

**UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF GEORGIA
ATLANTA DIVISION**

Michael Enrique SANDOVAL PINTO,

Petitioner,

vs.

KRISTEN SULLIVAN, *Field Office Director
for ICE Atlanta Field Office, and*
DAVID VENTURELLA, *in his official capacity as
Acting Director of Immigration and Customs
Enforcement; and*
MARKWAYNE MULLIN, *Secretary
of Homeland Security; and*
TODD BLANCHE, *U.S. Attorney General.*

Respondents.

CASE NO.:

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND
COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF**

I. INTRODUCTION

1. This Petition challenges the ongoing and unlawful detention of Petitioner, Michael Enrique Sandoval Pinto ("Petitioner"), A# 231-###-821, who is currently being held by ICE following his release from the Cobb County Adult Detention Center in Marietta, Georgia after his local criminal charges were dismissed and ICE took custody of him from Cobb County earlier today. See Exhibit 1 ([ICE or detention locator/custody record]); Exhibit 2 (Cobb County Warrant Dismissal, Warrant No. 26-W-5813).

2. Petitioner is a parolee with substantial family and community ties who entered the United States on or about October 22, 2022 through Miami, Florida, was later arrested in Cobb County on local charges that have now been dismissed, and is now being detained by ICE without a bond hearing under 8 U.S.C. § 1225(b)(2)(A) and/or a no-bond theory tied to his prior parole and the dismissed charges. Binding Eleventh Circuit precedent in *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258 (11th Cir. 2026), holds that § 1225(b)(2)(A) does not authorize mandatory no-bond detention for interior noncitizens who were not “seeking admission” when apprehended. Petitioner seeks immediate release or, at minimum, a prompt § 1226(a) bond hearing with DHS bearing the burden by clear and convincing evidence.
3. District courts within this Circuit have repeatedly required that any court-ordered 8 U.S.C. § 1226 bond hearing place the burden on DHS to justify detention. In *J.G. v. Warden, Irwin Cnty. Detention Ctr.*, 501 F. Supp. 3d 1331 (M.D. Ga. 2020), the court held that placing the burden on the detained noncitizen at a § 1226(a) bond hearing violated the Fifth Amendment. In *B.A.M.A. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1362520 (M.D. Ga. May 13, 2026); *I.A.A.M. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1362519 (M.D. Ga. May 13, 2026); and *W.C. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1658526 (M.D. Ga. June 4, 2026),

the Middle District of Georgia ordered bond hearings under § 1226(a) and required DHS to prove by clear and convincing evidence that continued detention was justified.

II. SUMMARY OF ARGUMENT

4. This case presents at least two independent statutory defects. First, Respondents are detaining Petitioner under the wrong statute. Section 1225(b)(2)(A) applies only where the statutory prerequisites for mandatory applicant-for-admission detention are satisfied. Petitioner was not “seeking admission” when ICE assumed custody over him; he was in the interior of the United States, years after inspection and parole, and was taken from Cobb County custody after dismissal of the local criminal charges. His custody must proceed, if at all, under § 1226(a), unless DHS proves that a specific mandatory-detention provision applies.
5. Recent decisions the Eleventh Circuit and Georgia federal courts confirm that prior inspection and parole do not authorize DHS to impose mandatory no-bond detention under § 1225(b)(2)(A) when the petitioner is later arrested in the interior and is not then seeking admission. In *B.A.M.A. v. Warden, Irwin County Detention Center*, No. 7:26-cv-95-WLS-ALS, 2026 WL 1362520, at *1–2 (M.D. Ga. May 13, 2026), *I.A.A.M. v. Warden, Irwin County Detention Center*, No.

7:26-CV-068 (WLS-ALS), 2026 WL 1362519, at *1-2 (M.D. Ga. May 13, 2026), and *W.C. v. Warden, Irwin County Detention Center*, No. 7:26-CV-157 (LAG), 2026 WL 1658526, at *1-2 (M.D. Ga. June 4, 2026), this Court ordered § 1226(a) bond hearings for similarly situated petitioners, with DHS bearing the burden by clear and convincing evidence.

6. Second, to the extent Respondents are relying on the dismissed Cobb County charges to deny Petitioner a bond hearing under a mandatory-detention or “no bond” theory, that continued detention is unlawful. Petitioner has no criminal convictions, no prior arrests prior to this Cobb county matter, and the local charges that triggered the DHS hold have been dismissed. Respondents may not rely on dismissed charges alone to impose categorical no-bond detention and deny Petitioner an individualized custody determination.
7. Respondents’ § 1225(b)(2)(A) theory is foreclosed by *Hernandez Alvarez* and confirmed by recent decisions in *B.A.M.A.*, *I.A.A.M.*, and *W.C.* Those cases make clear that DHS cannot transform a later interior arrest into border-style mandatory detention merely because the petitioner had previously been inspected and paroled. Petitioner’s custody therefore must proceed, if at all, under § 1226(a), unless DHS proves that a specific mandatory-detention provision applies.
8. Petitioner’s separate no-bond claim provides an additional basis for relief.

Petitioner was taken into ICE custody only after the local charges were dismissed, and there is no conviction or other identified basis in the Petition showing that he falls within any mandatory-detention category. At minimum, he is entitled to an individualized § 1226(a) bond hearing.

9. Petitioner seeks a writ of habeas corpus as well as declaratory, and injunctive relief, ordering Respondents to cease detaining him under § 1225(b)(2)(A), to treat his custody under § 1226, and to provide immediate release or, at minimum, a prompt bond hearing before an immigration judge under § 1226(a) and its implementing regulations. A detailed statement of facts and procedural history follows, supporting Petitioner's claims for relief.

III. JURISDICTION

A. This Court Has Jurisdiction Under 28 U.S.C. § 2241 and § 1331

10. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody and challenges the legal authority for his civil immigration detention.
11. This Court also has federal question jurisdiction under 28 U.S.C. § 1331 because Petitioner raises claims arising under the Constitution and laws of the United States.
12. In *Hernandez Alvarez*, the Eleventh Circuit reviewed § 2241 habeas petitions challenging detention under § 1225(b)(2)(A) and affirmed habeas relief where

the district court concluded that § 1226 governed the petitioners' detention.

13. Petitioner challenges only the legal basis and procedures for his detention; he does not ask this Court to decide removability, terminate removal proceedings, or review any final order of removal.
14. Section 1252(f)(1) does not bar individualized relief for Petitioner. The Eleventh Circuit in *Hernandez Alvarez* affirmed habeas relief for two individual petitioners challenging their detention under § 1225(b)(2)(A).
15. Recent orders from Georgia federal courts confirm that individualized habeas relief is available in this posture.
16. To preserve this Court's habeas jurisdiction, Petitioner requests an order prohibiting Respondents from transferring him outside the Northern District of Georgia or changing his immediate custodian while this case is pending.

IV. VENUE

17. Venue is proper in the Northern District of Georgia because Petitioner remains in ICE custody following transfer from Cobb County custody, and his precise current ICE housing location is being confirmed, within this District, and the events giving rise to this Petition occurred in this District. Petitioner's immediate custodian is located in this District. Venue is also proper for Petitioner's non-habeas claims under 28 U.S.C. § 1391(e)(1)(B) because a

substantial part of the events or omissions giving rise to the claims occurred here and Respondents are officers or employees of the United States or its agencies sued in their official capacities.

V. PARTIES

18. Petitioner, Michael Enrique Sandoval Pinto, is a noncitizen. Upon information and belief, he entered the United States on or about October 22, 2022 in Miami, Florida on parole. He is currently detained by ICE following a criminal arrest in Cobb County.
19. Respondent Kristen Sullivan is the ICE Atlanta Field Office Director. As such, Respondent Sullivan is responsible for ICE custody decisions and the implementation of ICE detention authority over Petitioner. Respondent Sullivan is sued in her official capacity.
20. Respondent David Venturella is the Acting Director of Immigration and Customs Enforcement (ICE). As such, Respondent Venturella is responsible for the oversight of ICE operations and the head of the federal agency responsible for all immigration enforcement in the United States. Respondent Venturella is being sued in his official capacity.
21. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (DHS). As Secretary of DHS, Secretary Mullin is the

cabinet-level official responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Secretary Mullin is being sued in his official capacity.

22. Respondent Todd Blanche is the Attorney General of the United States and is sued in his official capacity since U.S. government agencies are Respondents in this complaint. Furthermore, the Immigration Judges who decide removal cases and applications for bond and relief from removal do so as his designees at the Executive Office for Immigration Review (EOIR).
23. Petitioner names certain federal officials in their official capacities solely to preserve alternative, non-habeas avenues for prospective relief—such as as-applied declaratory and injunctive orders under 28 U.S.C. § 1331, the APA’s waiver of sovereign immunity, 5 U.S.C. § 702, the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202, and the All Writs Act, 28 U.S.C. § 1651—necessary to enjoin enforcement of DHS regulations and their interpretation as applied to Petitioner, ensure compliance with DHS/EOIR custody regulations, prevent transfer or removal of Petitioner, and effectuate any release the Court orders at the agency level where policy and implementation authority reside. See, e.g., *Larson v. Domestic & Foreign Commerce Corp.*, 337 U.S. 682 (1949); *Dugan v. Rank*, 372 U.S. 609 (1963).

24. Petitioner acknowledges, consistent with *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that the proper respondent to the habeas claim is the immediate custodian, and does not rely on the federal officials as “habeas respondents.” Rather, Petitioner names these federal officials in their official capacities solely to ensure that the Court can issue effective relief on non-habeas claims, such as declaratory and injunctive relief, and to direct agency action to those with actual authority to implement it. Should the Court find these officials improper as respondents to the habeas count, Petitioner respectfully requests that any dismissal be limited to that claim and without prejudice to their continued status as respondents for the non-habeas claims. Maintaining these officials as parties is necessary to ensure that, if relief is granted, the responsible agency officials cannot simply re-arrest Petitioner or otherwise frustrate the Court’s order by invoking their erroneous interpretation of the INA. This approach is consistent with *Padilla* and ensures that the Court’s orders are both effective and enforceable.

VI. STATEMENT OF FACTS AND PROCEDURAL HISTORY

25. Petitioner, Michael Enrique Sandoval Pinto, entered the United States on or about October 22, 2022. Upon information and belief, he was paroled into the country in Miami, Florida. To the best of Petitioner's knowledge, removal proceedings had not yet been initiated before ICE assumed custody over him.
26. Petitioner resides in Marietta, Cobb County, Georgia. He lives with his mother, father, and sister, who are also in the United States on parole. He works multiple jobs, speaks limited English, and suffers from asthma. He has family in Miami, including relatives who have been granted asylum.
27. Petitioner has no prior arrests before this Cobb County matter, charges, or convictions, and no history of immigration detention or failure to appear in any court proceeding. He resides in Marietta, Cobb County, Georgia, and has substantial family and community ties there. He lives with his mother, father, and sister, who are in the United States on parole. He speaks limited English, suffers from asthma, and has additional family in Miami, including relatives who have been granted asylum.
28. On or about July 9, 2026, Petitioner was arrested by Cobb County authorities on allegations of domestic violence and strangulation arising from an incident involving his U.S. citizen girlfriend. Petitioner was later arrested at his parents' apartment after local officers obtained a warrant. According to family

members, the allegations were false and Petitioner's girlfriend was the aggressor. The Cobb County warrant was dismissed on August 7, 2026, with the dismissal form stating that, although probable cause existed for arrest, there was insufficient evidence to prove guilt beyond a reasonable doubt and dismissal was also at the request of or due to the unavailability of the alleged victim.

29. Petitioner was not present when officers initially responded, and he was later arrested at his parents' apartment after local authorities obtained a warrant. Petitioner was then held at Cobb County Adult Detention Center.
30. DHS lodged a hold against him while the local criminal case was pending. The Cobb County warrant was dismissed on August 7, 2026. See Exhibit 2. After dismissal, ICE took Petitioner into custody from Cobb County the morning of August 9, 2026. Upon information and belief, Petitioner remains in ICE custody, and his precise current ICE housing location is being confirmed.
31. At no time during or after ICE's assumption of custody was Petitioner provided a meaningful opportunity to contest continued detention before a neutral decisionmaker. Based on the information currently available, Respondents appear to be treating Petitioner as ineligible for bond based on his prior parole status and/or the now-dismissed criminal charges.
32. By continuing to detain Petitioner under the framework applicable to arriving

aliens or under a categorical no-bond theory tied to dismissed charges, Respondents have effectively denied him any individualized custody determination.

33. Petitioner's continued detention is causing severe hardship to his family and loved ones in Georgia. His U.S. citizen girlfriend suffers from anxiety, depression, and other mental-health issues.

34. Petitioner suffers from asthma, a condition requiring ongoing management. Because Respondents continue to detain Petitioner under an unlawful statutory framework and in violation of due process, Petitioner seeks immediate release from custody, or alternatively, a constitutionally adequate custody determination under the proper statutory framework.

35. After the local criminal charges in Cobb County were dismissed, ICE picked Petitioner up from Cobb County custody, and he is now in ICE custody.

36. Petitioner is not an arriving alien seeking lawful entry into the United States, and he was not taking any cognizable step to obtain admission when ICE assumed custody over him. Petitioner was taken into DHS custody from Cobb County after the local criminal charges were dismissed, and Respondents appear to be maintaining a DHS hold and/or no-bond position based on his prior parole status and the dismissed charges.

37. His custody must proceed, if at all, under § 1226 unless DHS proves that a

specific mandatory-detention provision applies. Dismissed Cobb County charges, standing alone, do not provide a lawful basis for categorical no-bond detention.

38. Upon information and belief, Petitioner is not subject to mandatory detention under § 1226(c), and DHS has not identified any criminal conviction, terrorism-related ground, or other statutory basis requiring mandatory detention. To the extent Respondents are continuing to detain Petitioner under an arriving-alien, no-bond, or Laken Riley Act theory based solely on the now-dismissed Cobb County charges, that position is unlawful.

39. Petitioner's continued detention has caused severe hardship to his U.S. citizen girlfriend, who has been actively seeking assistance to secure his release. According to the family consultation notes, Petitioner's girlfriend suffers from anxiety, depression, and other mental-health issues, and Petitioner's detention has intensified the strain on their family. Petitioner and his girlfriend could marry if he is released.

VII. EXHAUSTION OF REMEDIES

40. No statutory exhaustion requirement bars this habeas petition. Exhaustion is not required, or should be excused, because Petitioner presents a pure legal question controlled by binding Eleventh Circuit precedent: whether §

1225(b)(2)(A) authorizes no-bond detention of an interior noncitizen who was not seeking admission when ICE assumed custody. In *Hernandez Alvarez*, the Eleventh Circuit resolved that issue on habeas review and affirmed relief for interior petitioners detained under DHS's § 1225(b)(2)(A) theory.

41. Any administrative bond request would be inadequate if DHS or EOIR treats Petitioner as categorically ineligible for bond under § 1225(b)(2)(A). To the extent Petitioner seeks procedural protections at any court-ordered § 1226(a) bond hearing, exhaustion should also be excused because that issue presents a constitutional due process question not within the BIA's authority to finally resolve.

42. To the extent Petitioner seeks constitutionally adequate procedures at a court-ordered § 1226(a) bond hearing, exhaustion should be excused because that issue concerns the legality of the detention process rather than a discretionary custody determination. Petitioner does not seek review of a discretionary custody outcome; he challenges the legal adequacy of the procedures that would govern any ordered bond hearing, including the burden of proof. Section 1226(e) does not bar that claim because the extent of the Government's detention authority is not a discretionary custody judgment insulated from review. *Jennings v. Rodriguez*, 583 U.S. 281, 296 (2018). The Northern District of Alabama applied that same distinction in *Gomez Tejada v. Powell*, No. 7:26-cv-

01111-MHH-NAD (N.D. Ala. July 29, 2026), treating the burden allocation at a § 1226(a) bond hearing as a reviewable due process question and ordering a bond hearing with a court-specified burden of proof rather than leaving the issue to unreviewable agency discretion.

VIII. PETITIONER'S LONG-EXPIRED PAROLE DOES NOT MAKE HIM PRESENTLY "SEEKING ADMISSION" OR CATEGORICALLY INELIGIBLE FOR BOND

43. Upon information and belief, Petitioner entered the United States on or about October 22, 2022 through Miami, Florida pursuant to parole. Upon information and belief, Petitioner's parole has expired or is no longer active. The precise expiration date will be reflected in Petitioner's parole/I-94 record. Petitioner does not contend that parole constituted an admission. Rather, Petitioner contends that a parole authorization that expired years ago cannot be used to deem him perpetually "arriving," perpetually "seeking admission," or categorically ineligible for bond after ICE later took him into custody in the interior of the United States following dismissal of the Cobb County charges.
44. DHS may argue that, after parole expires, a noncitizen remains an applicant for admission in some sense. But that does not resolve the custody question presented here. Section 1225(b)(2)(A) does not authorize mandatory no-bond

detention merely because DHS applies an applicant-for-admission or arriving-alien label. The relevant question is whether Petitioner was presently seeking admission when ICE assumed custody over him. He was not. He was living in Georgia, years after his parole entry, and ICE took him from Cobb County custody only after the local charges were dismissed.

45. The expiration of parole cuts against DHS's custody theory, not in favor of it. If Petitioner's parole had expired years before ICE assumed custody, then there was no active parole status for DHS to revoke as part of a contemporaneous admission process. Nor was Petitioner physically approaching the border, presenting at a port of entry, requesting entry, or otherwise taking any present step to obtain admission. The government therefore cannot convert a stale parole history into present border-style detention under § 1225(b)(2)(A).

46. Put differently, the government may not treat expired parole as a one-way ratchet: too expired to give Petitioner any lawful status or liberty protection, but somehow still active enough to place him in a permanent no-bond "arriving alien" regime. Once DHS released Petitioner into the interior and allowed him to live in the community after his 2022 parole entry, any later detention had to proceed under the detention statute applicable to noncitizens apprehended in the interior, unless DHS could identify a specific mandatory-detention provision. It has not done so here.

47. The facts of this case confirm why § 1226, not § 1225(b)(2)(A), governs.

Petitioner was not taken into ICE custody while seeking admission. He was taken into ICE custody from Cobb County after the local criminal charges were dismissed. He has no criminal conviction, no prior arrests, no prior immigration detention history, and no identified basis for mandatory detention. His custody must therefore proceed, if at all, under § 1226(a), with an individualized bond determination.

48. Any contrary rule would make parole expiration meaningless for custody purposes and would allow DHS to impose mandatory no-bond detention years after entry based solely on a historical parole document. That result would collapse the distinction between a person presently seeking admission and a person already living in the interior of the United States. It would also allow DHS to avoid the individualized custody process required under § 1226(a) simply by invoking a years-old parole entry.

49. In *W.C.*, Chief Judge Gardner applied the same rationale to a petitioner who entered through a CBP One appointment, was paroled into the United States, and was later taken into ICE custody in the interior. The Court held that the petitioner was not presently “seeking admission” under § 1225(b)(2)(A), ordered Respondents to provide a § 1226(a) bond hearing within seven days, and directed that DHS bear the burden by clear and convincing evidence to

establish danger or flight risk.

IX. LEGAL AND STATUTORY FRAMEWORK

A. Binding Eleventh Circuit precedent establishes that § 1225(b)(2)(A) does not govern Petitioner's detention

50. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258 (11th Cir. 2026), the Eleventh Circuit rejected DHS's interpretation of § 1225(b)(2)(A).

51. Petitioner's case falls within *Hernandez Alvarez* because Petitioner was arrested in the interior and, after his Cobb County criminal charges were dismissed, was taken into ICE custody from Cobb County Adult Detention Center and was not seeking lawful entry into the United States when seized.

52. Accordingly, DHS cannot lawfully deny Petitioner bond eligibility by classifying him—after ICE took him from Cobb County custody following dismissal of the local charges— as subject to mandatory detention under § 1225(b)(2)(A).

B. Section 1226 governs Petitioner's custody unless DHS proves a specific mandatory-detention provision applies

53. In *Hernandez Alvarez*, the Eleventh Circuit explained that § 1226 provides the general detention framework for noncitizens present in the United States pending removal proceedings.

54. The Eleventh Circuit also explained that § 1226(a) authorizes DHS either to

continue detention or to release the noncitizen on bond or conditional parole, while § 1226(c) limits that discretion only for enumerated categories.

55. The Eleventh Circuit relied on *Jennings v. Rodriguez*, 583 U.S. 281 (2018), for the distinction between § 1225 detention of noncitizens seeking admission and § 1226 detention of noncitizens already present in the country.

56. The Eleventh Circuit also reasoned that DHS's reading would create serious redundancy with § 1226(c), including Congress's 2025 addition of § 1226(c)(1)(E) through the Laken Riley Act.

57. Petitioner is not alleged to fall within § 1226(c), so he must receive the custody process available under § 1226(a). Dismissed Cobb County charges do not supply a lawful basis for mandatory detention, categorical no-bond custody, or detention under the Laken Riley Act here. To the extent Respondents rely on those dismissed charges to invoke § 1226(c), the Laken Riley Act, or any similar no-bond theory, that classification is unlawful and subject to judicial review through this habeas action.

X. LEGAL FRAMEWORK FOR THE RELIEF SOUGHT

58. This Court has authority under 28 U.S.C. § 2241 to remedy unlawful custody and under 28 U.S.C. § 2243 to dispose of the matter.

59. Where detention lacks lawful statutory authority, habeas relief may include

immediate release or a prompt custody hearing under the correct statutory framework. Here, Petitioner seeks immediate release because Respondents are detaining him under an unlawful no-bond framework tied to his prior parole and the now-dismissed Cobb County charges, or, at minimum, the § 1226(a) bond hearing ordered in *B.A.M.A.*, *I.A.A.M.*, and *W.C.*

60. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001); *I.N.S. v. St. Cyr*, 533 U.S. 289, 314 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 285–86 (2018). As “perhaps the most important writ known to the constitutional law,” habeas corpus is an equitable tool that empowers this Court not just to review custody, but to “dispose of the matter as law and justice require” under 28 U.S.C. § 2243.

61. The Court must grant the petition for writ of habeas corpus or order Respondent to show cause “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.

XI. CAUSES OF ACTION AND CLAIMS FOR RELIEF

COUNT ONE

Unlawful Detention Under the INA and 28 U.S.C. § 2241

62. Respondents are detaining Petitioner under § 1225(b)(2)(A) even though he was taken into ICE custody in the interior years after being paroled into the United States and was not seeking lawful entry when seized.

63. In *Hernandez Alvarez*, the Eleventh Circuit held that § 1225(b)(2)(A) does not authorize no-bond detention of similarly situated interior petitioners who were not seeking admission when arrested. This Court and other Georgia federal courts have since applied that rule to inspected-and-paroled petitioners in *B.A.M.A.*, *I.A.A.M.*, and *W.C.*
64. Respondents' continued classification of Petitioner as subject to § 1225(b)(2)(A) is contrary to binding Eleventh Circuit law.
65. Petitioner's detention must instead proceed, if at all, under § 1226. Petitioner's parole has expired, and DHS cannot use that expired parole as a permanent no-bond custody trigger. Even if DHS contends that Petitioner remains an applicant for admission for some purposes, he was not presently "seeking admission" when ICE took him from Cobb County custody after the local charges were dismissed. The expired parole therefore does not authorize detention under § 1225(b)(2)(A), and Petitioner's custody must proceed, if at all, under § 1226(a).
66. Petitioner is entitled to habeas relief requiring Respondents to cease detaining him under § 1225(b)(2)(A) and to provide release or a prompt custody hearing under § 1226.

COUNT TWO

Unlawful No-Bond Detention Based on Dismissed Cobb County Charges, Any Laken Riley Act Theory, and 28 U.S.C. § 2241

67. Upon information and belief, Respondents are treating Petitioner as ineligible for bond, or may contend that he is subject to mandatory detention, based in whole or in part on the Cobb County domestic-violence and strangulation charges that have now been dismissed.
68. Petitioner has no criminal convictions, no prior arrests prior to this matter, no prior detention history, and the local criminal case that triggered the DHS hold did not result in any conviction.
69. ICE assumed custody over Petitioner only after Cobb County released him following dismissal of the local criminal charges, yet Respondents continue to detain him without an individualized bond determination.
70. Dismissed charges do not supply a lawful basis for categorical no-bond detention where Respondents otherwise cannot show that Petitioner falls within a mandatory-detention category authorized by statute.
71. To the extent Respondents rely on the Laken Riley Act, 8 U.S.C. § 1226(c), or any similar mandatory-detention or no-bond theory based solely on those dismissed Cobb County charges, that classification is unlawful.
72. Petitioner's continued detention without a bond hearing is therefore unlawful, and he is entitled to immediate release or, at minimum, a prompt individualized custody hearing under § 1226(a).

73. This claim is independent of Petitioner's § 1225(b)(2)(A) misclassification claim.

Even if the Court concludes that a § 1226(a) bond hearing is the minimum remedy for statutory misclassification, the Court should still order such a hearing promptly and require the government to bear the burden by clear and convincing evidence, rather than permit no-bond detention based on charges that have been dismissed.

74. Petitioner is therefore entitled to habeas relief under 28 U.S.C. § 2241, including immediate release or such other relief as law and justice require.

COUNT THREE

Unlawful Re-Detention After Petitioner's 2022 Parole Entry and Current Cobb County ICE Custody in Violation of Due Process

75. Petitioner was inspected and paroled into the United States through a government-authorized process under 8 U.S.C. § 1182(d)(5)(A) on or about October 22, 2022, and he is now detained at Cobb County Adult Detention Center after ICE took him into custody from Cobb County following dismissal of the local criminal charges.

76. Petitioner does not contend that parole constituted an admission. Rather, Petitioner contends that DHS's prior decision to release him into the community, followed by his residence and work in Georgia and his family ties here, created a substantial liberty interest in remaining free from renewed physical detention absent constitutionally adequate process.

77. Section 1182(d)(5)(A) provides that parole is not an admission and that, when the purposes of parole have been served, the noncitizen's case continues to be dealt with as that of an applicant for admission. But that statutory consequence does not authorize DHS to re-detain Petitioner after his 2022 parole entry and ICE's pickup of him from Cobb County following dismissal of the local criminal charges under an unlawful categorical no-bond framework without notice, reasons, or any meaningful custody process.
78. Respondents effectively treated the dismissed Cobb County charges and ICE's pickup of Petitioner from Cobb County custody, together with Petitioner's prior parole and an asserted "arriving alien" label, as a basis for renewed mandatory custody by taking him into ICE custody after the local criminal charges were dismissed and detaining him under 8 U.S.C. § 1225(b)(2)(A) and/or a categorical no-bond theory, without providing advance written notice, a statement of reasons, or a meaningful opportunity to contest the deprivation of liberty before a neutral decisionmaker.
79. Petitioner has a substantial private interest in remaining free from physical detention after release into the community. That interest is especially weighty because Petitioner has no criminal convictions, substantial family and community ties in Marietta, Georgia, lives with his mother, father, and sister who are in the United States on parole, works multiple jobs, speaks limited

English, maintains a relationship with his U.S. citizen girlfriend, who has been actively seeking his release.

80. The risk of erroneous deprivation is substantial because Respondents re-detained Petitioner based on a categorical custody classification rather than an individualized finding that he presents a danger to the community or a risk of flight. Petitioner's parole has expired. The expiration of parole did not authorize DHS to re-detain him years later under a categorical no-bond framework without notice, reasons, or any meaningful custody process.
81. Respondents effectively treated Petitioner's prior and now-expired parole, together with the dismissed Cobb County charges, as a basis for renewed mandatory custody. That approach violates due process because it deprives Petitioner of liberty based on a categorical classification rather than an individualized finding of danger or flight risk.
82. Additional safeguards would substantially reduce that risk. At minimum, Respondents should be required to provide written notice of the factual and legal basis for renewed detention and a prompt custody determination before a neutral decisionmaker.
83. The government has legitimate interests in ensuring appearance, protecting the community, and enforcing immigration proceedings. But it has no legitimate interest in detaining Petitioner under an unlawful categorical framework or

without a meaningful custody process, particularly where individualized release conditions could address any demonstrated risk.

84. Under the *Mathews v. Eldridge* balancing framework, Petitioner's private liberty interest, the risk of erroneous deprivation, and the limited burden of providing notice and a prompt individualized custody determination weigh in favor of due-process protection before or immediately upon renewed detention.
85. This due-process claim does not depend on proving that DHS formally revoked active parole before taking Petitioner into ICE custody from Cobb County after dismissal of the local charges. The constitutional violation is Respondents' renewed detention of Petitioner after ICE picked him up from Cobb County following dismissal of the criminal charges, based on prior parole, an "arriving alien" label, and/or a no-bond theory tied to the dismissed charges, without notice, reasons, or a meaningful opportunity to be heard.
86. Decisions recognizing conditional-liberty interests in parole, probation, bond, and immigration-release contexts support Petitioner's claim.
87. Petitioner's 2022 parole into the United States, residence and employment in Marietta, Cobb County, family ties with his parents and sister in Georgia and relatives in Miami, lack of any prior arrests prior to this Cobb County matter or convictions, and the dismissal of the Cobb County charges strongly support the conclusion that he can be managed outside detention and that

individualized conditions, rather than categorical no-bond detention, are adequate absent materially changed circumstances.

88. Respondents have identified no materially changed circumstances—including no new criminal conduct after the Cobb County case was dismissed and no conviction—that would justify renewed detention without process.
89. Petitioner is therefore entitled to declaratory and injunctive relief prohibiting Respondents from continuing to detain him under a no-bond or mandatory-detention theory based on his prior parole and/or the now-dismissed Cobb County charges, and to immediate release or, at minimum, a prompt § 1226(a) bond hearing at which the government bears the burden by clear and convincing evidence.

COUNT FOUR

Violation of the Fifth Amendment — Categorical No-Bond Detention Without Due Process

90. This Count is independent of Petitioner's parole-based procedural due-process claim. Even if the Court concludes that Petitioner's prior parole does not itself create a protected liberty interest, Respondents still violate due process by categorically detaining Petitioner without bond under the wrong statute and denying any individualized custody hearing.

91. The Fifth Amendment protects noncitizens within the United States from deprivation of liberty without due process of law.
92. Physical detention implicates a fundamental liberty interest because freedom from government custody lies at the core of the liberty protected by the Due Process Clause.
93. Respondents have deprived Petitioner of liberty by treating him as categorically subject to no-bond detention even though he entered the United States on or about October 22, 2022 through Miami, Florida on parole, was later taken into ICE custody from Cobb County after the local criminal charges were dismissed, and was not then seeking lawful entry at a border, port of entry, or inspection point.
94. Section 1225(b)(2)(A) requires that the person be both an applicant for admission and presently "seeking admission."
95. Georgia federal courts have ordered § 1226(a) bond hearings for petitioners later taken into ICE custody in the interior where DHS used an arriving-alien or no-bond theory to deny an individualized custody determination. The same due-process problem is present here, where ICE picked Petitioner up from Cobb County after the local charges were dismissed and continues to hold him under a DHS hold and no-bond theory without a prompt individualized bond hearing.

96. Respondents may contend that 8 C.F.R. § 1003.19(h)(2)(i)(B) bars Immigration Judge bond review because Petitioner was previously paroled after arrival. But that regulation cannot supply mandatory detention authority where the governing statute does not authorize categorical no-bond custody.
97. Petitioner challenges Respondents' threshold statutory classification and the resulting denial of any meaningful custody process after ICE took him into custody following dismissal of the Cobb County charges. He has not received any individualized bond determination, and he does not ask this Court to review a discretionary bond determination.
98. Because § 1225(b)(2)(A) does not govern Petitioner's detention, Respondents may not deny him an individualized custody determination on that basis after ICE took him into custody from Cobb County following dismissal of the local charges, nor may they deny him such a determination based solely on those dismissed charges. At minimum, Respondents must provide a prompt custody hearing under § 1226(a) at which Petitioner may contest his continued detention.
99. Any continued detention must be justified, if at all, under the proper statutory framework and through constitutionally adequate procedures that assess Petitioner's individualized risk of flight and danger to the community.

100. The government has legitimate interests in enforcing immigration proceedings, ensuring appearance, and protecting the community. But it has no legitimate interest in detaining Petitioner under an unlawful categorical framework or without a meaningful custody process, particularly where individualized release conditions could address any demonstrated risk.
101. The current custody scheme creates an intolerable risk of erroneous deprivation because ICE's unilateral classification deprives Petitioner of bond eligibility altogether and prevents any neutral adjudicator from assessing whether detention is actually necessary.
102. Under *Mathews v. Eldridge*, Petitioner's liberty interest, the risk of erroneous deprivation, and the minimal burden of providing an individualized custody hearing weigh in favor of requiring prompt custody review under the correct statutory framework.
103. Petitioner is therefore entitled to immediate release or, in the alternative, a prompt constitutionally adequate custody hearing under § 1226(a), at which the government bears the burden to prove by clear and convincing evidence that Petitioner is either a danger to the community or a flight risk.

XII. REMEDIES

IMMEDIATE RELEASE IS THE APPROPRIATE PRIMARY REMEDY

104. When a person's liberty is taken without lawful authority, the most direct remedy is release. Federal courts possess broad equitable power under 28 U.S.C. § 2243 to "dispose of the matter as law and justice require," which includes ordering release when the government's custody is illegal.
105. Petitioner's detention is unlawful at its core because Respondents appear to be maintaining no-bond custody based on an "arriving alien" classification and/or the dismissed Cobb County charges. That theory does not fit the facts alleged here. Petitioner was taken into ICE custody in the interior after the local criminal case was dismissed, not while seeking admission. And to the extent Respondents rely on the dismissed Cobb County charges to invoke mandatory detention, the Laken Riley Act, or any similar no-bond theory, that position fails because Petitioner has no conviction and no other identified basis for categorical detention.
106. Immediate release is therefore the appropriate primary remedy because Petitioner is being held after dismissal of the only criminal charges identified as the basis for the DHS hold and apparent no-bond position. At minimum, however, if the Court declines to order immediate release, Respondents should

be required to provide a prompt § 1226(a) bond hearing because that is the minimum process due under the proper statutory framework.

107. Granting only delayed process would prolong the harm of unlawful detention.

Petitioner has already remained in custody after the State dismissed the local charges, and Respondents have not identified individualized evidence showing that he is a flight risk or a danger to the community. This Court should not allow detention to continue on the basis of allegations the criminal court has already abandoned; if immediate release is not ordered, then a prompt § 1226(a) hearing is the necessary alternative remedy.

108. A later bond hearing does not erase the procedural defect in the arrest and initial custody process. But courts have tailored habeas relief to the current legality of custody rather than treating every arrest defect as requiring automatic release. *Gomez Tejada v. Powell*, No. 7:26-cv-01111-MHH-NAD (N.D. Ala. July 29, 2026); *Flores v. Cooper*, Slip Copy, 2026 WL 1477831 (E.D. Tenn. May 27, 2026).

109. Furthermore, should this Court nonetheless order a bond hearing as an alternative to immediate release, it is critical that the order contain specific procedural safeguards to make that remedy meaningful. Consistent with recent orders from Georgia federal courts, any order for a bond hearing should

explicitly direct that the government bears the burden of establishing by clear and convincing evidence that Petitioner's detention is necessary.

110. Finally, to ensure the remedy of release is not rendered illusory, the Court should explicitly order that any release conditions must be individualized, reasonably related to a demonstrated risk of flight or danger, and not imposed categorically as a substitute for unlawful detention.

If the Court Orders a Bond Hearing, DHS Should Bear the Burden

111. Should this Court order a bond hearing as an alternative to immediate release, the order should contain explicit procedural safeguards. Without those safeguards, the hearing risks becoming illusory because the immigration court may apply the default regulatory framework that places the burden on the detained noncitizen.
112. 8 U.S.C. § 1226 does not assign the burden of proof at a bond hearing. Petitioner acknowledges the regulatory headwind. The custody regulations provide that a noncitizen seeking release must demonstrate to the satisfaction of the officer that release would not pose a danger to property or persons and that the noncitizen is likely to appear for future proceedings. 8 C.F.R. § 236.1; 8 C.F.R. § 1236.1. Those regulations also provide for administrative custody review and immigration-judge redetermination procedures before a final

removal order, subject to regulatory limits. 8 C.F.R. § 236.1; 8 C.F.R. § 1236.1.

113. But those regulatory defaults do not answer the constitutional question presented here. Petitioner is not merely requesting an ordinary discretionary bond redetermination. He challenges Respondents' threshold decision to classify him as categorically ineligible for bond based on prior parole, expired parole, an "arriving alien" theory, and/or dismissed Cobb County charges. Once the Court determines that detention must proceed under § 1226(a), due process requires a meaningful hearing at which the government justifies continued physical confinement.
114. Placing the burden on Petitioner would be especially improper here because the government created the custody classification, controls the detention records, controls the charging documents, and is best positioned to identify any evidence of danger or flight risk. Petitioner, by contrast, is detained, has limited English, has no criminal conviction, and is challenging a no-bond framework imposed without an individualized hearing.
115. The Court should therefore order that DHS bear the burden of proof at any § 1226(a) bond hearing. Petitioner requests that DHS be required to prove by clear and convincing evidence that continued detention is necessary because Petitioner is either a danger to the community or a flight risk. At minimum, DHS—not Petitioner—must bear the burden of justifying continued detention.

116. The requested burden allocation is necessary to make the remedy meaningful.

A bond hearing that simply repeats the agency's default burden allocation would not cure the constitutional injury because Petitioner's injury is the denial of an individualized and constitutionally adequate custody process in the first place.

117. Because the statute is silent, and because the question presented here is one of constitutional adequacy, *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369, 412 (2024), confirms that this Court must exercise its own judgment rather than defer to the agency's preferred burden allocation.

118. The strongest authority within this Circuit supports placing the burden on DHS. In *J.G. v. Warden, Irwin Cnty. Detention Ctr.*, 501 F. Supp. 3d 1331 (M.D. Ga. 2020), the court held that placing the burden on the detainee at a § 1226(a) bond hearing violated due process. After *Hernandez Alvarez*, courts in this Circuit have repeatedly ordered bond hearings with the burden on DHS. Each of those Middle District of Georgia decisions required DHS to establish by clear and convincing evidence that the petitioner was either a danger to the community or a flight risk. Those cases include: *B.A.M.A. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1362520 (M.D. Ga. May 13, 2026); *I.A.A.M. v. Warden, Irwin County Detention Center*, Slip Copy, 2026 WL 1362519 (M.D. Ga. May 13, 2026); and *W.C. v. Warden, Irwin County Detention Center*,

Slip Copy, 2026 WL 1658526 (M.D. Ga. June 4, 2026).

119. Other courts have articulated the same principle in slightly different form. The Northern District of Alabama's *Gomez Tejada* habeas decision found the First Circuit's reasoning in *Hernandez-Lara v. Lyons*, 10 F.4th 19 (1st Cir. 2021), more persuasive than contrary authority and held that due process requires the Government to carry the burden at a § 1226(a) bond hearing. *Gomez Tejada v. Powell*, No. 7:26-cv-01111-MHH-NAD (N.D. Ala. July 29, 2026). That court concluded that dangerousness must be proved by clear and convincing evidence and flight risk by a preponderance of the evidence. Even if this Court elects not to require clear and convincing evidence as to both prongs, the minimum constitutionally necessary protection is that DHS—not Petitioner—must bear the burden of justifying detention. See also *Velasco Lopez v. Decker*, 978 F.3d 842, 853–56 (2d Cir. 2020), *German Santos v. Warden Pike Cnty. Corr. Facility*, 965 F.3d 203, 213–14 (3d Cir. 2020).
120. Petitioner recognizes that some courts have reached a different conclusion in initial § 1226(a) proceedings, including *Miranda v. Garland*, 34 F.4th 338 (4th Cir. 2022), and *Rodriguez Diaz v. Garland*, 53 F.4th 1189 (9th Cir. 2022). But those decisions do not control here, and they are less persuasive in light of the repeated post-*Hernandez Alvarez* orders from courts within this Circuit requiring DHS to justify detention. *Sopo v. U.S. Attorney General*, 825 F.3d 1199

(11th Cir. 2016), *vacated as moot*, 890 F.3d 952 (11th Cir. 2018), likewise does not resolve this question because it was vacated and did not decide the due process issue presented by a non-criminal detainee's initial § 1226(a) hearing.

121. The *Mathews* factors confirm that burden shifting is required here. Petitioner's liberty interest is fundamental. *J.G. v. Warden, Irwin Cnty. Detention Ctr.*, 501 F. Supp. 3d 1331 (M.D. Ga. 2020). The risk of error is substantial because proving a negative—especially lack of dangerousness—is inherently difficult, and detainees often lack ready access to records, witnesses, and documentary proof while incarcerated. The Government, by contrast, ordinarily has access to criminal-history, immigration, employment, and identity records and can present them with minimal added burden. And every unnecessary detention imposes real public costs while separating families and removing breadwinners from their communities.
122. Accordingly, if the Court declines to order immediate release, it should order a prompt § 1226(a) bond hearing and specify that DHS bears the burden of proving that Petitioner's detention is justified, with any release conditions individualized, nonpunitive, and no more restrictive than necessary. That result is most consistent with due process where detention is civil, discretionary, and imposed on a non-criminal respondent in the early stages of removal proceedings.

XIII. CONCLUSION AND PRAYER FOR RELIEF

123. The continued detention of Petitioner violates the Immigration and Nationality Act and the Due Process Clause. But for intervention by this Court, Petitioner has no means of release from ICE custody. Petitioner faces ongoing and irreparable harm as a result of unlawful detention, including deprivation of liberty, loss of employment, and separation from family. These injuries cannot be remedied by monetary damages and will continue absent immediate judicial intervention. The balance of equities and the public interest strongly favor expedited consideration and equitable relief, including immediate release or a prompt bond hearing. Without such relief, Petitioner will continue to suffer irreparable harm, and the constitutional and statutory violations at issue will persist.

WHEREFORE, Petitioner prays that this Court grant the following relief. Petitioner respectfully requests expedited consideration of this Petition due to the ongoing deprivation of liberty and irreparable harm:

- (1) Grant the Petition for Writ of Habeas Corpus and, pursuant to its authority under 28 U.S.C. § 2243, order Respondents to immediately and unconditionally release Petitioner from custody, because his

continued detention rests on an unlawful no-bond theory tied to his prior parole and the now-dismissed Cobb County criminal charges, even though he has no conviction and was taken into ICE custody only after those local charges were dismissed, and thus rests on agency actions contrary to the INA and ultra vires;

- (2) In the alternative, should the Court decline to order immediate unconditional release, issue an order directing Respondents to provide Petitioner with a bond hearing before an Immigration Judge pursuant to 8 U.S.C. § 1226(a) and its implementing regulations at 8 C.F.R. §§ 236.1 and 1236.1 within forty-eight (48) hours of the Court's order, and further specifying that at any such hearing: (a) the government bears the burden of proving that Petitioner is either a flight risk or a danger to the community; and (b) the government must satisfy that burden by clear and convincing evidence;
- (3) Order that any conditions of release, including electronic monitoring, GPS monitoring, ISAP enrollment, or other alternatives to detention, must be individualized, nonpunitive, reasonably related to a demonstrated risk of flight or danger, and no more restrictive than necessary;
- (4) Issue an Order to Show Cause directing Respondents to file a return

within three (3) days, pursuant to 28 U.S.C. § 2243, justifying in fact and law why the writ should not be granted;

- (5) ENJOIN Respondents from re-detaining Petitioner in the future under 8 U.S.C. § 1225 based on the same unlawful custody classification challenged here;
- (6) DECLARE that Respondents may not rely on Petitioner's prior parole or an "arriving alien" regulatory label to subject him to mandatory no-bond detention under 8 U.S.C. § 1225(b)(2)(A), and may not deny him a bond hearing by relying on the dismissed Cobb County charges, the Laken Riley Act, or any similar mandatory-detention or no-bond theory arising from those dismissed charges following ICE's pickup of Petitioner from Cobb County custody;
- (7) Award Petitioner reasonable attorney's fees and costs including under the Equal Access to Justice Act, 28 U.S.C. § 2412(d), and any other applicable fee-shifting statute; and
- (8) **Grant** such other and further relief as this Court deems just, proper or equitable under the circumstances.

Respectfully Submitted,

This 9th Day of August, 2026.

/s/ Karen Weinstock

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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. Petitioner is detained and cannot practicably execute a verification before filing. Counsel has relied on communications with Petitioner and/or Petitioner's family members. 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 U.S.C. § 2242.

This 9th Day of August, 2026.

/s/ Karen Weinstock
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