

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

SERGIO DAGOBERTO MARTINEZ MARTINEZ,

Petitioner,

v.

WARDEN IRWIN COUNTY DETENTION CENTER
et al; KRISTEN SULLIVAN, Director of the Atlanta
Field Office of U.S. Immigration and Customs
Enforcement; MARKWAYNE MULLIN, Secretary of
the Department of Homeland Security; TODD
BLANCHE, Acting Attorney General,

Respondents.

Case No.

**APPLICATION FOR ISSUANCE
OF ORDER TO SHOW CAUSE**

Agency No.: Unknown/Unavailable

1. Pursuant to 28 U.S.C. § 2243, Petitioner respectfully requests that this Court “forthwith” issue an order directing Respondents to show cause why the petition for a writ of habeas corpus filed by Petitioner pursuant to 28 U.S.C. § 2241 should not be granted.

2. Petitioner challenges his continued detention because Respondents are unlawfully detaining him under 8 U.S.C. § 1225 despite his arrest occurring well within the interior of the United States after having resided in the country for approximately thirteen years.

3. This case presents an issue that has now been resolved by binding Eleventh Circuit authority and applied by courts within this Circuit. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258, 1262, 1276 (11th Cir. 2026), the Eleventh Circuit rejected DHS’s interpretation of 8 U.S.C. § 1225(b)(2)(A) and held that mandatory detention generally applies to arriving noncitizens seeking lawful entry, not to noncitizens already present in the interior who are not seeking admission; such individuals are instead detained under 8 U.S.C.

§ 1226 and are eligible to seek bond. See also *J.A.M. v. Streeval*, No. 4:25-CV-342 (CDI), 2025 WL 3050094, at *3–7 (M.D. Ga. Nov. 1, 2025) (holding that § 1226(a), rather than § 1225(b)(2)(A), governed the detention of a noncitizen who entered without inspection and had resided in the United States for more than twenty years, and ordering a bond hearing); *Vaghela v. Harper*, No. 7:26-CV-128, ECF No. 26, at 2–4 (N.D. Ala. June 2026) (applying *Hernandez Alvarez* and recognizing that a noncitizen already present in the interior is governed by § 1226 and entitled to seek a bond hearing); *M. v. Ayala*, No. 2:26-CV-445, ECF No. 29 (M.D. Ala. July 2026) (applying *Hernandez Alvarez* and ordering an individualized bond hearing under § 1226(a)). Accordingly, because Petitioner entered the United States more than a decade ago and was later apprehended in the interior while traveling to work, his detention is governed by § 1226(a), not § 1225(b)(2)(A).

4. The federal habeas corpus statute provides that “[a] court, justice or judge entering a writ of habeas corpus shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted, unless it appears from the application that the applicant or person detained is not entitled thereto.” 28 U.S.C. § 2243.

5. Section 2243 further provides that the writ or order to show cause “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed.”

6. Section 2243 further provides that the court shall hold a hearing on the writ or order to show cause “not more than five days after the return unless for good cause additional time is allowed.”

7. In addition, Section 2243 states that the court “shall summarily hear and determine the facts, and dispose of the matter as law and justice require.”

8. Pursuant to Section 2243, Petitioner requests that the Court immediately issue an Order to Show Cause directing Respondents to file a return within three days of the Court's order, showing cause, if any, why the writ of habeas corpus should not be granted, and to provide Petitioner an opportunity to file a reply within two days after Respondents file the return.

9. Giving Respondents additional time to respond is inappropriate because Petitioner suffers irreparable harm with each additional day of detention. Petitioner remains deprived of his physical liberty and separated from his five-year-old United States citizen daughter, family, employment, counsel, and community. Before his detention, Petitioner had worked as a roofer for approximately eight years and had established substantial family, residential, and employment ties in the United States. His continued detention therefore imposes substantial personal, familial, and financial hardship and warrants prompt judicial intervention.

10. Petitioner has significant liberty, familial, employment, and community interests at stake. By contrast, Respondents have no legitimate interest in continuing his detention under a statutory provision that does not authorize his custody. The balance of hardships therefore strongly favors expedited consideration.

11. Pending adjudication of this Petition, Petitioner respectfully requests that Respondents be temporarily restrained from transferring him outside the Middle District of Georgia absent prior authorization from this Court. Petitioner is presently detained at the Irwin County Detention Center in Ocilla, Georgia, and has a significant interest in remaining within this Court's territorial jurisdiction while assisting counsel with the preparation and litigation of this matter. A transfer to a distant facility could impair attorney-client communications, hinder access to counsel and family support, and risk frustrating meaningful judicial review of the

pending habeas petition. Without interim relief, Respondents could transfer Petitioner before the Court adjudicates the Petition, thereby delaying or impairing effective relief.

12. Because Petitioner remains subject to ongoing unlawful detention and possible transfer outside this District, immediate judicial intervention is necessary to preserve the Court's ability to afford meaningful habeas relief.

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243;
- B. Require Respondents to respond within three days;
- C. Permit Petitioner to file a reply within two days thereafter;
- D. Temporarily restrain Respondents from transferring Petitioner outside the Middle District of Georgia pending resolution of this habeas proceeding absent leave of Court;
- E. Expedite consideration of the Petition; and
- F. Grant such other and further relief as the Court deems just and proper, including issuance of the writ and Petitioner's immediate release if appropriate.

Dated: August 13, 2026

By: /s/ Rachel Effron Sharma
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*** Pro hac vice forthcoming*