

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

ANTONIO JOSE LOPEZ PEREZ,

Petitioner,

v.

DAVID PAULK, in his official capacity as the
Warden of Irwin County Detention Center;
GEORGE STERLING, in his official capacity
as the Field Office Director of Enforcement and
Removal Operations, Atlanta Field Office,
Immigration and Customs Enforcement;
KRISTI NOEM, Secretary, U.S. Department of
Homeland Security; PAMELA BONDI, U.S.
Attorney General,

Respondents.

Case No. 7:26-cv-29

**PETITION FOR WRIT OF
HABEAS CORPUS**

INTRODUCTION

1. Petitioner Antonio Jose Lopez Perez (“Mr. Lopez”) is forced to file this habeas petition to obtain the bond hearing he is entitled to under 8 U.S.C. § 1226(a) because of Respondents’ unlawful and unprecedented policy to mandatorily detain any immigrant who is alleged to have entered the United States (“U.S.”) without inspection – including people who have resided in the United States for many years.

2. Mr. Lopez is an asylum-seeker from Venezuela who has been living in the U.S. and going through the asylum process since 2021. He was detained by U.S. immigration officials after entering the U.S. without inspection in 2021. Those same officials later released Mr. Lopez on his own recognizance. Since arriving in the U.S., Mr. Lopez has gained lawful employment, has not been charged or convicted of any crime, and has appeared at all required check-in appointments with Immigration and Customs Enforcement (“ICE”).

3. Despite having a pending asylum application and no material changes in his circumstances since he was released into the U.S. at the border, ICE agents nevertheless detained Mr. Lopez on January 20, 2026, during a check-in at the ICE field office in Charlotte, North Carolina.

4. Had ICE detained Mr. Lopez before September 5, 2025 – indeed, at any time during the past three decades – he would have been entitled to seek a bond hearing before an Immigration Judge (“IJ”) under 8 U.S.C. §1226(a) (Section 236(a) of the Immigration and Nationality Act (“INA”)). However, in a dramatic reimagining of the law, the Board of Immigration Appeals (“BIA”) issued a decision holding that an IJ has *no jurisdiction* to consider bond requests for any noncitizen who is “present in the United States without admission,” finding that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A). *Matter of Yajure Hurtado*, 29 I. & N.

Dec. 216, 220 (BIA 2025). Accordingly, Mr. Lopez is currently being subjected to mandatory detention due to ICE's and the BIA's erroneous interpretation of law (an interpretation that has been roundly rejected by habeas courts across the country).

5. This Court has already soundly rejected the BIA's flawed reasoning in numerous recent habeas decisions. *See, e.g., J.A.M. v. Streeval, et al.*, No. 4:25-CV-342 (CDL), 2025 WL 3050094, at *2-3 (M.D. Ga. Nov. 1, 2025); *see also* Order, ECF No. 12, *Patel v. Bondi et al.*, 4:25-cv-00277-CDL-AGH (Nov. 4, 2025); Order, ECF No. 5, *Garcia-Reynoso v. Streeval et al.*, 4:25-cv-00278-CDL-AGH (Nov. 4, 2025); Order, ECF No. 19, *Dominguez Rivera v. Streeval et al.*, 4:25-cv-00288-CDL-AGH (Nov. 4, 2025); Order, ECF No. 6, *Pascual Pedro v. Streeval et al.*, 4:25-cv-00290-CDL-AGH (Nov. 4, 2025); Order, ECF No. 7, *Hernandez Gomez v. Streeval et al.*, 4:25-cv-00291-CDL-AGH (Nov. 4, 2025); Order, ECF No. 13, *Paredes Alvarez v. Streeval et al.*, 4:25-cv-00296-CDL-AGH (Nov. 4, 2025); Order, ECF No. 4, *Guzman Paulino v. Sterling et al.*, 4:25-cv-00297-CDL-AGH (Nov. 4, 2025); Order, ECF No. 7, *Ospina Capera v. Sterling et al.*, 4:25-cv-00298-CDL-AGH (Nov. 4, 2025); Order, ECF No. 9, *Escobar Olivares v. Sterling et al.*, 4:25-cv-00299-CDL-AGH (Nov. 4, 2025); Order, ECF No. 9, *Merino Ortiz v. Sterling et al.*, 4:25-cv-00300-CDL-AGH (Nov. 4, 2025); Order, ECF No. 6, *Mauricio Lopez v. Sterling et al.*, 4:25-cv-00302-CDL-AGH (Nov. 4, 2025); Order, ECF No. 7, *Guerra Guzman v. Sterling et al.*, 4:25-cv-00305-CDL-AGH (Nov. 4, 2025); Order, ECF No. 6, *Quistian Vazquez v. Sterling et al.*, 4:25-cv-00306-CDL-AGH (Nov. 4, 2025); Order, ECF No. 5, *Diaz-Baron v. Sterling et al.*, 4:25-cv-00309-CDL-AGH (Nov. 4, 2025).

6. And yet, Respondents maintain their disingenuous interpretation of the law and keep Mr. Lopez needlessly detained hundreds of miles from his loved ones, without the

opportunity to seek review of his custody before a neutral arbiter. To correct this injustice, this Court should grant this petition and order a bond hearing for Mr. Lopez as soon as practicable.

JURISDICTION

7. Mr. Lopez is in the physical custody of Respondents. Mr. Lopez is detained at the Irwin County Detention Center (“ICDC”) in Ocilla, Georgia.

8. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Middle District of Georgia, the judicial district in which Mr. Lopez currently is detained.

11. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Georgia.

PARTIES

12. Mr. Lopez Antonio Jose Lopez Perez is a citizen of Venezuela who has been in immigration detention since January 20, 2026.

13. Respondent David Paulk is employed by the private prison company LaSalle Corrections as the Warden at ICDC, where Mr. Lopez is detained. He has immediate physical custody of Mr. Lopez. He is sued in his official capacity.

14. Respondent George Sterling is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division. As such, George Sterling is Mr. Lopez's immediate legal custodian and is responsible for Mr. Lopez's detention and removal. He is sued in his official capacity.

15. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act ("INA"), and oversees ICE, which is responsible for Mr. Lopez's detention. Ms. Noem has ultimate custodial authority over Mr. Lopez and is sued in her official capacity.

16. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

STATEMENT OF FACTS

17. Mr. Lopez is a 37-year-old native and citizen of Venezuela and a resident of North Carolina. *See* Ex. 1, Mr. Lopez's Employment Authorization Document.

18. Mr. Lopez fled Venezuela in or around August 2021 after suffering persecution there due to [REDACTED]

[REDACTED]

19. Upon arriving at the U.S.-Mexico border, Mr. Lopez entered the U.S. without inspection and surrendered himself to Border Patrol officials, who detained him and brought him to a processing center near Eagle Pass, Texas.

20. Upon information and belief, the border officials issued Mr. Lopez a Notice to Appear ("NTA") in 2021, charging him as removable under 8 U.S.C. § 1182(a)(6)(A)(i) for being

present in the United States without admission or parole. However, upon further information and belief, ICE never filed this NTA with the immigration court, meaning that his removal proceedings were never properly initiated (and no immigration court hearings were held) until this year.

21. ICE inexplicably kept Mr. Lopez detained for more than 40 days without a hearing before finally releasing him on his own recognizance pending the resolution of his removal proceedings in October 2021. *See* Ex. 2, Form I-220A, “Order of Release on Recognizance.” This order explicitly references “section 236 of the Immigration and Nationality Act,” 8 U.S.C. § 1226(a), as the authorization for his release. *Id.* at 1.

22. This order instructed Mr. Lopez, among other things, to “report for any hearing or interview as directed by” ICE or the immigration court and to “not violate any local, State or Federal laws or ordinances.” *Id.* at 1. The order also warned Mr. Lopez that “[a]ny violations of these conditions may result in you being taken into ICE custody[.]” *Id.* at 3. Mr. Lopez followed all of ICE’s instructions and reported to the ICE field office in Charlotte, North Carolina, several times over the next few years, without incident. *Id.* at 2.

23. Mr. Lopez secured counsel to help him prepare and file his Form I-589 Application for Asylum and Withholding of Removal and submitted his application to the regional asylum office in August 2022. Ex. 3, Receipt Notice for Asylum Application.

24. Mr. Lopez’s mother and sister also live in North Carolina, and his sister has also applied for asylum.

25. While waiting for the asylum office to schedule an interview on his asylum application, Mr. Lopez applied for and received employment authorization, which enabled him to work legally. He most recently renewed his work authorization in June 2025, and it is valid until June 2030. Ex. 1.

26. On January 20, 2026, Mr. Lopez presented himself at the ICE field office in Charlotte, North Carolina. During the appointment, ICE officers noticed that Mr. Lopez had no immigration court dates pending. Mr. Lopez confirmed this and told them that he had filed his asylum application with the asylum office, and that it was still pending. The ICE officials told him that they would be detaining him and would issue him a new NTA. When Mr. Lopez protested, the ICE officials said they were detaining him to “make things go faster.”

27. That day, ICE officials issued a new NTA against Mr. Lopez. It now charged him as removable under 8 U.S.C. § 1182(a)(6)(A)(i) (for being present without admission or parole) and § 1182(a)(7)(A)(i)(I) (not in possession of valid documents at time of entry). Ex. 4, Notice to Appear. ICE filed this NTA with the immigration court the next day, initiating removal proceedings against Mr. Lopez more than four years after he initially entered the U.S.

28. Following the check-in appointment, ICE took Mr. Lopez to Irwin County, hundreds of miles away from his loved ones.

29. Mr. Lopez’s first immigration court hearing is scheduled for February 13, 2026.

30. If he is not released on bond, Mr. Lopez will be forced to proceed with an expedited adjudication of his asylum application before an Immigration Judge, instead of attending a non-adversarial interview at the regional asylum office. Because he is so far from his family and community in North Carolina, it is unclear whether his sister and mother will be able to testify in support of his asylum hearing at Irwin County. His detention is also hampering his ability to communicate with his immigration counsel in preparation for the soon-to-be-scheduled asylum hearing.

CLAIMS FOR RELIEF
COUNT I
VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a)
Unlawful Denial of Release on Bond

1. Mr. Lopez incorporates by reference the allegations set forth in paragraphs 1-30 herein.

2. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to those arrested in the interior of the U.S. who are not “seeking admission.” Such noncitizens are detained under § 1226(a) and are eligible for release on bond.

3. Therefore, Mr. Lopez is neither an “applicant for admission” nor is he “seeking admission.” He is detained pursuant to § 1226(a) and eligible for bond. Indeed, ICE itself has previously treated Mr. Lopez as being detained under § 1226(a). *See* Ex. 2, Order of Release on Recognizance (“In accordance with section 236 of the [INA; 8 U.S.C. § 1226(a)] . . . , you are being released on your own recognizance[.]”).

4. DHS and the Immigration Courts have adopted a policy and practice of applying § 1225(b)(2) to people like Mr. Lopez.

5. The application of § 1225(b)(2) to Mr. Lopez unlawfully mandates his continued detention and violates the INA.

COUNT II
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
Procedural Due Process

31. Mr. Lopez incorporates by reference the allegations set forth in paragraphs 1-30 herein.

32. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals’ due process rights.

33. Respondents’ erroneous application of § 1225(b)(2)(A) to Mr. Lopez and deprivation of his ability to seek review of his custody before a neutral adjudicator violates his

due process rights under *Mathews* because his liberty interest and the risk of erroneous deprivation of his liberty posed by mandatory detention under § 1225(b)(2)(A) outweigh Respondents' minimal interest in detaining Mr. Lopez, who is not a flight risk or danger to the community.

PRAYER FOR RELIEF

WHEREFORE, Mr. Lopez prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Respondents not transfer Mr. Lopez outside of the jurisdiction of the U.S. District Court for the Middle District of Georgia during the pendency of this petition;
- c. Declare that Respondents' actions or omissions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution and/or the Immigration and Nationality Act;
- d. Issue a writ of habeas corpus requiring that, within one day, Respondents release Mr. Lopez;
- e. Alternatively, issue a writ of habeas corpus requiring Respondents to release Mr. Lopez unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- f. Award Mr. Lopez attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 3rd day of February, 2026.

Respectfully submitted,

/s/ F. Evan Benz

F. Evan Benz
GA Bar No. 820944
AMICA CENTER FOR IMMIGRANT RIGHTS
1025 Connecticut Ave. NW, Ste. 701
Washington, DC 20036
Tel: 202-869-3984
Fax: 202-331-3341
evan@amicacenter.org
Pro Bono Counsel for Petitioner

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: February 2, 2026

Respectfully submitted,

/s/ F. Evan Benz

Pro Bono Counsel for Petitioner

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system, which will send a notice of electronic filing (NEM) to the U.S. Attorney's Office for the Middle District of Georgia.

Dated: February 3, 2026

Respectfully submitted,

/s/ F. Evan Benz

Pro Bono Counsel for Petitioner