UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

Daniel VELASQUEZ-CASTREJON,	)	
	)	Case No.
Petitioner,	)	
	)	**PETITION FOR WRIT OF HABEAS CORPUS**
v.	)	A# [redacted]
	)	
	)	
WARDEN, IRWIN COUNTY DETENTION CENTER	)	
	)	
	)	
Respondent.	)	

I. INTRODUCTION

1. Petitioner Daniel VELASQUEZ-CASTREJON ("Petitioner" or "Mr. VELASQUEZ-CASTREJON") is a noncitizen residing within the United States who is currently detained by the Department of Homeland Security ("DHS") at the Irwin County Detention Center in Ocilla, Georgia.

2. Mr. VELASQUEZ-CASTREJON entered the United States without inspection near Sasabe, Arizona, taken into custody by U.S. officials, and was processed from the outset into full removal proceedings under INA § 240, 8 U.S.C. § 1229a. After a short period of custody, DHS issued him a Notice to Appear (NTA) placing him in § 240 proceedings and released him into the interior on an Order of Release on Recognizance expressly issued "in accordance with section 236."

3. DHS never placed Petitioner into expedited removal under INA § 235(b)(1), 8 U.S.C. § 1225(b)(1), never processed him for inspection and admission

under 8 U.S.C. § 1225(b)(2), and never granted or revoked parole pursuant to INA § 212(d)(5), 8 U.S.C § 1182(d)(5), Instead, it deliberately chose the § 240 track and exercised its detention-and-release authority under 8 U.S.C. § 1226(a).

4. For more two years, Petitioner complied with ICE's reporting requirements while pursuing relief from removal in Immigration Court. Then, on or about May 15, 2026, after a routine check-in in Charlotte, North Carolina, ICE suddenly re-detained him and transported him to Irwin. DHS now asserts that because he entered without having been formally "admitted," he is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and categorically ineligible for bond.

5. That position is unlawful. It is inconsistent with the statutory text, structure, and history of the Immigration and Nationality Act, with DHS's own original processing decisions in this case, and with binding Eleventh Circuit authority. On May 6, 2026, the United States Court of Appeals for the Eleventh Circuit flatly rejected the Government's § 1225(b)(2)(A) detention theory in *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Mia.*, No. 25-14065, 2026 U.S. App. LEXIS 13180 (11th Cir. May 6, 2026), affirming habeas relief for interior detainees held under the identical legal theory. That decision controls this case. Courts at every level—including this Court and now the Eleventh Circuit itself—have rejected the Government's effort to re-label long-present noncitizens in § 240 proceedings as § 235(b) detainees to strip them of bond rights.

6. Petitioner seeks a writ of habeas corpus directing Respondents to release Petitioner on the previously issued Order of Release on Recognizance. Alternatively,

Petitioner requests Respondents 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. He also seeks an order prohibiting transfer outside this District during the pendency of these proceedings.

II. VENUE AND JURISDICTION

7. 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.

8. 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

9. Petitioner Daniel VELASQUEZ-CASTREJON is a 38-year-old Mexican national who resides in Burlington, North Carolina. He is currently detained at the Irwin County Detention Center in Ocilla, Georgia.

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

Petitioner.

IV. EXHAUSTION AND FUTILITY

11. No statute imposes an exhaustion requirement for habeas petitions under 28 U.S.C. § 2241 in this context. Any prudential exhaustion requirement is excused.

12. Despite binding Eleventh Circuit authority, DHS continues to invoke *Matter of Q. Li* before Immigration Judges in this circuit to claim they lack custody-redetermination jurisdiction a position DHS pressed in another case handled by counsel's law firm within the past week. Because DHS has already taken the position that Petitioner is detained under § 235(b) and categorically ineligible for bond, any request for custody redetermination before the Immigration Judge would be futile.

13. The question presented here is purely legal: which detention statute governs a noncitizen who (1) was apprehended at or near the border, (2) was never processed under § 235, (3) was instead placed from the outset into § 240 removal proceedings and released "in accordance with section 236," and (4) is later re-detained at a routine check-in. Petitioner faces an ongoing deprivation of physical liberty, and prompt judicial review is necessary.

V. STATEMENT OF FACTS

14. Mr. VELASQUEZ-CASTREJON is a Mexican national born on [redacted] Petitioner entered the United States at or near Sasabe, Arizona on or about April 30, 2024. Upon entry, he was apprehended by U.S officials.

15. On May 1, 2024, DHS served Petitioner with a Notice to Appear in removal proceedings under section 240 of the Immigration and Nationality Act. The

NTA charges him as removable under INA section 212(a)(6)(A)(i) as an alien present in the United States without having been admitted or paroled, alleges that he arrived in the United States at or near Sasabe, AZ on or about April 30, 2024, and lists his then current address as [redacted] The NTA orders him to appear before the Immigration Court in Charlotte, North Carolina. **Exhibit A (Notice to Appear).**

16. Also on May 1, 2024, DHS issued Petitioner an Order of Release on Recognizance, Form I-220A. That document states that he had been arrested and placed in removal proceedings and that, in accordance with section 236 of the Immigration and Nationality Act and applicable regulations, he was being released on his own recognizance subject to specified conditions, including appearing for all hearings and interviews and surrendering for removal if so ordered. **Exhibit B (Order of Release on Recognizance).**

17. DHS released Petitioner from custody and he settled in North Carolina, where he has resided continuously since his release. He has complied with ICE's reporting requirements, and, upon information and belief, this includes any and all ICE check-in appointments.

18. On or about May 15, 2026 Petitioner appeared for another scheduled ICE check-in at the ICE office in Charlotte, North Carolina. Petitioner had not violated any condition of his release. Nonetheless, at that appointment, ICE officers took him into custody without prior notice or any individualized explanation for the change in custody status.

19. On or about May 15, 2026, ICE transported Petitioner to Irwin County Detention Center, where he remains confined.

20. DHS continues to treat Petitioner's removal proceedings as § 240 proceedings and has not issued any Form I-860 (Notice and Order of Expedited Removal), any credible fear or reasonable fear documentation, or any other paperwork placing him into the expedited removal track under INA § 235(b).

21. Despite never having processed Petitioner under § 235, DHS now asserts that his detention is governed by § 235(b)(2)(A), not § 236(a), based solely on the fact that he was apprehended initially near the southern border and has not been formally "admitted." On that basis, ICE and EOIR have taken the position that he is categorically ineligible for bond and that Immigration Judges lack custody-redetermination jurisdiction.

22. Petitioner has not filed a custody-redetermination request in Immigration Court because DHS and the BIA's position makes any such request futile.

VI. LEGAL FRAMEWORK FOR RELIEF SOUGHT

23. 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).

24. INA § 235(b), 8 U.S.C. § 1225(b), governs inspection and expedited removal at or near the border. Section 235(b)(1) authorizes expedited removal for

certain arriving and designated noncitizens encountered within two years of entry who lack valid documents or present fraud. Section 235(b)(2) governs detention of aliens who "are applicants for admission" and "are not clearly and beyond a doubt entitled to be admitted," during the inspection and admission process. By regulation, the classes subject to expedited removal are limited to those described in published Federal Register notices, and interior expedited removal is restricted to specific encounters within two years of entry.

25. For decades, DHS and the immigration courts treated noncitizens like Petitioner—individuals who entered without inspection, were not placed into expedited removal, and were instead charged directly into § 240 proceedings and released on I-220As citing § 236—as detained, if at all, under § 1226(a), with access to IJ bond review.

26. In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the Board of Immigration Appeals announced a new position: that noncitizens who have not been formally "admitted" can be treated as § 235(b) detainees even when they are in § 240 removal proceedings and, in *Li*'s case, even after release on humanitarian parole. DHS has used those decisions to argue that such individuals are subject to mandatory detention under § 235(b) with no bond jurisdiction. *Hernandez Alvarez*, 2026 U.S. App. LEXIS 13180, controls the threshold statutory question in this Court: whether § 1225(b)(2)(A) applies to Petitioner. Under the Eleventh Circuit's textual analysis, it does not. *Q. Li* and *Yajure Hurtado* each rest on the premise that § 1225(b)(2)(A) applies to the alien in question. *Hernandez Alvarez*

holds that premise is incorrect for a non-seeking-admission detainee in the interior.

27. In *Hernandez Alvarez*, the court held that § 1225(b)(2)(A) imposes two independent conditions for mandatory detention: the alien must be (1) an applicant for admission, and (2) actively "seeking admission"—meaning pursuing lawful entry after inspection and authorization by an immigration officer. The second condition is not satisfied by mere presence in the interior. An alien arrested at an ICE check-in, not at a port of entry and not taking any affirmative step toward lawful entry, is not "seeking admission." Accordingly, § 1226(a) governs.

28. *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), is factually and legally inapplicable here. *Q. Li* involved a Chinese national arrested without a warrant approximately 100 yards inside the southern border, who was then released on humanitarian parole under INA § 212(d)(5)(A). When her parole was terminated, the BIA held she was returned to § 235(b) detention "from which she was paroled." That parole-to-custody pipeline has no application here.

29. DHS did not release Petitioner on parole. It released him on Form I-220A expressly "in accordance with section 236 of the Immigration and Nationality Act"—a § 1226(a) release, not a parole. That statutory election binds both parties. Under *Hernandez Alvarez*, the threshold question under § 1225(b)(2)(A) is not whether the alien was ever "present without admission," but whether he was actively "seeking admission" when arrested. Petitioner was not seeking lawful entry at an ICE check-in in Charlotte in May 2026. *Q. Li* does not disturb that analysis. *Hernandez Alvarez*, 2026 U.S. App. LEXIS 13180, at *22–*23.

30. Since *Hernandez Alvarez* was decided, DIIS has pivoted to an expansive reading of *Q. Li* to preserve § 235(b) detention authority for aliens originally apprehended near the border. The theory: *Q. Li*'s "arriving alien" characterization locked in at the moment of initial arrest and cannot be undone—regardless of the I 220A, the § 240 placement, or the release under § 236. Under that reading, Petitioner is permanently a § 235(b) detainee, IJs permanently lack bond jurisdiction, and *Hernandez Alvarez* has no application.

31. That theory fails for three independent reasons. First, *Hernandez Alvarez* controls the statutory question regardless of how DIIS labels the original arrest. "Seeking admission" is a present, active condition measured at the time of detention—not a status locked in at the initial encounter. *Hernandez Alvarez*, 2026 U.S. App. LEXIS 13180, at *22–*23. When ICE arrested Petitioner at a Charlotte check-in in May 2026, he was not seeking lawful entry. He was present in the interior. That is the operative moment.

32. Second, DHS's own conduct forecloses the "arriving" argument. DHS cannot simultaneously maintain that the I-220A says "section 236" and that the release was actually governed by § 235(b). *Q. Li*'s footnote 4 addresses post-hoc warrants; it says nothing about affirmative § 1226(a) release orders. Third, DHS's theory reproduces the binary choice—seek admission or self-deport—that *Hernandez Alvarez* expressly rejected as incompatible with the INA's "many shades of gray" between unlawful presence and lawful admission. *Hernandez Alvarez*, 2026 U.S. App. LEXIS 13180, at *24.

VII. CAUSES OF ACTION

COUNT ONE
STATUTORY CLAIM (Detention Governed by INA § 236(a))

33. Section 235(b)(2)(A) does not govern Petitioner's detention. Petitioner was never processed under § 235(b)(1) or § 235(b)(2), was never issued a Form I-860, and was never placed into the expedited removal track. Instead, DHS charged him directly into § 240 removal proceedings and released him from custody "in accordance with section 236" on an Order of Release on Recognizance. That election placed him squarely within the scope of INA § 236(a), which governs discretionary detention and release during the pendency of § 240 proceedings.

34. The Eleventh Circuit has definitively rejected the Government's detention theory for this Court. *Hernandez Alvarez*, 2026 U.S. App. LEXIS 13180. Section 1225(b)(2)(A) imposes two independent conditions: the alien must be an applicant for admission and must be "seeking admission"—actively pursuing lawful entry after inspection by an immigration officer. *Hernandez Alvarez*, 2026 U.S. App. LEXIS 13180, at *22. Petitioner was not seeking lawful entry when ICE arrested him at a routine check-in appointment. He was, at most, present in the United States. Presence is not pursuit. *Id.* at *23. Reading § 1225(b)(2)(A) to govern Petitioner's detention would collapse the statute's two-track structure by allowing DHS to treat any never-admitted noncitizen in § 240 proceedings as a perpetual "applicant for admission," regardless of how they were actually processed. That interpretation would render § 1226(a) a dead letter for a large category of noncitizens, contrary to the structure recognized in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), and in the recent

Laken Riley Act amendments to § 1226(c).

35. The phrase "is an alien … who is seeking admission" in § 1225(b)(2)(A) is in the present tense and belongs in the inspection context. It does not extend to noncitizens like Petitioner who were never processed under § 235, were affirmatively placed into § 240 proceedings, and have lived in the interior for years while complying with ICE reporting and litigating their cases in Immigration Court.

36. Under INA § 236(a) and its implementing regulations, Petitioner is entitled to release pursuant to the 2023 Order of Release on Recognizance, or a prompt bond hearing before a neutral adjudicator, at which the Government bears the burden to justify continued detention. By refusing to treat his detention as governed by § 1226(a) and by denying him release or access to bond review, Respondents are acting in excess of their statutory authority.

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

37. Petitioner incorporates paragraphs 1 through 36 as if fully set out herein.

38. 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)

39. Petitioner incorporates paragraphs 1 through 38 as if fully set out herein.

40. 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.

COUNT FOUR
UNLAWFUL EXERCISE OF DETENTION AUTHORITY AND ARBITRARY RE-DETENTION
(INA § 236(a), 8 U.S.C. § 1226(a); 8 C.F.R. § 236.1(c)(9); U.S. Const. amend. V)

41. Petitioner incorporates paragraphs 1 through 40 as if fully set out herein.

42. On May 16, 2024, DHS released Petitioner on Form I-220A (Order of Release on Recognizance) expressly "in accordance with section 236 of the Immigration and Nationality Act." Over the following two years, Petitioner complied fully with every condition of that release. He appeared for all immigration hearings, reported for all ICE check-ins, and resided openly at his Burlington, North Carolina address. No condition of his release was ever breached.

43. On May 15, 2026, ICE revoked that release and re-detained Petitioner at a routine check-in appointment. ICE conducted no individualized assessment of flight risk or danger to the community before re-detaining him. No change in

circumstances was identified. No violation of release conditions occurred.

44. Although 8 C.F.R. § 236.1(c)(9) grants DHS discretion to revoke a § 1226(a) release, that discretion is cabined by the statute that authorizes it. Section 1226(a) of the INA authorizes detention of aliens "pending a decision on whether the alien is to be removed from the United States." 8 U.S.C. § 1226(a). The recognized purposes of pre-order detention under § 1226(a) are to ensure appearance at proceedings and to protect community safety. Exercising discretionary detention authority for no discernable purpose is arbitrary and in excess of statutory authority. *Motor Vehicle Mfrs. Ass'n v. State Farm Mut. Auto. Ins.* Co., 463 U.S. 29, 43 (1983).

45. The revocation and re-detention also violate the Fifth Amendment's guarantee of procedural due process. The Government affirmatively granted Petitioner liberty under § 1226(a) in May 2024. Petitioner relied on that grant, built his life around it, and honored every condition of it for two years. Revoking that grant without any individualized hearing, notice, or opportunity to be heard deprived him of a liberty interest without process. Under *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), the balance is not close: the private interest is physical liberty; the risk of erroneous deprivation is high where no procedure was followed and no individualized determination was made; and the government interest in the stated justification is not a legitimate detention purpose at all. At a minimum, due process required DHS to conduct an individualized assessment of flight risk and danger before re-detaining a fully compliant alien who had not violated any condition of release.

46. Petitioner also incorporates the substantive due process arguments set

forth in Count Three. Civil immigration detention must be "reasonably related" to a legitimate regulatory purpose. *United States v. Salerno*, 481 U.S. 739, 747 (1987). No legitimate regulatory purpose is served by re-detaining a compliant, twice-year resident who has appeared for every proceeding, for the purpose of accelerating a BIA appeal over which DHS has no legitimate coercive interest. The detention, on its stated rationale, is punitive in effect and without regulatory justification.

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 release Petitioner or, in the alternative, 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 29th day of May, 2026.

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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 29th 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 29, 2026

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