CA11 2001), abrogated on other grounds recognized by *Santiago-Lugo*, 785 F. 3d, at 474–75 n. 5 (citation omitted).

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
11. 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); *See also, Johnson v. Rogers*, 917 F.2d 1283, 1284 (10th Cir. 1990).

FACTUAL ALLEGATIONS

12. Petitioner, Lino Hernández Raya, is a native and citizen of Venezuela who entered the United States in or about August 2022 and was subsequently paroled into the country by the Department of Homeland Security.
13. He complied with the conditions of his release and timely filed an application for asylum within one year of his arrival.
14. Following his release, Petitioner resided in the State of Georgia and maintained compliance with the immigration process. He has no criminal convictions.
15. On or about March 28, 2026, Petitioner was arrested in Athens, Georgia, following a traffic stop and taken into custody based on an outstanding warrant related to a shoplifting allegation. That allegation was subsequently dismissed by the prosecuting authority, with no conviction, plea, or finding of guilt entered against him.
16. Notwithstanding the dismissal of that charge, Petitioner was transferred to ICE custody and has remained detained at Stewart Detention Center since that date.
17. Petitioner's immigration proceedings remain pending. He has never been afforded a meaningful custody determination by a neutral adjudicator.

LEGAL FRAMEWORK
8 U.S.C. § 1225 & §1226

18. The Immigration and Nationality Act (“INA”) establishes distinct statutory frameworks governing immigration detention. The proper classification of detention authority is dispositive of whether an individual is entitled to an individualized custody determination.
19. Section 1226 governs the detention of noncitizens “pending a decision on whether the alien is to be removed from the United States.” 8 U.S.C. § 1226(a). Individuals detained under § 1226(a) are entitled to a bond hearing before an immigration judge. See 8 C.F.R. §§ 1003.19(a), 1236.1(d); *Jennings v. Rodriguez*, 583 U.S. 281 (2018).
20. By contrast, § 1225 governs the inspection and detention of noncitizens who are arriving at the border or otherwise “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). The Supreme Court has explained that this provision applies at “the Nation’s borders and ports of entry,” where the Government determines admissibility. *Jennings*, 583 U.S. at 287.
21. The statutory distinction is critical. Section 1226 applies to individuals already present in the United States and placed into removal proceedings, while § 1225 applies to individuals at or near the point of entry who are undergoing inspection.

22. Federal courts—including courts within this District—have repeatedly rejected the Government’s attempt to expand § 1225 to individuals apprehended in the interior of the United States after prior release. In *J.A.M. v. Streeval*, No. 4:25-CV-342 (CDL), 2025 WL 3050094, at *1 (M.D. Ga. Nov. 1, 2025), and *P.R.S. v. Streeval*, No. 4:25-CV-330, 2025 WL 3269947, at *1 (M.D. Ga. Nov. 24, 2025), the Middle District of Georgia held that noncitizens arrested in the interior and placed into removal proceedings are detained under § 1226(a), not § 1225(b), and are therefore entitled to bond hearings.
23. Consistent with those rulings, the Middle District of Georgia has recognized that a substantial number of detainees held at Stewart Detention Center are improperly classified under § 1225 and are entitled to relief in habeas corpus proceedings. See Standing Order 2026-01 (M.D. Ga. Jan. 29, 2026).
24. The statutory text confirms this conclusion. Section 1226(a) applies broadly to individuals pending removal proceedings, including those charged as inadmissible. See 8 U.S.C. § 1226(c)(1)(E). The existence of specific exceptions within § 1226 confirms that Congress intended § 1226(a) to apply by default.
25. By contrast, § 1225(b)(2) is limited to individuals who are actively “seeking admission.” It does not apply to individuals, like Petitioner, who

entered the United States, were released, and later re-apprehended in the interior after residing in the country.

26. Here, Petitioner entered the United States in 2022, was processed and released by the Government, complied with ICE reporting requirements, and was re-detained years later while reporting.

27. Where the Government has already determined that an individual may be released into the community and that individual has complied with all conditions of that release, subsequent re-detention without a showing of materially changed circumstances is arbitrary and constitutionally suspect. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

28. The Due Process Clause does not permit the Government to reverse a prior liberty determination in the absence of individualized justification.

29. Under these facts, Petitioner is detained, if at all, pursuant to § 1226(a), and is therefore entitled to an individualized bond hearing. His continued detention under § 1225—or without any meaningful custody determination—is unlawful.

The Petitioner's Detention Violates Due Process

30. Even apart from the statutory defect, Petitioner's continued detention violates the Fifth Amendment.

31. Civil immigration detention is constitutionally permissible only insofar as it remains nonpunitive and reasonably related to its purpose. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Where detention becomes prolonged or arbitrary, due process requires additional procedural safeguards.
32. The risk of erroneous deprivation is particularly acute in this case. Petitioner's detention is premised not on any criminal conviction, but on a dismissed allegation that resulted in no finding of guilt. Reliance on such unadjudicated and abandoned allegations cannot justify continued civil detention. The absence of any individualized custody determination compounds that risk, rendering Petitioner's confinement arbitrary.
33. The Government's interest likewise does not justify detention without process. Petitioner was previously deemed suitable for release, complied with all reporting requirements, and presents no evidence of danger to the community. Under these circumstances, continued detention without a hearing is not reasonably related to any legitimate regulatory purpose and instead functions as impermissible punishment. See *Zadvydas*, 533 U.S. at 690; *Bell v. Wolfish*, 441 U.S. 520, 539 (1979).
34. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), courts evaluate: (1) the private liberty interest, (2) the risk of erroneous deprivation, and (3) the Government's interest. Each factor weighs decisively in Petitioner's favor.

35. First, Petitioner's interest in freedom from physical restraint is fundamental. See *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

36. Second, the risk of erroneous deprivation is extreme where, as here, detention occurs without any individualized custody determination. Petitioner has never been afforded a bond hearing, despite years of compliance and the absence of any finding that he poses a danger or flight risk.

37. Third, the Government's interest does not justify detention without process. Petitioner complied with all reporting requirements and was detained only after presenting himself voluntarily to ICE. Under these circumstances, continued detention without a hearing is not reasonably related to any legitimate regulatory purpose.

38. The Constitution does not permit the Government to convert civil detention into a regime of automatic, unreviewable confinement. See *Zadvydas*, 533 U.S. at 690; *Foucha*, 504 U.S. at 80.

39. Moreover, the Government cannot evade constitutional constraints by reclassifying Petitioner's detention under § 1225 after years of presence in the United States. Such post hoc recharacterization would render the statutory scheme meaningless and allow detention to become arbitrary and punitive. *Wolfish*, 441 U.S. at 538-539.

40. Accordingly, even if § 1225 were deemed applicable—which it is not—due process independently requires that Petitioner receive a prompt, individualized custody determination.

**FIRST CAUSE OF ACTION
VIOLATION OF THE INA (UNLAWFUL DETENTION)**

41. Respondents' detention of Petitioner under § 1225, or without providing a bond hearing, exceeds their statutory authority.
42. As set forth above, Petitioner's detention is governed by 8 U.S.C. § 1226(a). Under that provision, he is entitled to an individualized custody determination before an immigration judge. See 8 C.F.R. §§ 1003.19(a), 1236.1(d).
43. By detaining Petitioner without providing such a hearing, Respondents are acting contrary to the INA and beyond the scope of their lawful authority. See *Jennings v. Rodriguez*, 583 U.S. 281 (2018).
44. This unlawful detention is subject to review and remedy through habeas corpus. See *Boumediene v. Bush*, 553 U.S. 723, 779 (2008).

**SECOND CAUSE OF ACTION
VIOLATION OF THE FIFTH AMENDMENT (DUE PROCESS)**

45. Petitioner's continued detention without a bond hearing violates the Due Process Clause of the Fifth Amendment.
46. As described above, detention without an individualized determination of necessity creates an impermissible risk of erroneous deprivation of liberty. See *Mathews*, 424 U.S. at 335.

47. Petitioner has been detained despite: full compliance with ICE reporting requirements, no finding of danger or flight risk, and no meaningful opportunity to contest his confinement. Such detention is arbitrary and punitive in violation of due process. *See Zadvydas*, 533 U.S. at 690; *Foucha*, 504 U.S. at 80.

THIRD CAUSE OF ACTION VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

48. The Administrative Procedure Act (“APA”) prohibits agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.” 5 U.S.C. § 706(2)(A).

49. Respondents’ reliance on a dismissed criminal allegation as a basis for continued detention, without any adjudication of guilt and without affording Petitioner a meaningful custody determination, constitutes arbitrary and capricious agency action. Such action lacks a rational connection between the facts found and the decision made and is therefore unlawful under 5 U.S.C. § 706(2)(A).

50. Additionally, misclassifying Petitioner’s detention under § 1225, failing to provide a bond hearing required under § 1226(a), and detaining Petitioner without individualized justification, Respondents have acted in a manner that is arbitrary, capricious, and contrary to law.

51. Petitioner is therefore entitled to declaratory and injunctive relief under 5 U.S.C. §§ 702, 706.

PRAYER FOR RELIEF

WHEREFORE, and in light of the foregoing, Petitioner prays that the Court:

- a. . Assume jurisdiction over this action pursuant to 28 U.S.C. §§ 2241 and 1331;
- b. Issue a writ of habeas corpus declaring that Respondents' detention of Petitioner violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and the Administrative Procedure Act;
- c. Order Petitioner's immediate release from custody on the ground that his detention lacks any lawful statutory or constitutional basis;
- d. In the alternative, order Respondents to provide Petitioner with a prompt and constitutionally adequate bond hearing before an immigration judge within a fixed and brief period, at which the Government bears the burden of justifying continued detention;
- e. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of these proceedings so as to preserve this Court's jurisdiction;

- f. Declare that Respondents' failure to properly classify Petitioner's detention under 8 U.S.C. § 1226(a) and to provide an individualized custody determination exceeds their statutory authority and is not in accordance with law;
- g. Declare that Respondents' conduct constitutes arbitrary and capricious agency action in violation of the Administrative Procedure Act, 5 U.S.C. § 706;
- h. Award Petitioner attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, to the extent permitted by law; and
- i. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted May 13, 2026.

/s/Jessica Calmes

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

I, Jessica Calmes, hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: May 13, 2026

/s/Jessica Calmes

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