


UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
VALDOSTA DIVISION

Elmer PAZ-BARAHONA,	)	
	)	Case No.
Petitioner,	)	
	)	<b>PETITION FOR WRIT</b>
v.	)	<b>OF HABEAS CORPUS</b>
	)	A# 
	)	
WARDEN, IRWIN COUNTY DETENTION	)	
CENTER	)	
	)	
Respondent.	)	

**I. INTRODUCTION**

1. Petitioner Elmer PAZ-BARAHONA (“Petitioner” or “Mr. PAZ-BARAHONA”) is a noncitizen long-resident of the United States who is currently detained by the Department of Homeland Security (“DHS”) at the Irwin County Detention Center in Ocilla, Georgia. He entered the United States without inspection years ago and was arrested in the interior; he is not and has never been placed in expedited-removal proceedings.

2. Under the Immigration and Nationality Act (“INA”), individuals arrested in the interior and placed in § 240 removal proceedings are detained, if at all, under 8 U.S.C. § 1226(a), with a right to a custody redetermination by an Immigration Judge (“IJ”).

3. DHS asserts that because Mr. PAZ-BARAHONA was never formally admitted, he is an “applicant for admission” subject to mandatory detention under 8

U.S.C. § 1225(b)(2)(A) and ineligible for bond. That position contravenes the statute, the implementing regulations, decades of pattern & practice, and a judge of this Court rejected the same theory in ordering a § 1226(a) bond hearing for a Stewart detainee. *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115 (M.D. Ga. Nov. 1, 2025).

4. Courts have rejected the Government's position that long-present interior arrestees placed directly into § 240 proceedings are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) solely because they were never formally admitted. A judge of this Court rejected that theory and ordered a § 1226(a) bond hearing for a Stewart detainee. *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115 (M.D. Ga. Nov. 1, 2025). Despite these judicial rulings, DHS counsel and immigration judges continue to adhere to the Government's § 1225(b)(2) theory, requiring this Court's intervention.

5. Petitioner seeks a writ of habeas corpus directing Respondents to provide him a prompt, individualized bond hearing before a neutral adjudicator under § 1226(a) (within 7 days), at which the Government bears the burden to show by clear and convincing evidence that he is a danger or flight risk, or, in the alternative, an order for his immediate release under reasonable conditions. He also seeks an order prohibiting transfer outside this District during the pendency of these proceedings.

## II. VENUE AND JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. §§ 2241 and 1331 and Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause). Habeas relief is available

to challenge the legality of civil immigration detention and to compel a bond hearing or release.

7. Venue lies in the Valdosta Division because Petitioner is confined at the Irwin County Detention Center within this Division and Respondent Warden is his immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

### **III. PARTIES**

8. Petitioner Elmer PAZ-BARAHONA is a 28-year-old Honduran national who resides in Smithfield, North Carolina. He is currently detained at the Irwin County Detention Center in Ocilla, Georgia.



9. Respondent Warden is the Warden of Irwin County Detention Center. As such, Respondent is responsible for the operation of the Detention Center where Mr. PAZ-BARAHONA is detained. Because ICE contracts with private prisons such as Irwin County to house immigration detainees such as Mr. PAZ-BARAHONA, Respondent has immediate physical custody of the Petitioner.

### **IV. EXHAUSTION AND FUTILITY**

10. No statute imposes an exhaustion requirement for habeas petitions under 28 U.S.C. § 2241 in this context. The question presented is purely legal and urgent, and Petitioner faces ongoing deprivation of physical liberty absent judicial intervention. Futility is underscored by DHS's entrenched position that long-present interior arrestees who were never "admitted" are categorically subject to § 1225(b)(2) and ineligible for bond, an interpretation this Court has already rejected. *See J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115 (M.D. Ga. Nov. 1, 2025). Under these

circumstances, further administrative efforts would be futile.

## V. STATEMENT OF FACTS

11. Mr. PAZ-BARAHONA is a Honduran national born on   He entered the United States without inspection in 2013, when he was 15 years old.

12. After entering the United States, on August 25, 2013, he was apprehended in Hidalgo, Texas and was issued a Notice to Appear (NTA) charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i) (INA § 212(a)(6)(A)(i)) and processing his arrest and release pursuant to 8 U.S.C. § 1226(a) (INA § 236(a)). **(Exhibit A, Notice to Appear 2013 and release paperwork)**. Upon information and belief, that NTA was never filed with EOIR.

13. Respondent has lived continuously in North Carolina for the past 13 years. He resides in Smithfield, North Carolina.

14. Mr. PAZ-BARAHONA has three minor United-States-citizen child. Mr. PAZ-BARAHONA financially supports his children

15. On April 5, 2026, Mr. PAZ-BARAHONA was arrested by local law enforcement and taken to a holding facility in Johnston Co., The Respondent posted bond, but then was transferred to and arrested by ICE on April 8, 2026, and was taken to a holding facility in Charlotte, NC. They moved him to GA on or about April 10, 2026. The ICE arrest was “[o]n a warrant” as specified at 8 U.S.C. § 1226(a) (INA § 236(a)). **(Exhibit B, ICE arrest warrant)**.

16. On or about April 10, 2026, ICE transported him to Irwin County

Detention Center, where he remains confined.

17. On April 8, 2026, DHS placed Petitioner in removal proceedings under 8 U.S.C. § 1228 (INA § 240) by filing a Notice to Appear (NTA) (dated and allegedly served on April 8, 2026) charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i) (INA § 212(a)(6)(A)(i)) and under 8 U.S.C. § 1182(a)(7)(A)(i)(I) (INA § 212(a)(7)(A)(i)(I)), as an applicant for admission. **(Exhibit C, Notice to Appear 2026).**

## VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

18. Section 236(a) of the INA, 8 U.S.C. § 1226(a), governs discretionary civil immigration detention for “any alien” arrested and detained pending a decision on removal, unless § 236(c) applies. It authorizes release on bond and gives immigration judges custody-redetermination authority by regulation. *See* 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a).

19. Section 235(b)(2) of the INA, 8 U.S.C. § 1225(b)(2), governs detention in the inspection context and the classes designated for expedited removal—settings that occur at or near the border and, by regulation, only for individuals described in published Federal Register notices. *See* 8 C.F.R. § 235.3(b)(1)–(2). Interior expedited removal is limited to certain encounters and, at most, to those who cannot show two years’ continuous presence. 84 Fed. Reg. 35,409 (July 23, 2019). Individuals—like Petitioner—who were arrested in the interior long after entry and placed in § 240 proceedings are detained, if at all, under § 1226(a).

20. This Court rejected DHS’s “mandatory detention for anyone not ‘admitted’” theory, holding that § 1225(b)(2) is limited to “aliens seeking admission”

and that § 1226(a) governs custody for noncitizens arrested inside the United States who are not actively seeking lawful admission. The Court explained that reading §§ 1225 and 1226 together, § 1225(b)(2) is a narrow “catchall,” but “it only catches ‘aliens seeking admission,’” whereas § 1226(a) preserves discretionary custody with a bond hearing for those arrested here. It further found *Yajure Hurtado* unpersuasive and emphasized that Congress’s text and canons of construction control. On this record identical legal question, same facility, same court—the remedy should match: apply § 1226(a) and order a prompt bond hearing under the regulations.

21. The statute’s two-track detention scheme confirms the result. Section 235, 8 U.S.C. § 1225, governs the inspection context and the limited classes designated for expedited removal; Section 236(a), 8 U.S.C. § 1226(a), governs detention during § 240 removal proceedings for noncitizens arrested in the interior long after entry. Reading § 1225(b)(2) to mandate detention for any never-admitted noncitizen arrested in the interior would collapse these distinct provisions and nullify the regulatory limits on interior expedited removal. Accordingly, Petitioner’s detention is governed by § 1226(a), and he is entitled to an individualized bond hearing under the implementing regulations.

**VII. CAUSES OF ACTION**  
**COUNT ONE**  
**STATUTORY CLAIM (Detention Governed by INA § 236(a))**

22. Petitioner incorporates paragraphs 1 through 21 as if fully set out herein.

23. Section 235(b)(2)(A) does not govern Petitioner’s detention because he

was not encountered during inspection and is not within any class designated for expedited removal by published notice. Reading § 1225(b)(2)(A) to govern all never-admitted noncitizens regardless of when and where they were arrested would nullify Congress's express two year limit on interior expedited removal and collapse the statute's two-track scheme. Under § 1226(a) and its implementing regulations, Petitioner is entitled to a prompt bond hearing before a neutral adjudicator.

**COUNT TWO**  
**PROCEDURAL DUE PROCESS (U.S. Const. amend. V)**

24. Petitioner incorporates paragraphs 1 through 23 as if fully set out herein.

25. Prolonged civil detention without a neutral bond hearing violates procedural due process. If Respondents' position categorically forecloses any IJ bond review for interior arrestees like Petitioner, it denies a meaningful opportunity to be heard and invites arbitrary confinement. At minimum, due process requires a prompt bond hearing at which the Government bears the burden to justify detention by clear and convincing evidence.

**COUNT THREE**  
**SUBSTANTIVE DUE PROCESS (U.S. Const. amend. V)**

26. Petitioner incorporates paragraphs 1 through 25 as if fully set out herein.

27. Civil detention must remain reasonably related to its purposes of ensuring appearance and protecting the community. Detaining Petitioner without any individualized assessment, solely on a theory rejected by this Court, bears no

reasonable relation to any legitimate aim and is excessive in relation to its purposes.

### PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Issue a writ of habeas corpus directing Respondents to provide Petitioner a bond hearing under 8 U.S.C. § 1226(a) before an Immigration Judge within 7 days of the Court's order, with the Government bearing the burden to establish by clear and convincing evidence that Petitioner is a danger to the community or a flight risk, and to consider alternatives to detention;
- 3) Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of these proceedings;
- 4) Order Respondents to answer the petition within 3 business days;

Grant such other relief as the Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this 5<sup>th</sup> day of May, 2026.

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*Motion to Appear Pro Hac Vice  
Forthcoming*

**28 U.S.C. § 2242 VERIFICATION STATEMENT**

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

Respectfully submitted this 5<sup>th</sup> day of May, 2026

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### CERTIFICATE OF COMPLIANCE

I hereby certify that the document to which this certificate is attached has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1 for documents prepared by computer.

Date: May 5, 2026

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