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

DANIEL MONDRAGON ANDINO,)

A# [REDACTED])

Petitioner,)

) Case No.: _____

v.)

WARDEN, STEWART DETENTION CENTER,)

et al.,)

Respondents.)

PETITION FOR WRIT OF HABEAS CORPUS

PURSUANT TO 28 U.S.C. § 2241

I. INTRODUCTION

1. I, Daniel Mondragon Andino, respectfully file this Petition for Writ of Habeas Corpus pro se, pursuant to 28 U.S.C. § 2241, seeking an order from this Court ending my unlawful and prolonged civil immigration detention by U.S. Immigration and Customs Enforcement ("ICE") at the Stewart Detention Center in Lumpkin, Georgia.

2. I am a native and citizen of Honduras. I am the father of three children, including a United States citizen daughter, J [REDACTED] born in Chesterfield County, Virginia. I am the beneficiary of a Form I-130, Petition for Alien Relative, filed on my behalf by my lawful permanent resident mother, Fanny Andino Muñoz (A [REDACTED]), on May 22, 2023,

and I have a pending application for asylum, withholding of removal, and protection under the Convention Against Torture (Form I-589) filed on April 7, 2025, in the Charlotte Immigration Court.

3. I have been detained by ICE without any individualized bond hearing since January 19, 2026 — a period now exceeding three months — and my next scheduled immigration-court hearing is not until May 12, 2026, which is a preliminary (master calendar) hearing only. I have no criminal convictions. The only criminal matter referenced by Respondents — a misdemeanor shoplifting charge — was judicially dismissed on March 26, 2026, in the West Greenville Summary Court, State of South Carolina, Case No. XXXXXXXXXX

4. My detention is unlawful and violates my rights under the Fifth Amendment to the United States Constitution. I am not subject to mandatory detention under 8 U.S.C. § 1226(c) because I have no qualifying criminal conviction. I am detained, if at all, under 8 U.S.C. § 1226(a), which authorizes only discretionary detention and requires an individualized bond determination. Even if I were properly detained under § 1226(a), my prolonged detention without a meaningful bond hearing — where the Government bears the burden of justifying continued confinement by clear and convincing evidence — violates due process. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring); *Jennings v. Rodriguez*, 583 U.S. 281, 313–14 (2018).

5. I respectfully request that this Court issue a writ of habeas corpus ordering Respondents to either (a) release me from custody on reasonable conditions of supervision, or (b) provide me a constitutionally adequate individualized bond hearing before an immigration judge within fourteen (14) days, at which Respondents bear the burden of justifying my continued detention by clear and convincing evidence and at which the immigration judge must consider alternatives to detention and my ability to pay any bond set.

II. JURISDICTION AND VENUE

6. This Court has subject-matter jurisdiction over this Petition under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), Article I, Section 9, Clause 2 of the United States Constitution (Suspension Clause), and the Fifth Amendment to the United States Constitution. *See INS v. St. Cyr*, 533 U.S. 289, 301–05 (2001) (§ 2241 habeas jurisdiction

preserved for challenges to the legality of immigration detention); *Zadvydas*, 533 U.S. at 687–88 (§ 2241 reaches constitutional challenges to immigration detention).

7. The REAL ID Act, 8 U.S.C. § 1252(a)(5), does not divest this Court of jurisdiction over this Petition because I do not challenge a final order of removal. I challenge only the legality of my continued civil detention. *See Nadarajah v. Gonzales*, 443 F.3d 1069, 1075–76 (9th Cir. 2006); *Hernandez v. Gonzales*, 424 F.3d 42, 42–43 (1st Cir. 2005).

8. Venue is proper in this District under the immediate-custodian rule articulated in *Rumsfeld v. Padilla*, 542 U.S. 426, 442–47 (2004). I am physically confined at the Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815, which lies within Stewart County, Georgia, and within the Columbus Division of the Middle District of Georgia. 28 U.S.C. § 90(b)(3).

III. PARTIES

9. I, DANIEL MONDRAGON ANDINO, am the Petitioner in this action. I am a native and citizen of the Republic of Honduras, and I am presently detained in the custody of U.S. Immigration and Customs Enforcement at the Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815. My Alien Registration Number is A# 

10. Respondent WARDEN of the Stewart Detention Center is my immediate physical custodian within the meaning of *Rumsfeld v. Padilla*. The Warden is sued in his or her official capacity and maintains an office at 146 CCA Road, Lumpkin, Georgia 31815.

11. Respondent FIELD OFFICE DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, ATLANTA FIELD OFFICE, is the senior ICE official with operational responsibility over my detention at Stewart Detention Center. Sued in official capacity.

12. Respondent ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT, is the senior official of the agency that maintains my custody. Sued in official capacity.

13. Respondent SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY, is the senior cabinet-level official responsible for the administration and enforcement of the

Immigration and Nationality Act with respect to civil immigration detention. 8 U.S.C. § 1103(a). Sued in official capacity.

14. Respondent U.S. ATTORNEY GENERAL is the senior cabinet-level official responsible for the Executive Office for Immigration Review, including the immigration courts adjudicating my custody and removal proceedings. 8 U.S.C. § 1103(g). Sued in official capacity.

IV. STATEMENT OF FACTS

A. Personal Background and Entry into the United States

15. I was born on [REDACTED] in Catacamas, Honduras. I am a citizen of the Republic of Honduras. My Honduran passport is No. [REDACTED] issued [REDACTED] and valid through [REDACTED] (My Exhibit A.)

16. I last departed Honduras on March 15, 2021, fleeing conditions that I detail in my pending Form I-589. I entered the United States near McAllen, Texas, on or about July 22, 2021, accompanied by my minor daughter A [REDACTED] (born [REDACTED] in Choluteca, Honduras; A# [REDACTED]) and my minor son M [REDACTED] (born [REDACTED] in Choluteca, Honduras; A# [REDACTED]). We were encountered by U.S. Customs and Border Protection and processed for removal proceedings. I was issued an Alien Booking Record (Form I-385) and released on an Order to Report for further immigration proceedings. My A-Number is [REDACTED] (My Exhibits B, C, and D.)

17. Since my release, I have resided continuously in Greenville, South Carolina, most recently at [REDACTED]. I have remained in regular compliance with all immigration reporting obligations.

18. On January 19, 2023, my daughter J [REDACTED] was born in Chesterfield County, Virginia. She is a citizen of the United States by birth under the Fourteenth Amendment. Her Virginia Certificate of Live Birth identifies me as her father. She presently resides with her mother, Karla Merary Padilla Matute. (My Exhibit E.)

B. Pending Immigration Applications and Relief

19. On May 22, 2023, my mother, Fanny Andino Muñoz (A# [REDACTED]), a lawful permanent resident of the United States, filed a Form I-130, Petition for Alien Relative, on my behalf, based upon our bona fide mother-son relationship. The Form I-130 was assigned Receipt Number [REDACTED] with a priority date of May 22, 2023, under the F2B preference classification (INA § 203(a)(2)(B), unmarried son or daughter of a lawful permanent resident). On May 25, 2023, U.S. Citizenship and Immigration Services issued a Form I-797C, Notice of Action (Receipt), confirming receipt of the petition and proper payment of the filing fee. The petition remains pending with U.S. Citizenship and Immigration Services. (My Exhibit J.)

20. On April 7, 2025, I filed a Form I-589, Application for Asylum and for Withholding of Removal, with the Charlotte Immigration Court. The I-589 remains pending. I am eligible to pursue asylum under 8 U.S.C. § 1158, withholding of removal under 8 U.S.C. § 1231(b)(3), and protection under the Convention Against Torture, 8 C.F.R. §§ 1208.16–1208.18. (My Exhibit F.)

21. My next immigration-court hearing is a preliminary (master calendar) hearing scheduled for May 12, 2026, at 8:30 a.m., before the Honorable Jerrica A. Harness, via Webex. No individual merits hearing has yet been scheduled. Given ordinary docket congestion, any merits hearing is likely months or a year or more away. (My Exhibit I.)

C. The State Criminal Matter and Its Judicial Dismissal

22. On January 16, 2026, I was issued a citation and booked for a single charge of shoplifting, value \$2,000 or less (S.C. Code Ann. § 16-13-110), in West Greenville Summary Court, Greenville County, South Carolina, Case No. [REDACTED]

23. On March 26, 2026, the West Greenville Summary Court entered a **Judicial Dismissal** of that shoplifting charge. I have no other pending or prior criminal charges. I have no criminal convictions of any kind. (My Exhibit G.)

D. ICE Detention and the Absence of a Bond Hearing

24. On January 19, 2026, upon my release from the Greenville County Detention Center on the above-mentioned state matter, ICE officers were waiting for me at the release point and

took me into immigration custody. I was transported to, and have been confined ever since at, the Stewart Detention Center in Lumpkin, Georgia. (My Exhibit H.)

25. From January 19, 2026, to the date of this Petition, I have been held in ICE custody for more than three months. During that entire time, I have not been afforded any individualized bond hearing before an immigration judge at which the Government bore the burden of justifying my continued detention.

26. I am not currently under any final order of removal. Removal proceedings under 8 U.S.C. § 1229a remain pending. My custody is therefore governed by 8 U.S.C. § 1226, not 8 U.S.C. § 1231.

27. I am not subject to mandatory detention under 8 U.S.C. § 1226(c). That statute authorizes mandatory detention only upon release from criminal custody for certain enumerated offenses — principally, aggravated felonies, crimes involving moral turpitude with actual imprisonment, controlled-substance offenses, firearms offenses, and certain terrorism and national-security grounds. 8 U.S.C. § 1226(c)(1)(A)–(D). I have no convictions of any kind. A **dismissed** charge is not a "conviction" within the meaning of 8 U.S.C. § 1101(a)(48)(A) and cannot trigger § 1226(c).

28. I am therefore detained, if at all, under the Attorney General's discretionary authority in 8 U.S.C. § 1226(a), which permits an immigration judge to release a noncitizen on bond or conditional parole upon an individualized custody determination.

E. Family Ties, Community Ties, and Lack of Danger or Flight Risk

29. I am the father of three minor children. My eldest daughter, A [REDACTED] (age 10), has lived with me since our 2021 entry. My son M [REDACTED] (age 7) lives with extended family. My youngest daughter, Ja [REDACTED] (age 3), is a United States citizen by birth. All three children are in active removal proceedings or U.S. citizens, and all rely on me. The continued separation of my children from their father has caused, and continues to cause, grave emotional and economic harm.

30. I have strong community ties to Greenville, South Carolina, where I have lived continuously since 2021. My mother, Fanny Andino Muñoz (A# [REDACTED]), a lawful

permanent resident, resides in the United States and has filed the above-mentioned I-130 petition on my behalf.

31. I am not a danger to the community. I have no criminal convictions. The only charge ever filed against me — a misdemeanor shoplifting allegation — was judicially dismissed.

32. I am not a flight risk. I have complied with every immigration-reporting obligation since 2021. I have strong incentives to appear because I have substantial relief available to me (asylum, withholding, CAT, and a pending I-130 with prospective adjustment through my LPR mother), and because my United States citizen daughter, my other children, and my family all reside in South Carolina. I am prepared to accept any reasonable conditions of supervision, including Alternatives to Detention ("ATD") such as the Intensive Supervision Appearance Program ("ISAP"), GPS monitoring, telephonic or in-person check-ins, and/or a reasonable money bond consistent with my documented ability to pay.

V. CLAIMS FOR RELIEF

CLAIM ONE

Unlawful Detention Under 8 U.S.C. § 1226(c) — No Qualifying Criminal Conviction

33. I incorporate each of the preceding paragraphs by reference.

34. To the extent Respondents purport to detain me under 8 U.S.C. § 1226(c), they lack statutory authority to do so. Section 1226(c)(1) authorizes mandatory detention only of noncitizens who have been **convicted** of enumerated offenses, or who are deportable on certain terrorism/security grounds. A "conviction" is defined at 8 U.S.C. § 1101(a)(48)(A) as a "formal judgment of guilt" or, in the absence of a formal judgment, a finding or admission of guilt coupled with the imposition of some form of punishment, penalty, or restraint.

35. My only criminal charge — the South Carolina shoplifting allegation — was **judicially dismissed**. A dismissal is not a formal judgment of guilt and involves no finding or admission of guilt. It is therefore not a "conviction" under 8 U.S.C. § 1101(a)(48)(A) and cannot trigger § 1226(c). See *Matter of Cota-Vargas*, 23 I. & N. Dec. 849, 852 (BIA 2005); *Matter of Pickering*, 23 I. & N. Dec. 621, 624 (BIA 2003).

36. Mandatory detention under § 1226(c) is inapplicable, and any purported custody under that provision is ultra vires and subject to habeas correction under 28 U.S.C. § 2241. *See Matter of Joseph*, 22 I. & N. Dec. 799, 806 (BIA 1999).

CLAIM TWO

Violation of the Fifth Amendment Due Process Clause — Prolonged Detention Without an Individualized Bond Hearing

37. I incorporate each of the preceding paragraphs by reference.

38. The Fifth Amendment's Due Process Clause applies to "all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693. Freedom from bodily restraint "has always been at the core of the liberty protected by the Due Process Clause." *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

39. Although *Jennings v. Rodriguez*, 583 U.S. 281 (2018), rejected a statutory reading of 8 U.S.C. § 1226 requiring periodic bond hearings, the Court expressly preserved **as-applied constitutional challenges** to prolonged detention and remanded those questions. *Id.* at 313–14. District courts across the country have since granted habeas relief where detention without an individualized bond hearing has become unreasonably prolonged. *See Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020); *Brissett v. Decker*, 324 F. Supp. 3d 444 (S.D.N.Y. 2018).

40. Courts apply a multi-factor reasonableness analysis considering: (i) the total length of detention; (ii) the likely duration of future detention; (iii) the conditions of detention; (iv) delays attributable to the Government; (v) delays attributable to the detainee; and (vi) the likelihood of removal. *See Reid v. Donelan*, 17 F.4th 1, 7–9 (1st Cir. 2021); *Ly v. Hansen*, 351 F.3d 263, 268–72 (6th Cir. 2003).

41. Applied to me, every factor favors relief. **First**, I have already been detained over three months with no individualized bond hearing. **Second**, my next immigration-court hearing is only a preliminary one set for May 12, 2026; any merits adjudication is many additional months — and realistically more than a year — away. **Third**, Stewart Detention Center has been the

subject of repeated public reports concerning detainee treatment. **Fourth**, all delay is attributable to the Government. **Fifth**, I have strong relief available — pending asylum, a pending I-130, and a U.S. citizen child — such that a final order of removal is far from inevitable.

42. Because my detention is unreasonably prolonged, the Fifth Amendment requires that he be released or, at minimum, afforded an individualized bond hearing at which the Government bears the burden by **clear and convincing evidence** that I am a flight risk or danger to the community, with the immigration judge required to consider less-restrictive alternatives and my ability to pay. *See Hernandez-Lara*, 10 F.4th at 28–41; *Velasco Lopez*, 978 F.3d at 855; *Singh v. Holder*, 638 F.3d 1196, 1203–05 (9th Cir. 2011); *Hernandez v. Sessions*, 872 F.3d 976, 990–93 (9th Cir. 2017).

CLAIM THREE

Violation of the Fifth Amendment Due Process Clause — Substantive Due Process and Impairment of Right to Prepare Pending Applications

43. I incorporate each of the preceding paragraphs by reference.

44. The Due Process Clause also protects my interest in a meaningful opportunity to prepare and present his affirmative applications for asylum, withholding, and CAT protection, as well as to pursue adjustment based upon the I-130 petition filed by my mother. *See Dent v. Holder*, 627 F.3d 365, 373–74 (9th Cir. 2010); *Colmenar v. INS*, 210 F.3d 967, 971 (9th Cir. 2000).

45. Detention at the Stewart Detention Center — located in a rural area of southwest Georgia, hundreds of miles from my family, my witnesses, and country-conditions experts, and with limited access to legal resources for Spanish-speaking detainees — materially impairs my ability to gather corroborating evidence, obtain expert declarations, secure counsel, and effectively present my claims to the immigration court. Continued detention under these circumstances violates substantive due process.

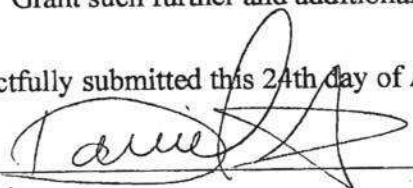
VI. PRAYER FOR RELIEF

WHEREFORE, I, Daniel Mondragon Andino, Petitioner, respectfully pray that this Honorable Court:

- A. Assume jurisdiction over this Petition;
- B. Order Respondents to show cause, within fourteen (14) days, why the Writ of Habeas Corpus should not issue;
- C. Declare that my continued detention, without an individualized bond hearing at which the Government bears the burden of proof by clear and convincing evidence, violates 8 U.S.C. § 1226 and the Due Process Clause of the Fifth Amendment to the United States Constitution;
- D. Issue a Writ of Habeas Corpus ordering Respondents to immediately release me from custody on reasonable conditions of supervision, or, in the alternative, order Respondents to provide me, within fourteen (14) days, a constitutionally adequate individualized bond hearing before an immigration judge at which:
 - (1) the Government bears the burden of demonstrating by clear and convincing evidence that continued detention is justified by flight risk or danger to the community;
 - (2) the immigration judge must consider alternatives to detention, including ATD, ISAP, GPS monitoring, and reasonable reporting conditions; and
 - (3) the immigration judge must consider my ability to pay in setting any money bond;
- E. Award me such costs, attorney's fees where available under the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other relief as this Court may deem just, equitable, and proper; and
- F. Grant such further and additional relief as may be just and proper.

Respectfully submitted this 24th day of April, 2026.

x


DANIEL MONDRAGON ANDINO

Petitioner, Pro Se A# 

Stewart Detention Center 146 CCA Road

Lumpkin, Georgia 31815

VERIFICATION

I, Daniel Mondragon Andino, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I have read the foregoing Petition for Writ of Habeas Corpus, that I am the petitioner herein, that I understand its contents, and that the factual statements contained therein are true and correct to the best of my knowledge, information, and belief.

Executed this 24th day of April, 2026, at Lumpkin, Georgia.

X 

DANIEL MONDRAGON ANDINO, Petitioner

A#



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

DANIEL MONDRAGON ANDINO,)

A# )

Petitioner,)

) Case No.: _____

v.)

WARDEN, STEWART DETENTION CENTER,)

et al.,)

Respondents.)

CERTIFICATE OF SERVICE

I, DANIEL MONDRAGON ANDINO, Petitioner proceeding pro se in the above-captioned action, hereby certify that on the date set forth below, I caused true and correct copies of the following documents:

- (1) Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241;
- (2) Emergency Motion for Temporary Restraining Order and Preliminary Injunction;
- (3) Application to Proceed in District Court Without Prepaying Fees or Costs (IFP);
- (4) Petitioner's Exhibit Index and Supporting Exhibits A through J; and
- (5) [Proposed] Order,

to be served upon each of the following Respondents and their counsel of record, by placing the same in a sealed, first-class-postage-prepaid envelope addressed as indicated below and depositing the same with officials at the Stewart Detention Center for mailing through the United States Postal Service:

1. Warden, Stewart Detention Center
146 CCA Road
Lumpkin, GA 31815

2. Field Office Director
U.S. Immigration and Customs Enforcement
Atlanta Field Office
180 Ted Turner Drive, S.W., Suite 522
Atlanta, GA 30303

3. Secretary
U.S. Department of Homeland Security
Washington, DC 20528

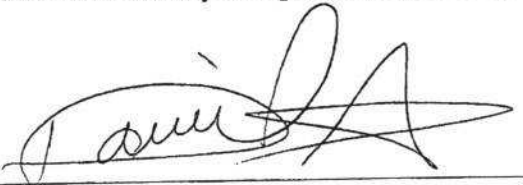
4. Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue, N.W.
Washington, DC 20530-0001

5. Civil Process Clerk
United States Attorney's Office
Middle District of Georgia
475 Mulberry Street
Macon, GA 31201

Pursuant to the "mailbox rule" applicable to pro se detainees, I consider service effected as of the date I deposit these documents with facility officials for mailing. See *Houston v. Lack*, 487 U.S. 266, 270–76 (1988).

I declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that the foregoing is true and correct.

Executed this 24th day of April, 2026, at Lumpkin, Georgia.

X 

DANIEL MONDRAGON ANDINO

Petitioner, Pro Se

A#



Stewart Detention Center

146 CCA Road

Lumpkin, Georgia 31815