

FILED
MAR 17 2026
FBI-CDL

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

ALBERTO SOLAR CARMONA,
Petitioner,

v.

WARDEN, STEWART DETENTION CENTER,
Respondent.

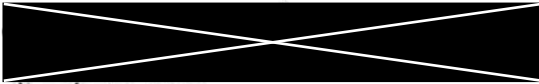
Case No. 4:26-CV-19-CDL-CHW
28 U.S.C. § 2241

COVER SHEET — PETITIONER'S FILING PACKAGE
Opposition to Respondent's Motion to Dismiss

Petitioner: Alberto Solar Carmona

Alien Number: 

Filed By: Alberto Solar Carmona, Petitioner Pro Se

Address: 

Telephone: 

Date Filed: 2/24/2026, 2026

Response Deadline: March 19, 2026

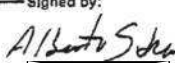
Enclosed herewith is Petitioner's Brief in Opposition to Respondent's Motion to Dismiss, together with supporting exhibits, filed pursuant to the Court's Scheduling Order dated February 17, 2026 (ECF No. 8).

EXHIBIT	DOCUMENT DESCRIPTION
Opposition Brief	Petitioner's Brief in Opposition to Respondent's Motion to Dismiss (signed by Alberto Solar Carmona via DocuSign)
Exhibit A	I-213 Record of Deportable/Inadmissible Alien (Alberto Solar Carmona)

Exhibit B	Notice to Appear (Form I-862)
Exhibit C	Immigration Judge's Order of Removal — December 29, 2025
Exhibit D	ICE Form 71-041 — Notice to Removed Alien (confirms return remedy available)
Exhibit E	Character Reference Letters (4 letters): 1. Robert Farmer, Farmers Electrical Contractors 2. Pastor Eberth El Bascha, A&E Accounting Group LLC 3. Gerardo Camacho, Farmers Electrical Contractors 4. Gloris Cardenas Romero
Exhibit F	Marriage Certificate — Alberto Solar Carmona & Leticia Leon Santiago
Exhibit G	Birth Certificates — Three U.S. Citizen Children (3 documents)

CERTIFICATE OF COMPLETENESS

I, Alberto Solar Carmona, Petitioner Pro Se, certify that this filing package is complete and that all documents listed above are enclosed. A copy of this package has been served upon the United States Attorney's Office, Middle District of Georgia, by United States Postal Service, certified mail, on the date indicated above.

Signed by:



Alberto Solar Carmona, Petitioner Pro Se


**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF GEORGIA
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ALBERTO SOLAR CARMONA,

Petitioner,

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28 U.S.C. § 2241

PETITIONER'S BRIEF IN OPPOSITION TO RESPONDENT'S MOTION TO DISMISS

INTRODUCTION

Petitioner Alberto Solar Carmona respectfully submits this Brief in Opposition to Respondent's Motion to Dismiss. Respondent's sole argument is that Petitioner's removal to Mexico on February 2, 2026 renders this habeas corpus petition moot. This argument is legally wrong, factually incomplete, and — if accepted — would authorize the government to permanently escape federal court review simply by removing any inconvenient habeas petitioner before a court can act. This Court should reject that result.

There are seven independent grounds to deny dismissal. First, this case is not moot because this Court retains power to order Petitioner's return — a remedy ICE's own documents acknowledge. Second, the government created the alleged mootness through its own conduct,

which the voluntary cessation doctrine squarely forbids. Third, and most powerfully, Petitioner was unconstitutionally denied a bond hearing he was legally entitled to under the nationwide class judgment in *Maldonado Bautista v. DHS (Santacruz)*, Case No. 5:25-cv-01873 (C.D. Cal., Dec. 18, 2025) — a constitutional violation that cannot be mooted by removal. Fourth, this Court's jurisdiction over the Middle District of Georgia places it squarely in the Eleventh Circuit, where the government's restrictive Fifth Circuit ruling (*Buenrostro-Mendez v. Bondi*, 5th Cir. Feb. 6, 2026) has no precedential force and does not apply. Fifth, ICE's removal of Petitioner during active habeas proceedings warrants contempt and an order to restore the status quo. Sixth, the government's administrative record contains material inaccuracies that corrupted the underlying removal proceedings. Seventh, Petitioner's timely-mailed BIA appeal — delayed only by postal transit — supports equitable tolling and does not extinguish this Court's habeas jurisdiction.

RELEVANT BACKGROUND

Alberto Solar Carmona is a 39-year-old Mexican national who has lived in the United States for approximately 30 years. He is married to Leticia Leon Santiago, and together they have three U.S. citizen children. He worked as an electrician and was an active member of his North Carolina community. He has no violent criminal history.

On September 24, 2025, ICE arrested Petitioner in the interior of the United States — at the Sampson County Probation Office in Clinton, North Carolina — not at or near the border. Exhibit A. He was immediately placed in removal proceedings and charged under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I). Exhibit B. He was transferred to Stewart Detention Center in Lumpkin, Georgia, which is in the Middle District of Georgia and the Eleventh Circuit Court of Appeals.

Rather than receiving the bond hearing the law guarantees, Petitioner was subjected to the government's then-newly enacted mandatory detention policy — a policy that U.S. District Judge Sunshine Sykes would declare unlawful on November 20, 2025 in *Maldonado Bautista v. DHS*, and that she would reduce to a final nationwide class judgment on December 18, 2025. Because he was never given a bond hearing, Petitioner was forced to litigate his entire immigration case while imprisoned, without counsel, separated from his wife and three U.S. citizen children.

On December 29, 2025 — eleven days after the *Maldonado Bautista* final judgment was entered — an Immigration Judge denied all of Petitioner's applications for relief and ordered him removed to Mexico. Exhibit C. Petitioner reserved his right to appeal. His wife mailed the Notice of Appeal and an Emergency Motion to Stay Removal to the BIA on January 27, 2026 — two days before the deadline. The BIA received it on January 31, 2026, two days late, due to postal transit delay.

On December 21, 2025, Petitioner's wife filed this habeas corpus petition before this Court. ECF No. 1. On January 22, 2026, this Court ordered Respondent to file a comprehensive response within 21 days. ECF No. 4. On February 2, 2026 — while the habeas petition was pending, while the Court's order was still in effect, and four days before that response was due — ICE removed Petitioner to Mexico at the Brownsville, Texas land border. Exhibit D. Respondent then filed its Motion to Dismiss on February 13, 2026 — one day after its own Court-ordered deadline had lapsed. On February 17, 2026, Magistrate Judge Weigle issued the present scheduling order for Petitioner's response.

ARGUMENT

I. THE CASE IS NOT MOOT — THIS COURT RETAINS POWER TO ORDER PETITIONER'S RETURN AND GRANT MEANINGFUL RELIEF.

Mootness requires that it be "impossible for a court to grant any effectual relief whatever to the prevailing party." *Church of Scientology of Cal. v. United States*, 506 U.S. 9, 12 (1992). The standard is not whether the Court can restore perfect equivalence to the original situation, but whether "some form of meaningful relief" is available. *Chafin v. Chafin*, 568 U.S. 165, 172 (2013). That standard is clearly met here.

Federal courts have full authority to order the government to facilitate the return of persons wrongfully removed during habeas proceedings. *Nken v. Holder*, 556 U.S. 418, 435 (2009); *Jama v. ICE*, 543 U.S. 335, 348 (2005); *Perez v. Mukasey*, 516 F.3d 770, 773 (9th Cir. 2008); *Mohammed v. Reno*, 309 F.3d 95, 99 (2d Cir. 2002). Return is a well-established habeas remedy. The only question is whether the Court has the power to order it — and it unquestionably does.

The government's own documents confirm this. ICE Form 71-041 — *Notice to Removed Aliens Who May Be Seeking Judicial Review* — served on Petitioner at the time of his removal (Exhibit D) expressly states that ICE will facilitate Petitioner's return if a court remands for further administrative proceedings or if a court order restores him to lawful permanent resident status or other status permitting physical presence. The government cannot simultaneously represent to Petitioner that it will comply with a return order and then argue to this Court that no return order is possible.

II. THE GOVERNMENT IS BARRED BY THE VOLUNTARY CESSATION DOCTRINE FROM INVOKING MOOTNESS CAUSED BY ITS OWN CONDUCT.

"A defendant cannot automatically moot a case simply by ending its allegedly unlawful conduct once sued." *Genesis Healthcare Corp. v. Symczyk*, 569 U.S. 66, 75 (2013). The doctrine

bars the government from engineering mootness: "a party cannot moot a case through its own conduct and then invoke that mootness to escape scrutiny." *Friends of the Earth, Inc. v. Laidlaw Envtl. Servs., Inc.*, 528 U.S. 167, 189 (2000). The burden to demonstrate mootness in such cases is "heavy." *Id.*

Here, ICE removed Petitioner on February 2, 2026, while: (1) a habeas petition was pending before this Court (ECF No. 1); (2) this Court's January 22, 2026 response order was active (ECF No. 4); (3) the government's own response deadline (February 12, 2026) had not yet expired; (4) an Emergency Motion to Stay was being prepared and would be filed February 5, 2026; and (5) no court had ruled on any matter in this case. ICE created the very condition — removal — that it now uses to argue the case is moot. Accepting this argument would give the government an unconditional escape hatch: remove the petitioner first, then move to dismiss.

The Eleventh Circuit has recognized that where removal is used to divest a court of jurisdiction, the court retains authority to examine whether that removal was proper. *Al Najjar v. Ashcroft*, 273 F.3d 1330, 1336 (11th Cir. 2001). Further, Petitioner's Emergency Motion for Contempt Sanctions (ECF No. 5) presents a live controversy entirely separate from the detention claim — one that cannot be mooted by removal — providing this Court independent jurisdiction to proceed.

III. PETITIONER WAS UNCONSTITUTIONALLY DENIED HIS STATUTORY BOND HEARING RIGHTS UNDER MALDONADO BAUTISTA — A SEPARATE AND INDEPENDENT BASIS FOR HABEAS RELIEF.

A. The Legal Framework: The Unlawful Mandatory Detention Policy

On July 8, 2025, DHS issued a directive instructing ICE officers that all noncitizens who entered without inspection must be classified as "applicants for admission" subject to mandatory

detention under INA § 1225(b)(2)(A) — with no right to a bond hearing before an Immigration Judge. This policy upended 28 years of established practice under which persons arrested in the interior were detained under INA § 1226(a) and entitled to individualized bond hearings.

On September 5, 2025, the BIA ratified this policy in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), binding all Immigration Judges nationwide to deny bond hearings to anyone who entered without inspection. Alberto Solar Carmona was one of the thousands of detained individuals who, under this policy, was denied any opportunity for a bond hearing from the moment of his September 24, 2025 arrest.

B. The California District Court Declared This Policy Unlawful — Nationwide

On November 20, 2025, U.S. District Judge Sunshine Sykes granted partial summary judgment in *Maldonado Bautista v. DHS (Santacruz)*, Case No. 5:25-cv-01873 (C.D. Cal.), holding that the DHS mandatory detention directive violated the plain language of the Immigration and Nationality Act and the Fifth Amendment's Due Process Clause. On November 25, 2025, Judge Sykes certified a nationwide Bond Eligible Class. On December 18, 2025, she entered final judgment vacating the July 8, 2025 DHS policy under the Administrative Procedure Act and declaring that class members are detained under INA § 1226(a) — not § 1225(b)(2) — and are entitled to bond hearings. The class is defined as: all noncitizens in the United States without lawful status who entered without inspection, were not apprehended upon arrival, and are not subject to §§ 1226(c), 1225(b)(1), or 1231 mandatory detention.

On February 18, 2026, Judge Sykes issued an additional order vacating *Matter of Yajure Hurtado* itself under the APA, stripping it of binding authority as precedent. The Court noted the government was "ignoring federal court orders" in directing immigration judges nationwide to continue denying bond hearings.

C. Alberto Qualifies as a Member of the Bond Eligible Class

Alberto Solar Carmona is unquestionably a member of the Bond Eligible Class. He: (1) entered the United States without inspection; (2) was arrested in the interior of the United States — at a Sampson County probation office in Clinton, North Carolina — not at or near the border and not apprehended upon arrival; (3) was charged under INA § 212(a)(6)(A)(i), the same charge at issue in *Maldonado Bautista*; and (4) was not subject to any mandatory detention exception under §§ 1226(c), 1225(b)(1), or 1231. His own I-213 record confirms he has "No Aggravated Felony Convictions" and a historical priority of "No Priority." Exhibit A.

D. The Fifth Circuit's Contrary Ruling Does Not Apply Here

On February 6, 2026, a divided Fifth Circuit panel in *Buenrostro-Mendez v. Bondi* (Case Nos. 25-20496 and 25-40701) upheld the government's mandatory detention policy in cases from Texas and Louisiana. This ruling is irrelevant to the instant case. Stewart Detention Center in Lumpkin, Georgia is located in the Middle District of Georgia, which is within the jurisdiction of the Eleventh Circuit Court of Appeals — not the Fifth Circuit. The Fifth Circuit's ruling has no precedential force in this Court, and this Court is not bound by it.

The Eleventh Circuit has not addressed this statutory question. In the absence of binding Eleventh Circuit precedent, this Court should follow the nationwide declaratory judgment in *Maldonado Bautista*, the reasoning of over 300 district court judges who have rejected the government's detention theory, and the Seventh Circuit's December 2025 holding that the government was not "likely to succeed" in arguing § 1225(b)(2) applies to interior arrests. See American Immigration Council, *Trump's Radical Mandatory Immigration Detention Policy Upheld by US Appeals Court* (Feb. 2026) (noting Seventh Circuit found government unlikely to succeed on merits of § 1225(b)(2) application to interior arrests).

E. The Bond Denial Was a Constitutional Violation That Infected the Entire Removal Proceeding

Because Alberto was denied a bond hearing, he was forced to litigate his cancellation of removal case for over three months while imprisoned at Stewart Detention Center, without the ability to gather evidence, retain counsel, or remain with his family. The deprivation of liberty without an individualized determination of flight risk or danger violates the Fifth Amendment's Due Process Clause. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003).

Had Petitioner received the bond hearing guaranteed by *Maldonado Bautista* and INA § 1226(a), the record strongly indicates he would have been released: he had no violent criminal history, had resided in the United States for 30 years, had a spouse, three U.S. citizen children, stable employment as an electrician, and a community with deep roots. The government's own I-213 classifies his historical priority as "No Priority." Exhibit A. Release on bond would have allowed him to retain counsel, gather evidence, correct the inaccuracies in his record (discussed below), and mount a full defense of his cancellation of removal case.

The *Maldonado Bautista* final judgment was entered on December 18, 2025 — eleven days before the Immigration Judge issued her removal order on December 29, 2025. The Immigration Court was obligated to comply with that judgment and restore Petitioner's bond eligibility before proceeding to a removal determination. It did not. The removal order issued by a court operating in direct defiance of a valid federal declaratory judgment is constitutionally defective.

This constitutional violation is fully cognizable in habeas corpus under 28 U.S.C. § 2241. *INS v. St. Cyr*, 533 U.S. 289, 301 (2001); *Boumediene v. Bush*, 553 U.S. 723, 745 (2008). The

remedy is return, followed by the bond hearing Petitioner was unconstitutionally denied, so that any resumed proceedings rest on a constitutional foundation.

IV. ICE'S REMOVAL DURING ACTIVE COURT PROCEEDINGS WARRANTS CONTEMPT SANCTIONS AND A RETURN ORDER.

Federal courts possess inherent authority to protect their jurisdiction and to sanction parties who undermine pending proceedings. *Chambers v. NASCO, Inc.*, 501 U.S. 32, 44 (1991); *United States v. United Mine Workers*, 330 U.S. 258, 293 (1947). ICE removed Petitioner on February 2, 2026, while: (1) a habeas petition was on file (ECF No. 1); (2) this Court had entered an active case management order (ECF No. 4, Jan. 22, 2026); (3) the government's response deadline (February 12, 2026) had not expired; (4) no court had dismissed any pending filing; and (5) Petitioner's wife had mailed a BIA Notice of Appeal days earlier.

Courts have found governments in contempt and ordered return under directly analogous circumstances. In *Juan T.R. v. Noem*, No. 0:26-cv-00107 (D. Minn. 2026), District Judge Patrick Schlitz required the government to provide a bond hearing or release a detained immigrant. When the government failed to comply, Judge Schlitz ordered Acting ICE Director Todd Lyons to appear in court personally to show cause for contempt — forcing ICE to immediately release the detainee. The court appended a list of at least 96 court orders violated by the government since January 2026, stating that this list "should give pause to anyone who cares about the rule of law."

This Court's February 10, 2026 order directing Respondent to address the Emergency Motion (ECF No. 6) — issued eight days after the removal — confirms that this Court itself recognized live issues remained after deportation. Respondent's subsequent Motion to Dismiss does not extinguish the contempt question. Petitioner's Emergency Motion (ECF No. 5) remains

pending and constitutes an independent jurisdictional basis for this Court to proceed and to impose appropriate sanctions.

V. THE GOVERNMENT'S ADMINISTRATIVE RECORD CONTAINS MATERIAL INACCURACIES THAT RENDERED THE REMOVAL PROCEEDINGS FUNDAMENTALLY UNFAIR.

A habeas petition may succeed where the underlying proceedings were fundamentally unfair due to factual error. *Leal Garcia v. Quarterman*, 573 F.3d 214, 222 (5th Cir. 2009); *INS v. St. Cyr*, 533 U.S. 289 (2001). The government's own I-213 form (Exhibit A) contains multiple material falsehoods:

1. Marital Status Recorded as "Single." This is false. Petitioner is married to Leticia Leon Santiago, who is identifiable as a DACA recipient and who has filed legal documents in this Court on his behalf. The I-213 even identifies her as his "girlfriend." Marriage and spousal ties are material to the cancellation of removal hardship analysis under INA § 240A(b)(1)(D).

2. U.S. Citizen Children Undercounted. The I-213 lists "2 minor USC children." Petitioner in fact has three (3) U.S. citizen children. The number of qualifying children is a direct statutory element of "exceptional and extremely unusual hardship" under INA § 240A(b)(1)(D). An undercount of qualifying children directly diminishes the strength of the statutory case.

3. Mitigating Factors Assessment Was Fabricated. The I-213 states: "SOLAR has no known personal or family circumstances precluding appropriate law enforcement action." This assessment was made on September 24, 2025 — despite the existence of his spouse, three U.S. citizen children, and 30 years of U.S. residency. This is not a matter of missing information. ICE

officers interviewed Petitioner; these family ties were disclosed. Their omission is deliberate or grossly negligent and renders the entire administrative record suspect.

4. "Related Minors" Fields Left Blank. Despite Petitioner disclosing his children, the I-213's "Related Minor(s)" fields are all listed as "N/A." This means no family separation analysis was performed as required under ICE's own guidelines. Exhibit A, p. 2.

VI. THE LATE ARRIVAL OF THE BIA NOTICE OF APPEAL WAS CAUSED BY POSTAL DELAY AND DOES NOT DEFEAT HABEAS JURISDICTION.

The Notice of Appeal was mailed on January 27, 2026 — two days before the January 29 deadline. Petitioner was imprisoned and physically incapable of filing himself. His wife, acting without counsel in an emergency situation, sent the Notice by mail in adequate time. The two-day delay resulted from postal transit beyond Petitioner's control. Courts have consistently held this constitutes the kind of extraordinary circumstance supporting equitable tolling. *Holland v. Florida*, 560 U.S. 631, 645 (2010); *Pace v. DiGuglielmo*, 544 U.S. 408, 418 (2005). The BIA retains discretion to accept late appeals under 8 C.F.R. § 1003.38.

Furthermore, this Court's habeas jurisdiction under 28 U.S.C. § 2241 does not depend on BIA finality when constitutional claims are raised. *INS v. St. Cyr*, 533 U.S. 289, 305 (2001). The constitutional violations identified in this brief — unlawful mandatory detention, the inaccurate administrative record, and removal during active habeas proceedings — are all cognizable in habeas regardless of whether the BIA appeal was timely.

VII. PETITIONER'S WIFE HAS FULL NEXT-KIN STANDING AND THE PETITION IS PROPERLY BEFORE THIS COURT.

Next-of-kin standing in habeas proceedings is well established. *Hamdi v. Rumsfeld*, 542 U.S. 507, 554 (2004) (Souter, J., concurring); *Wilson v. Williams*, 961 F.3d 829, 838 (6th Cir. 2020) (en banc). Petitioner's wife filed the original petition while he was detained and physically unable to access the courts. Now that he has been forcibly removed to Mexico, she is his only avenue for legal representation before U.S. courts. Her standing is grounded in both legal precedent and the unavoidable necessity created by the government's own removal action.

CONCLUSION

For the foregoing reasons, Petitioner Alberto Solar Carmona respectfully requests that this Court DENY Respondent's Motion to Dismiss in its entirety and grant the following relief:

1. **ORDER** the Government to facilitate the immediate return of Alberto Solar Carmona to the United States and restore the status quo ante;
2. **ORDER** the Government to show cause why it should not be held in contempt for removing Petitioner during active federal habeas proceedings in violation of this Court's supervisory jurisdiction;
3. **DECLARE** that Petitioner was unconstitutionally denied a bond hearing as a member of the *Maldonado Bautista* Bond Eligible Class, in violation of INA § 1226(a) and the Fifth Amendment;
4. **ORDER** that upon return, Petitioner be afforded the individualized bond hearing he was unlawfully denied before any further removal proceedings may resume;

5. **ORDER** correction of the material inaccuracies in the administrative record (I-213), including Petitioner's marital status, correct number of U.S. citizen children, and family ties assessment; and

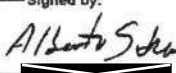
6. **GRANT** such other and further relief as this Court deems just and proper.

In the alternative, if the Court has any doubt as to the availability of relief, Petitioner respectfully requests the Court order briefing on that question and permit Petitioner to supplement the record regarding the bond denial, the inaccuracies in the government's record, and the circumstances of the removal.

PETITIONER'S SIGNATURE (VIA DOCUSIGN)

Petitioner (Pro Se):

Alberto Solar Carmona

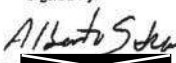
Signed by:



Alberto Solar Carmona | A# 
Petitioner

c/o Leticia Leon Santiago (Next Kin and Legal Representative)



Date Signed (via DocuSign): 2/23/2026

Signed by:



CERTIFICATE OF SERVICE

I, Leticia Leon Santiago, Next Kin representative for Petitioner Alberto Solar Carmona, hereby certify that on 2/23/2026, 2026, I caused a true and correct copy of the foregoing Brief in Opposition to Respondent's Motion to Dismiss to be served upon the following

party by United States Postal Service, first class, postage prepaid, and by electronic mail where available:

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Leticia Leon Santiago, Next Kin Representative for Petitioner

