

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

IVONNE FERNANDA PONCE-HIPOLITO,

Petitioner,

v.

Jason STREEVAL, Warden, Stewart Detention
Center,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

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2 1. Petitioner IVONNE FERNANDA PONCE-IIIIPOLITO is in the physical custody
3 of Respondent at the Stewart Detention Center. She now faces unlawful detention because the
4 Department of Homeland Security (DHS) and the Executive Office of Immigration Review
5 (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, DIIS 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 May 15, 2025, the Board of Immigration Appeals (BIA or Board)
15 issued a precedent decision, binding on all immigration judges, holding that anyone is arrested
16 and detained without a warrant, whether or not at a port of entry, and subsequently placed in
17 removal proceedings is detained under section 235(b) of the Immigration and Nationality Act
18 ("INA"), 8 U.S.C. § 1225(b) (2018), and is ineligible for any subsequent release on bond under
19 section 236(a) of the INA, 8 U.S.C. § 1226(a) (2018).

20 5. On September 5, 2025, the Board issued another precedent decision further
21 clarifying this position, holding that an immigration judge has no authority to consider bond
22 requests for any person who entered the United States without admission. *See Matter of Yajure*
23 *Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are
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1 subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on
2 bond.

3 6. Petitioner's detention on this basis violates the plain language of the Immigration
4 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
5 previously entered and are now residing in the United States. Instead, such individuals are
6 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
7 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
8 having entered the United States without inspection.

9 7. Respondents' new legal interpretation is plainly contrary to the statutory
10 framework and contrary to decades of agency practice applying § 1226(a) to people like
11 Petitioner.

12 8. Accordingly, Petitioner seeks a writ of habeas corpus requiring that she be
13 released unless Respondents provide a bond hearing under § 1226(a) within seven days.

14 JURISDICTION

15 9. Petitioner is in the physical custody of Respondents. Petitioner is detained at the
16 Stewart Detention Center, in Lumpkin, GA.

17 10. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28
18 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States
19 Constitution (the Suspension Clause).

20 11. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory
21 Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Middle District of Georgia, the judicial district in which Petitioner currently is detained.

13. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(c) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Georgia.

REQUIREMENTS OF 28 U.S.C. § 2243

14. 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, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

15. 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).

PARTIES

16. Petitioner IVONNE FERNANDA PONCE-HIPOLITO is a citizen of Mexico who has been in immigration detention since May 7, 2026. After arresting Petitioner, ICE did not

1 set bond and Petitioner is unable to obtain review of her custody by an IJ, pursuant to the
2 Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

3 17. Respondent Jason STREEVAL is employed by CoreCivic as Warden of the
4 Stewart Detention Center, where Petitioner is detained. He has immediate physical custody of
5 Petitioner. He is sued in his official capacity.

6 LEGAL FRAMEWORK

7 18. The INA prescribes three basic forms of detention for the vast majority of
8 noncitizens in removal proceedings.

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

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

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

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

20 23. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the
21 Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No.
22 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section
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1 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1,
2 139 Stat. 3 (2025).

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

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

15 26. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that
16 rejected well-established understanding of the statutory framework and reversed decades of
17 practice.

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

23 _____
24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

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

5 29. Since Respondents adopted their new policies, dozens of federal courts have
6 rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected
7 *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

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

15 31. Subsequently, court after court has adopted the same reading of the INA's
16 detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*,
17 No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*,
18 No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025);
19 *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11,
20 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL
21 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025
22 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE,
23 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-
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ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLI, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25 cv 01093 JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J O F v Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ---, 2025 WL 2466670 (D. Minn. Aug. 27, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

32. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

FACTS

33. Petitioner has resided in the United States since 2001 and lives in Franklinton, NC before her detention.

1 34. Petitioner was previously placed in removal proceedings at an unknown date. On
2 March 23, 2023, the Immigration Judge dismissed the removal proceeding because the
3 Department of Homeland Security deemed the Petitioner a non-priority for immigration
4 enforcement, and filed a joint motion to dismiss the removal proceeding with the Petitioner.

5 35. Petitioner has no violent criminal history in the United States. Petitioner is not
6 subject to mandatory detention under INA 236(c)(1)(A) – (D). Petitioner is neither a flight risk
7 nor a danger to the community.

8 36. DHS again placed Petitioner in removal proceedings before the Stewart
9 Immigration Court on May 11, 2026. ICE has charged Petitioner with, *inter alia*, being
10 inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States
11 without inspection.

12 37. The immigration judge is unable to consider Petitioner's bond request pursuant to
13 *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

14 38. As a result, Petitioner remains in detention. Without relief from this court, he
15 faces the prospect of months, or even years, in immigration custody, separated from her family
16 and community.

17
18 **CLAIMS FOR RELIEF**

19 **COUNT I**
20 **Violation of the INA**

21 39. Petitioner incorporates by reference the allegations of fact set forth in the
22 preceding paragraphs.

23 40. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
24 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As

1 relevant here, it does not apply to those who previously entered the country and have been
2 residing in the United States prior to being apprehended and placed in removal proceedings by
3 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
4 § 1225(b)(1), § 1226(c), or § 1231.

5 41. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued
6 detention and violates the INA.

7 **COUNT II**
8 **Violation of the Bond Regulations**

9 42. Petitioner incorporates by reference the allegations of fact set forth in preceding
10 paragraphs.

11 43. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-
12 Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.
13 Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the
14 agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present
15 without having been admitted or paroled (formerly referred to as [noncitizens] who entered
16 without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323
17 (emphasis added). The agencies thus made clear that individuals who had entered without
18 inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. §
19 1226 and its implementing regulations.

20 44. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and
21 practice of applying § 1225(b)(2) to individual like Petitioner.

22 45. The application of § 1225(b)(2) to Petitioner unlawfully mandates her continued
23 detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.
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COUNT III
Violation of Due Process

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

47. 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).

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

49. The government’s detention of Petitioner without a bond redetermination hearing to determine whether she is a flight risk or danger to others violates h 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 Goergia 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;

1 f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act
2 ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under
3 law; and

4 g. Grant any other and further relief that this Court deems just and proper.
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6 Respectfully submitted,

7 DATED this 19th of May 2026.

8
9 s/Mengyu Peng

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