

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

BRANDON ESTIVAN CASTILLO CASTILLO, A#  Petitioner, v. WARDEN, STEWART DETENTION CENTER, (Immediate Custodian); DAVID VENTURINI A., Acting Director, U.S. Immigration and Customs Enforcement; KRISTEN SULLIVAN, Acting Field Office Director, Atlanta Field Office, U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; and TODD BLANCHE, Acting U.S. Attorney General, U.S. Department of Justice, Respondents.	Civil Action No. 4:26-cv-01046 MOTION FOR TEMPORARY RESTRAINING ORDER
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MOTION FOR TEMPORARY RESTRAINING ORDER

AND NOW comes Petitioner, Brandon Estivan Castillo Castillo, by and through undersigned counsel, and files this Petition for Writ of Habeas Corpus and Motion for Temporary Restraining Order, stating as follows:

INTRODUCTION

1. Petitioner, Brandon Estivan Castillo Castillo, A# , is in the physical custody of Respondents at the Stewart Detention Center in Lumpkin (Stewart County), Georgia. He is detained on the position of the Department of Homeland Security ("DHS") and the Executive Office for Immigration Review ("EOIR") that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), with no eligibility for release on bond, a position the Eleventh Circuit has squarely rejected.

2. Petitioner challenges his ongoing detention as unlawful. He entered the United States without inspection in or around 2016 and has resided here continuously for approximately 10 years. He was not apprehended at or near the border; he was arrested in the interior of the United States, in Chesapeake, Virginia. He is employed and files federal income tax returns. He has never been arrested, charged, or convicted of any offense. Respondents nonetheless have classified him as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and have denied him any individualized bond hearing.
3. Petitioner has been detained since on or about July 1, 2026, without any opportunity for an individualized custody hearing before a neutral decisionmaker at which he could seek release on bond or conditions of supervision.
4. Petitioner was arrested and initially detained within the Eastern District of Virginia. Respondents thereafter transferred him more than 500 miles to the Stewart Detention Center in the Middle District of Georgia, where his removal proceedings now stand and where his immediate custodian is located.
5. The controlling law of this Circuit resolves Petitioner's statutory claim in his favor. In *Alvarez v. Warden, Federal Detention Center Miami*, No. 25-14065 (11th Cir. May 6, 2026), the Eleventh Circuit held that 8 U.S.C. § 1225(b)(2)(A) does not subject to mandatory detention a noncitizen who entered without inspection and is arrested in the interior of the United States; such a person is detained under 8 U.S.C. § 1226(a) and is eligible for a bond hearing unless a statutory exception under § 1226(c) applies. This Court has repeatedly reached the same conclusion. See *J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *P.R.S. v. Streeval*, No. 4:25-CV-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

6. Petitioner falls squarely within the parameters of *J.A.M.* and *P.R.S.* and of this Court's Standing Order No. 2026-01 (M.D. Ga. Jan. 29, 2026). He entered without inspection, was never inspected by an examining immigration officer, was arrested in the interior, and is subject to no exception under § 1226(c). He is therefore detained under § 1226(a) and entitled to a bond hearing; mandatory detention under § 1225(b)(2) "is not authorized" as to him. *P.R.S.*, 2025 WL 3269947, at 2.
7. In the alternative, and to the extent Respondents contend that § 1225(b)(2)(A) governs, Petitioner's mandatory detention without any individualized bond hearing deprives him of liberty without due process of law. Petitioner seeks a writ ordering Respondents to provide him an individualized bond hearing consistent with § 1226(a) and the Due Process Clause, or to release him, together with an order preserving this Court's jurisdiction by prohibiting his transfer outside this District while this Petition is pending.

JURISDICTION

8. Petitioner is in the physical custody of Respondents. He is detained at the Stewart Detention Center in Lumpkin (Stewart County), Georgia.
 9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus for a person in custody in violation of the Constitution or laws of the United States), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause).
 10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.
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11. The Court's jurisdiction is not displaced by 8 U.S.C. § 1252(b)(9) or § 1252(g). Petitioner does not challenge any removal order or the decision to commence proceedings; he challenges only the lawfulness of his physical detention, a claim independent of and collateral to the removal process. *See Jennings v. Rodriguez*, 583 U.S. 281, 292–96 (2018). Nor does 8 U.S.C. § 1226(e) bar review, because Petitioner challenges the statutory and constitutional authority for his detention, not a discretionary judgment regarding the application of a statute to particular facts. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003). Courts in this District routinely exercise jurisdiction under §§ 1331 and 2241 over materially identical detention claims. *See J.A.M.*, 2025 WL 3050094; *P.R.S.*, 2025 WL 3269947.

VENUE

12. Pursuant to *Rumsfeld v. Padilla*, 542 U.S. 426, 442–47 (2004), and *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 is detained and in which his immediate custodian is located. The Stewart Detention Center is located in Stewart County, Georgia, which lies within the Columbus Division of the Middle District of Georgia. 28 U.S.C. § 90(b)(3).
13. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are officers, employees, and agencies of the United States, and because a substantial part of the events or omissions giving rise to these claims occurs 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). Under 28 U.S.C. § 2243, the Court must "summarily hear and determine the facts, and dispose of the matter as law and justice require." Because the facts material to the statutory question are before the Court, no evidentiary hearing is necessary.

PARTIES

16. Petitioner Brandon Estivan Castillo Castillo, A# , is a native and citizen of Guatemala who is in immigration detention at the Stewart Detention Center after being transferred from Virginia, where he was arrested and initially detained on or about July 1, 2026.
 17. Respondent Warden, Stewart Detention Center, is the Warden and Facility Administrator of the facility where Petitioner is detained and has immediate physical custody of Petitioner. The Warden is named in his or her official capacity as Petitioner's immediate custodian.
 18. Respondent David Venturella is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). In his official capacity, he oversees all ICE operations nationwide, including detention and removal decisions. He is sued in his official capacity.
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19. Respondent Kristen Sullivan is the Acting Field Office Director of the Atlanta Field Office of ICE Enforcement and Removal Operations, which exercises jurisdiction over

immigration detention in Georgia, including at the Stewart Detention Center. In that capacity she is responsible for the administration and management of ICE detention operations affecting Petitioner and exercises legal control over Petitioner's custody. She is sued in her official capacity.

20. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees ICE, which is responsible for Petitioner's detention. He is sued in his official capacity.

21. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system are components. He is sued in his official capacity.

LEGAL FRAMEWORK

22. The Immigration and Nationality Act ("INA") prescribes three principal forms of detention for noncitizens in removal proceedings.

23. First, 8 U.S.C. § 1226 authorizes detention pending a decision on whether a noncitizen is to be removed. *See* 8 U.S.C. § 1229a. Individuals detained under § 1226(a) are generally entitled to a bond hearing, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention under § 1226(c).

24. Second, § 1225(b) provides for detention of applicants for admission subject to expedited removal under § 1225(b)(1), and of certain applicants for admission "seeking admission" under § 1225(b)(2).
25. Third, § 1231 governs detention of noncitizens who have been ordered removed.
26. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
27. Following the enactment of the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, the agency's own rulemaking explained that, in general, persons who entered the country without inspection were not considered detained under § 1225 and were instead detained under § 1226(a). *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). For nearly three decades thereafter, such persons in standard removal proceedings received bond hearings unless their criminal history rendered them ineligible under § 1226(c).
28. In July 2025, ICE issued interim guidance reversing that longstanding practice and asserting that all persons who entered the United States without inspection are subject to mandatory detention under § 1225(b)(2)(A), regardless of how long they have resided in the United States. On September 5, 2025, the Board of Immigration Appeals adopted that position in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). [VERIFY CITE]
29. The Eleventh Circuit has rejected that position. In *Alvarez v. Warden, Federal Detention Center Miami*, No. 25-14065 (11th Cir. May 6, 2026), the court held that § 1225(b)(2)(A) applies only to an applicant for admission who is "seeking admission" — that is, pursuing lawful entry after inspection — and does not subject an unadmitted noncitizen arrested in the interior of the United States to mandatory detention. Such a person is detained under §

1226(a) and remains eligible for a bond hearing unless § 1226(c) applies. *Alvarez* is binding on this Court.

30. This Court reached the same conclusion. In *J.A.M.* and *P.R.S.*, the Court held that for noncitizens "who are found in the country unlawfully and are arrested" without having been inspected by an examining immigration officer, "an immigration officer or immigration judge has the discretion" under § 1226(a) to grant them release on bond unless a statutory exception applies under § 1226(c), and that mandatory detention under § 1225(b)(2) "is not authorized" in such cases. *J.A.M.*, 2025 WL 3050094, at 3; *P.R.S.*, 2025 WL 3269947, at 1–2.
31. In Standing Order No. 2026-01 (M.D. Ga. Jan. 29, 2026), and in response to the volume of such petitions arising from the Stewart Detention Center and the Government's refusal to provide bond hearings absent an order in each individual case, the Court directed the Magistrate Judges of this District to screen each § 2241 petition arising from Stewart and, where the petition falls within the parameters of *J.A.M.* and *P.R.S.*, to order Respondents to provide the petitioner a bond hearing within seven days.
32. Petitioner is not subject to any order of removal. He remains in removal proceedings under 8 U.S.C. § 1229a. Because no final order of removal has been entered, his detention is governed by the pre-final-order framework rather than the post-removal-order provisions of § 1231.
33. Even if § 1225(b)(2)(A) applied, Petitioner's detention would remain subject to the Due Process Clause. Freedom from imprisonment lies at the heart of the liberty the Clause protects, and the Government may civilly detain a person only where the detention bears a reasonable relationship to a legitimate governmental purpose, such as preventing flight or
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protecting the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Categorical detention that forecloses any individualized inquiry into flight risk or dangerousness is not reasonably related to those purposes and raises serious constitutional concerns.

34. Whether such detention satisfies procedural due process is governed by the three-factor balancing test of *Mathews v. Elkhridge*, 424 U.S. 319, 335 (1976), which weighs (1) the private interest affected, (2) the risk of an erroneous deprivation through the procedures used and the probable value of additional safeguards, and (3) the Government's interest, including the burdens that additional procedures would entail.
35. The immigration court lacks authority to adjudicate the constitutional dimension of Petitioner's claim, and, under the agency's own policy and *Matter of Yajure Hurtado*, the immigration judge will not provide a bond hearing absent an order from this Court. Any further resort to the agency is therefore futile. There is, moreover, no statutory requirement that Petitioner exhaust administrative remedies before challenging the lawfulness of his detention under § 2241.

FACTS

36. Petitioner is a native and citizen of Guatemala, born on 
 37. Petitioner entered the United States without inspection in or around 2016. He was never inspected and admitted, and was never granted parole into the United States under 8 U.S.C. § 1182(d)(5)(A). He has resided continuously in the United States since that entry, approximately 10 years, and has never departed.
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38. Petitioner was arrested by ICE on or about July 1, 2026 in or near Chesapeake, Virginia. He was not apprehended at or near the border. He was initially detained within the Eastern

District of Virginia and was thereafter transferred to the Stewart Detention Center in Lumpkin, Georgia, where he remains detained.

39. DHS placed Petitioner in removal proceedings before the Immigration Court pursuant to 8 U.S.C. § 1229a. On information and belief, ICE charged Petitioner with being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as a noncitizen present in the United States without admission or parole. Respondents have not provided the charging documents to Petitioner's detained counsel; Petitioner pleads their contents on information and belief.
40. Petitioner's removal proceedings remain pending. A master calendar hearing is scheduled for August 4, 2026, at 9:00 a.m., to be conducted by video/internet.
41. Petitioner is not subject to any order of removal.
42. Petitioner has never been arrested, charged, or convicted of any offense under state, federal, or foreign law. He has never been convicted of any offense described in 8 U.S.C. § 1182(a)(2) or enumerated in 8 U.S.C. § 1226(c). No criminal charge is presently pending against him.
43. Petitioner has substantial and long-standing ties to the United States. He was steadily employed at the time of his arrest and files federal income tax returns. He resided in Chesapeake, Virginia, where his cousin, Selvin Arana, resides and is prepared to serve as a custodian and to help ensure Petitioner's appearance at all future immigration proceedings.
44. Petitioner fears return to Guatemala. Gang members sought to forcibly recruit him and subjected him to threats and persecution when he refused. He intends to seek asylum,

withholding of removal, and protection under the Convention Against Torture in his removal proceedings.

45. On information and belief, following Petitioner's detention, ICE issued a custody determination (Form I-286) continuing Petitioner's detention without an opportunity to post bond or be released on other conditions, on the position that he is subject to mandatory detention under § 1225(b)(2)(A). Respondents have not asserted that Petitioner is subject to detention under § 1226(c). Petitioner requests that the Court direct Respondents to certify the true cause of Petitioner's detention and to produce the Notice to Appear and the Notice of Custody Determination (Form I-286) with their return. *See* 28 U.S.C. § 2243.
46. Under the agency's position and *Matter of Yajure Hurtado*, the immigration judge will not consider Petitioner's request for release on bond absent an order from this Court. Without relief from this Court, Petitioner faces the prospect of months in immigration custody, hundreds of miles from his community and his counsel, while his removal proceedings run their course.

CLAIMS FOR RELIEF

COUNT I

Detention Is Governed by 8 U.S.C. § 1226(a); Petitioner Is Entitled to a Bond Hearing

47. Petitioner incorporates by reference the allegations set forth in the preceding paragraphs.
48. Petitioner entered the United States without inspection, was never inspected by an examining immigration officer, was never admitted or paroled, and was arrested in the interior of the United States. He is not "seeking admission" within the meaning of 8 U.S.C. § 1225(b)(2)(A).
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49. Under *Alvarez v. Warden, Federal Detention Center Miami*, § 1225(b)(2)(A) does not authorize Petitioner's mandatory detention. His detention is instead governed by 8 U.S.C. § 1226(a), under which he is eligible for release on bond unless a statutory exception under § 1226(c) applies. No § 1226(c) exception applies, because Petitioner has no qualifying criminal history.
50. This case falls squarely within the parameters of *J.A.M., P.R.S.*, and Standing Order No. 2026-01. Petitioner is entitled to an order directing Respondents to provide him a bond hearing under § 1226(a)(2) and the applicable regulations within seven days.

COUNT II
Violation of the Due Process Clause of the
Fifth Amendment (Pleaded in the Alternative)

51. Petitioner incorporates by reference each preceding allegation as though fully set forth herein.
52. Petitioner is a person within the United States and is protected by the Due Process Clause of the Fifth Amendment. To the extent Respondents contend that § 1225(b)(2)(A) governs his detention, his mandatory detention without any individualized custody hearing deprives him of liberty without due process of law.
53. Each *Mathews* factor favors Petitioner. First, Petitioner possesses a compelling private interest in his physical liberty: he has lived at liberty in the United States for approximately a decade, is steadily employed, files federal income tax returns, and has never been arrested, charged, or convicted of any offense. Second, an individualized bond hearing before a neutral decisionmaker would substantially reduce the risk of an erroneous deprivation of that interest; at present, Respondents afford Petitioner no process whatsoever. Third, the Government's interest in avoiding the minimal administrative
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burden of a routine custody hearing is slight, and the Government retains every ability to seek continued detention upon an individualized showing.

54. Due process therefore requires, at a minimum, that Petitioner receive an individualized bond hearing before a neutral decisionmaker at which the Government bears the burden of justifying his continued detention. Where such a hearing is ordered as a habeas remedy, the Government should be required to justify continued detention by clear and convincing evidence of flight risk or dangerousness. *See Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020). Petitioner is entitled to such a hearing or to release.

COUNT III
Violation of the Bond Regulations
(Pleaded in the Alternative)

55. Petitioner incorporates by reference each preceding allegation as though fully set forth herein.
56. Under the agency's own regulations, persons who are present without having been admitted or paroled and who are detained under § 1226(a) are eligible for bond and bond redetermination. *See* 8 C.F.R. §§ 236.1, 1236.1, 1003.19; 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). Respondents' refusal to afford Petitioner a bond redetermination hearing to determine whether he is a flight risk or a danger is inconsistent with these regulations and with his right to due process.

TEMPORARY RESTRAINING ORDER AND
PRESERVATION OF JURISDICTION

57. Petitioner incorporates by reference each preceding allegation and requests a temporary restraining order and, as appropriate, a preliminary injunction preserving the status quo and this Court's jurisdiction during the pendency of this Petition.

58. Petitioner has already been transferred once during this detention, from Virginia to the Stewart Detention Center in the Middle District of Georgia. Absent an order of this Court, Respondents may transfer Petitioner again — including to a jurisdiction whose law would purport to strip his eligibility for a bond hearing — which would disrupt this Court’s jurisdiction over his immediate custodian and frustrate the Court’s ability to grant effective relief on this Petition.
59. This Court has authority to enjoin such a transfer in order to preserve its jurisdiction. *See* All Writs Act, 28 U.S.C. § 1651; Fed. R. Civ. P. 65. An order maintaining the status quo is appropriate to prevent Respondents from defeating the Court’s jurisdiction before it can adjudicate the Petition.
60. Petitioner satisfies the standard for such relief. First, Petitioner is likely to succeed on the merits, because *Alvarez, J.A.M.*, and *P.R.S.* squarely establish his entitlement to a bond hearing. Second, Petitioner will suffer irreparable harm, including the ongoing deprivation of his liberty and the risk that a further transfer would deprive this Court of jurisdiction and render any relief ineffective. Third, the balance of the equities and the public interest favor maintaining the status quo, as Respondents have no legitimate interest in transferring Petitioner outside this District in order to avoid judicial review of his detention.
61. Petitioner therefore requests that this Court order Respondents, and all those acting in concert with them, not to transfer Petitioner outside the Middle District of Georgia while this Petition is pending.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully prays that this Court:

- a) Assume jurisdiction over this matter;
- b) Order that Petitioner shall not be transferred outside the Middle District of Georgia while this Petition is pending;
- c) If Petitioner is already in the process of being transferred outside this District, order Respondents to return him to this Court's jurisdiction;
- d) Issue a temporary restraining order, and as appropriate a preliminary injunction, barring Respondents from transferring Petitioner outside the Middle District of Georgia during the pendency of this Petition;
- e) Issue an Order to Show Cause directing Respondents to show cause why this Petition should not be granted;
- f) Order Respondents to certify the true cause of Petitioner's detention as required by 28 U.S.C. § 2243, and to file with their return the Notice to Appear and the Notice of Custody Determination (Form I-286);
- g) Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with an individualized bond hearing under 8 U.S.C. § 1226(a) and consistent with the Due Process Clause, before an immigration judge and within seven days of this Court's order, at which the Government shall bear the burden of justifying Petitioner's continued detention by clear and convincing evidence of flight risk or dangerousness;
- h) Order Respondents to notify Petitioner and Petitioner's counsel at least 24 hours before any such hearing or release, and, in the event of release, to return Petitioner's property and personal effects;

- i) Order Respondents to file an advisory with the Court, no later than three business days after any hearing ordered herein, setting forth the reasons for the bond determination or confirming Petitioner's release;
- j) Declare that Petitioner's detention is unlawful; and
- k) Grant such other and further relief as this Court deems just and proper.

Dated: July 30, 2026

Respectfully submitted,

/s/Stephen Elijah Bennett

Stephen Elijah Bennett, Esq. (Ga. Bar No. 573767)

The Law Office of Eli Bennett, LLC

5425 Peachtree Parkway

Peachtree Corners, GA 30092

P: (678) 906-5120

E: eli@bennettlaw.org

Local Counsel for Petitioner

CERTIFICATE OF SERVICE

The undersigned hereby certifies that he has served the above and foregoing document via this Court's CM/ECF electronic filing system upon Mr. Michael P. Morrill, 1246 1st Avenue, Columbus, GA 31901, michael.morrill@usdoj.gov.

Dated: July 30, 2026

Respectfully submitted,

/s/Stephen Elijah Bennett

Stephen Elijah Bennett, Esq. (Ga. Bar No. 573767)

The Law Office of Eli Bennett, LLC

5425 Peachtree Parkway

Peachtree Corners, GA 30092

P: (678) 906-5120

E: eli@bennettlaw.org

Local Counsel for Petitioner