

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION**

Jacobo Cruz Aguilar

Petitioner,

v.

Tony Normand, Warden, Folkston Main
Detention Center

Respondent.

Case No.:

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Jacobo Cruz Aguilar, a national of Mexico, is unlawfully detained in the physical and legal custody of Respondent at the Folkston ICE Processing Center in Folkston, Georgia. Exhibit 1.

2. Petitioner was previously released from Immigration and Customs Enforcement (“ICE”) custody on bond following an individualized custody determination by an immigration judge. Exhibit 2. On September 26, 2025, ICE rearrested Petitioner without a judicial warrant and has since detained him without affording him any individualized bond redetermination hearing.

3. Petitioner challenges the legality of his current detention on constitutional and statutory grounds. Although his detention has not yet exceeded six months, Respondent has categorically denied him access to bond proceedings based on agency decisions construing the detention statutes to eliminate immigration judge jurisdiction over custody determinations. As a result, Petitioner remains detained without any opportunity to demonstrate that he is neither a flight risk nor a danger to the community.

4. Petitioner's continued detention without access to a bond hearing violates the Due Process Clause of the Fifth Amendment and exceeds the authority granted by the Immigration and Nationality Act ("INA"). Respondent relies on *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), to assert that Petitioner is categorically barred from bond consideration. Consistent with that interpretation, on December 22, 2025, an Immigration Judge of the Stewart Immigration Court denied Petitioner's request for a custody redetermination for lack of jurisdiction, notwithstanding Petitioner's submission of contrary authority from the Middle District of Georgia recognizing the constitutional requirement of individualized custody review.

5. Any attempt to classify Petitioner as an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b), and to justify his continued confinement without bond on that basis, is legally erroneous. Petitioner's custody is governed by 8 U.S.C. § 1226(a), which expressly contemplates discretionary detention and individualized determinations regarding release on bond.

6. For the foregoing reasons, issuance of the writ of habeas corpus is warranted. Petitioner respectfully requests that this Court: (a) declare that Petitioner's continued detention without an individualized bond hearing is unlawful; (b) prohibit his transfer from this District while this Petition is pending; and (c) order the Respondent to provide a prompt bond hearing before an immigration judge authorized to order release, or, in the alternative, order Petitioner's immediate release from custody.

JURISDICTION

7. This action is brought pursuant to the United States Constitution and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 *et seq.*, and challenges the legality of Petitioner's ongoing detention under federal law.

7. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody in violation of the Constitution and laws of the United States, and under 28 U.S.C. § 1331 because this action presents federal questions. Jurisdiction is further supported by the INA, its implementing regulations, the Administrative Procedure Act (“APA”), 5 U.S.C. §§ 701–706, and the Suspension Clause of Article I, Section 9, Clause 2 of the Constitution.

8. Sovereign immunity does not bar this action. Congress has waived immunity for non-monetary claims seeking relief from unlawful agency action under 5 U.S.C. § 702, and federal courts may enjoin unconstitutional or ultra vires conduct by federal officers.

VENUE

9. Venue is proper in this District because Petitioner is detained at the Folkston Main Detention Center in Folkston, Georgia, within the territorial jurisdiction of this Court. Venue is also proper because Respondent is a federal officer of the United States and because a substantial part of the events or omissions giving rise to the claims occurred in this District. *See Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

10. Although 28 U.S.C. § 2241 does not impose a statutory exhaustion requirement, courts may consider whether a petitioner has pursued available administrative remedies.

11. Any prudential exhaustion requirement is satisfied or excused here. On December 22, 2025, Petitioner requested a custody redetermination hearing. The Immigration Judge denied the request for lack of jurisdiction, relying on *Matter of Yajure Hurtado*, and declined to conduct any individualized bond hearing.

12. Further administrative review would be futile. The Board of Immigration Appeals lacks authority to grant habeas relief or to adjudicate the constitutional claims raised in this

Petition. Because the Immigration Judge expressly disclaimed jurisdiction to consider bond, no administrative remedy is available to address the legality of Petitioner's detention.

13. Moreover, administrative remedies are inadequate to address Petitioner's claims. Petitioner challenges the legality of his continued detention under the Constitution and the Immigration and Nationality Act. Such claims fall squarely within the province of the federal courts.

PARTIES

14. Petitioner, Jacobo Cruz Aguilar, is a citizen and national of Mexico who is currently detained at the Folkston Main Detention Center in Folkston, Georgia.

15. Respondent is the Warden of the Folkston Main Detention Center, who has immediate physical custody of Petitioner and is the sole proper respondent in this action. *See Rumsfeld v. Padilla*, 542 U.S. 426 (2004).

STATEMENT OF FACTS

16. Petitioner entered the United States on or about June 20, 2004, at or near Douglas, Arizona, and has resided in United States continuously since that time.

17. On or about September 3, 2024, Petitioner was taken into ICE custody. Exhibit 4. On October 3, 2024, following a custody redetermination hearing, an Immigration Judge of the Stewart Immigration Court ordered Petitioner released on bond in the amount of \$5000, and Petitioner paid the bond and was released. Exhibit 2.

18. Prior to his subsequent rearrest, Petitioner had multiple forms of immigration relief pending, including a Form I-918, Petition for U Nonimmigrant Status. The United States Citizenship and Immigration Services (USCIS) determined that Petitioner established prima facie eligibility, placed him on the U-visa waiting list due to the statutory cap and granted him deferred

action. Exhibit 5. Petitioner also had a pending application for cancellation of removal under 8 U.S.C. § 1229b(b). Exhibit 6.

19. Despite his prior release on bond, the grant of deferred action, and his continued compliance with immigration proceedings, ICE rearrested Petitioner on September 26, 2025, without a judicial warrant and without making any individualized determination that he posed a flight risk or danger.

Denial of Bond Proceedings

20. On December 22, 2025, an Immigration Judge of the Stewart Immigration Court denied Petitioner's request for a custody redetermination hearing for lack of jurisdiction, citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Exhibit 3. The Immigration Judge declined to consider Petitioner's submission of multiple decisions from the Middle District of Georgia addressing individualized custody determinations. Petitioner has remained in Respondent's custody since that decision.

Warrantless Arrest in September 2025

21. On or about September 3, 2024, Petitioner was taken into ICE custody and placed in removal proceedings. On September 3, 2024, the Department of Homeland Security issued and served Petitioner with a Notice to Appear. Following a custody redetermination hearing, Petitioner posted bond pursuant to a bond order and was released.

22. While released on bond, Petitioner remained in the community and continued to pursue pending immigration relief. On September 26, 2025, ICE rearrested Petitioner without a judicial warrant.

23. Petitioner was taken back into custody and detained without any individualized custody determination after the time of rearrest. Petitioner is detained at the Folkston Main

Detention Center. Petitioner has not been provided with an opportunity for a bond hearing or an assessment of whether his continued detention is necessary.

24. Civil immigration detention is not intended to operate as punishment and must be justified by legitimate regulatory purposes, including an individualized assessment of flight risk or danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

25. At the time of Petitioner's rearrest on September 26, 2025, Petitioner had previously been released on bond by an Immigration Judge and had remained available to immigration authorities while pursuing pending immigration relief. No individualized determination was made at the time of rearrest that Petitioner was likely to evade immigration proceedings or posed a danger warranting immediate detention without a judicial warrant.

CLAIM FOR RELIEF

COUNT ONE

Violation of the Fifth Amendment Due Process Clause

26. The allegations in the above paragraph are realleged and incorporated herein.

27. The Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law. These protections extend to all persons within the United States, including noncitizens. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

28. Whether detention procedures satisfy due process is evaluated under *Mathews v. Eldridge*, 424 U.S. 319 (1976), which balances the private interest at stake, the risk of erroneous deprivation, and the government's interest.

29. Petitioner's liberty interest is substantial. He was previously released after an individualized determination of a \$5000 bond. He complied with immigration proceedings and continues to pursue pending humanitarian and discretionary relief.

30. The risk of erroneous deprivation of Petitioner's liberty is high. Petitioner was rearrested without a judicial warrant and without any individualized custody assessment. The subsequent categorical denial of a bond hearing eliminated any mechanism to evaluate whether detention is necessary in his particular circumstances.

31. The government's interest does not justify the denial of individualized process. Providing a bond hearing imposes minimal administrative burden and is the procedure Congress contemplated under 8 U.S.C. § 1226(a).

32. By detaining Petitioner without a warrant, without an individualized custody determination, and by categorically denying access to a bond hearing, Respondent has subjected Petitioner to arbitrary civil detention in violation of the Due Process Clause.

COUNT TWO
Detention Not Authorized by the Immigration and Nationality Act and Agency
Action Not in Accordance with Law
(5 U.S.C. § 706(2)(A) and 8 U.S.C. § 1226)

33. The allegations in the above paragraph are realleged and incorporated herein.

34. The Immigration and Nationality Act authorizes discretionary detention under 8 U.S.C. § 1226(a) and contemplates individualized custody determinations, including the release on bond.

35. Under the Administrative Procedure Act, a reviewing court must set aside agency action that is arbitrary, capricious, or not in accordance with law. 5 U.S.C. § 706(2)(A). An agency acts unlawfully when it fails to consider relevant factors, departs from the evidence before it, or applies a categorical rule that exceeds its statutory authority.

36. Here, Respondent has detained Petitioner without any individualized custody determination and without findings that he poses a risk of flight or danger. Petitioner was

previously released on bond following an individualized determination, and there has been no finding of any material change in circumstances warranting mandatory detention.

37. The categorical denial of bond consideration based solely on a jurisdictional interpretation rather than Petitioner's individual circumstances, is inconsistent with 8 U.S.C. § 1226(a) and exceeds the authority granted by Congress.

38. Respondent's continued detention of Petitioner is therefore unlawful under the Immigration and Nationality Act and the Administrative Procedure Act. Accordingly, habeas relief is warranted.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this Petition;
- B. Declare that Respondent's continued detention of Petitioner without an individualized bond hearing violates the Constitution and laws of the United States;
- C. Issue a Writ of Habeas Corpus ordering Respondent to release Petitioner immediately, or, in the alternative, to provide a prompt individualized bond hearing before an immigration judge authorized to order release;
- D. Prohibit Respondent from transferring Petitioner from this District without prior approval of the Court; and
- E. Grant any further relief this Court deems just and proper.

Respectfully Submitted,

This 7th day of January, 2026.

A handwritten signature in black ink, appearing to read "Rachel Effron Sharma", with a long horizontal flourish extending to the right.

Rachel Effron Sharma
DreamPath Law, LLC
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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

This 7th day of January, 2026.

A handwritten signature in black ink, appearing to read "Rachel Effron Sharma", with a long horizontal flourish extending to the right.

Rachel Effron Sharma
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