

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION**

DIANA LAURA SOTO
FERNANDEZ,
Petitioner,

vs.

JASON STREEVAL in his official
capacity as Warden of Stewart County
Detention Center; TODD BLANCHE,
in his official capacity as the U.S.
Attorney General; and U.S.
DEPARTMENT OF HOMELAND
SECURITY;
Defendants.

Civil Action No.:

HEARING REQUESTED

PETITION FOR *WRIT OF HABEAS CORPUS* BY AN ALIEN DETAINEE

To the Honorable Judges of this Court:

Petitioner, Diana Laura Soto Fernandez, respectfully brings this Petition for *Writ of Habeas Corpus* seeking relief to remedy her unlawful detention.

I. FACTUAL BACKGROUND

1. Petitioner, Diana Laura Soto Fernandez, is a Mexican citizen who entered the United States in 2002 and has resided continuously here since then. She has no criminal history besides traffic citations and has 3 U.S. citizen children, ages 10, 5, and 2, who depend on her. Her alien registration number is 

2. U.S. Immigration and Customs Enforcement (ICE) arrested Petitioner on or about April 6, 2026, in Myrtle Beach, South Carolina, following an arrest for driving without a license, and transported her to the Stewart County Detention Center (SCDC) pending removal proceedings.

3. On September 5, 2025, the Board of Immigration Appeals (“BIA”) issued a precedential decision in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), reclassifying noncitizens present in the United States without lawful admission as “applicants for admission” under 8 U.S.C. § 1225(b)(2), thereby subjecting them to mandatory detention without bond hearings rather than classifying them under 8 U.S.C. § 1226(a), which affords the opportunity to seek bond. This marked a departure from decades of agency practice and settled judicial interpretation.

4. Petitioner is erroneously and unconstitutionally being denied the opportunity to seek bond based on Matter of Yajure Hurtado. At the time of her arrest by ICE, Petitioner was not seeking admission to the United States and, therefore, could not, as a matter of law, be classified as an applicant for admission under § 1225(b)(2).

5. Petitioner is seeking an order declaring § 1225(b)(2) inapplicable to her and mandating a § 1226(a) bond hearing.

6. Petitioner's detention is also in violation of her due process and other constitutional rights, as Petitioner has not been given notice and an opportunity to be heard about her detention and her continued detention serves no legitimate governmental interest.

7. Due to irreparable harm to her U.S.-citizen children from prolonged separation, she requests an order to show cause within three days under 28 U.S.C. § 2243 and reserves the right to seek a temporary restraining order under Fed. R. Civ. P. 65(b).

8. The Court should expeditiously grant this petition. Because Defendants are detaining Petitioner in violation of law, the Court should accordingly order that Defendants provide her with a bond hearing within 7 days or release her.

II. JURISDICTION AND VENUE

9. This action arises under the United States Constitution, the Immigration and Nationality Act of 1952 (INA), 8 U.S.C. § 1101 *et seq.*, and the Administrative Procedure Act (APA), 5 U.S.C. § 701 *et seq.*

10. This Court has jurisdiction to grant a *writ* of *habeas corpus* under 28 U.S.C. § 2241, Article I, § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), and the Fifth Amendment's Due Process Clause. The Court also has federal question

jurisdiction under 28 U.S.C. § 1331, mandamus jurisdiction under 28 U.S.C. § 1361, and authority to issue declaratory and injunctive relief under 28 U.S.C. §§ 2201–2202 and the All Writs Act, 28 U.S.C. § 1651.

11. The Court has jurisdiction over all non-*habeas* claims under 28 U.S.C. §§ 1331 and 1346, and 5 U.S.C. § 702, which authorizes judicial review of final agency action. The Court may also set aside unlawful or unconstitutional action under 5 U.S.C. § 706(2)(A)–(E). Here, the BIA's decision in Matter of Yajure Hurtado, *supra*, constitutes final agency action subject to APA review, as it reinterprets INA detention provisions and binds immigration judges nationwide, directly affecting Petitioner's custody.

12. Petitioner challenges only the statutory applicability of § 1225(b)(2), not its implementation or regulations. Thus, 8 U.S.C. § 1252(e)(3), which limits review of such implementation to the District of Columbia, does not apply. J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 3-4.

13. Petitioner is detained at the Stewart County Detention Center in Lumpkin, Georgia, which lies within the Middle District of Georgia, Columbus Division. Venue is therefore proper pursuant to 28 U.S.C. § 1391(b)–(e).

III. PARTIES

14. Petitioner, Diana Laura Soto Fernandez, is a Mexican citizen currently detained by Defendants at the SCDC. Her alien registration number is 

15. Defendant Jason Streeval is the Warden of the Stewart County Detention Center and is being sued in his official capacity. He is responsible for the operations of the SCDC and has control over Petitioner as her immediate custodian.

16. Defendant Todd Blanche is the Acting U.S. Attorney General and is being sued in his official capacity.

17. U.S. Department of Homeland Security (“DHS”) is a governmental agency of the United States charged, *inter alia*, with the implementation of immigration law. It is a legal custodian of Petitioner.

IV. CLAIM FOR RELIEF – *WRIT OF HABEAS CORPUS*

18. The Constitution guarantees the right to the *writ of habeas corpus* to every individual detained within the United States, including immigration-related detention. Zadvydas v. Davis, 533 U.S. 678, 687 (2001). A *writ of habeas corpus* must be granted if the person is in custody in violation of the Constitution or

federal law. 28 U.S.C. § 2241(c)(3). That is the case here, as Petitioner is being detained based on an incorrect application of federal law and in violation of her due process rights.

19. The Court should grant the petition right away, as the legal issues presented by this Petition have already been resolved by this Court in the J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 7-10 (M.D. Ga. Nov. 1, 2025).

A. Count 1: Unlawful Detention Under 8 U.S.C. § 1225(b)(2)

20. Petitioner's detention is in violation of law because she is being erroneously subject to mandatory detention as classified as an alien seeking admission under 8 U.S.C. § 1225(b)(2). That provision applies only to an alien seeking admission, 8 U.S.C. § 1225(b)(2)(A), not aliens like Petitioner, who have been present in the United States for several years and are not seeking entry. J.A.M. v. Streeval, No. 4:25-cv-342 (CDL), slip op. at 7-10 (M.D. Ga. Nov. 1, 2025).

21. Two statutes primarily govern the detention of aliens in removal proceedings, 8 USC §§ 1225 and 1226. § 1225 addresses when mandatory detention applies, and it covers aliens who, *inter alia*, are "seeking admission" (emphasis added). On the other hand, § 1226 provides discretionary release for aliens who are neither a flight risk nor a danger to the community.

22. Since §§ 1225 and 1226 were enacted in 1996, Defendants have afforded the procedural safeguards of § 1226 to aliens who, like Petitioner, have been apprehended in the interior of the United States and has not classified such individuals as aliens seeking admission.

23. In July of 2025, Defendants changed course abruptly and began alleging that all aliens who entered without being admitted or inspected are to be considered aliens seeking admission. On September 5, 2025, Defendants' new position was made binding upon Immigration Judges with the issuance of Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025).

24. This interpretation, which is contrary to decades of precedent, clear statutory text, regulations, and the government's own long-standing practice, has already been rejected by district courts nationwide, including this Honorable Court in J.A.M. v. Streeval, 4:25-cv-00342-CDL-AGH (M.D. Ga. Nov. 1, 2025).

25. Petitioner is not an alien seeking admission. Under 8 U.S.C. § 1226(a), Petitioner is entitled to a prompt, individualized bond hearing before an Immigration Judge at which the government bears the burden of proving that continued detention is necessary to serve a legitimate purpose such as preventing flight or protecting the community.

26. Petitioner thus merits immediate relief in the form of a bond hearing with the Executive Office of Immigration Review (Immigration Court).

B. Count II: Unlawful Detention in Violation of Petitioner's Due Process Rights

27. Petitioner's detention violates her substantial due process rights under the Fifth Amendment of the U.S. Constitution, which guarantees that no person shall be deprived of liberty without due process of law. Arbitrary, unreviewable civil detention is categorically unconstitutional. The Due Process Clause requires that any deprivation of Petitioner's liberty serve, at minimum, a legitimate purpose. *See Reno v. Flores*, 507 U.S. 292, 302-306 (1993)(explaining that infringements on fundamental liberty rights violate due process unless they are "narrowly tailored to serve a compelling state interest").

28. Civil detention is permissible only in narrow, non-punitive circumstances where the government demonstrates a compelling justification that outweighs an individual's liberty interest. Here, Defendants have no special justification. Petitioner has no criminal record, poses no danger, and is not a flight risk. Continued incarceration under these circumstances bears no reasonable relation to any regulatory goal and therefore violates the substantive component of the Fifth Amendment's Due Process Clause.

29. Petitioner's detention also violates the procedural due process guarantees of the Fifth Amendment. The government has deprived her of liberty, the most fundamental of all interests, without providing any meaningful opportunity to contest that deprivation. She has received no hearing before a neutral decision-maker, no notice of the factual basis for her detention, and no chance to present evidence of her family ties, work history, or lack of danger to the community. Under Mathews v. Eldridge, 424 U.S. 319 (1976), such an absolute denial of process fails every prong of the balancing test: the private interest at stake is immense; the risk of erroneous deprivation is total where no procedure exists; and the government's burden in providing a simple bond hearing is minimal.

30. By refusing to provide even the minimal safeguards Congress built into § 1226(a), Defendants have acted in a manner that is arbitrary, capricious, and inconsistent with the basic promise of due process, that the government may not imprison a person first and ask questions later.

31. A *writ of habeas corpus* should issue requiring Defendants to provide Petitioner with a bond hearing in Immigration Court.

WHEREFORE, Petitioner prays this Honorable Court:

- (a) Assume jurisdiction over this matter;
- (b) Order that Petitioner shall not be transferred outside the Middle District of Georgia while this habeas petition is pending;
- (c) Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action for *habeas corpus*;
- (d) Issue and order directing Defendants to show cause why a *writ* should not be granted within three days;
- (e) Issue a *writ* of *habeas corpus* ordering Defendants to provide Petitioner with a bond hearing pursuant to § 1226(a) within seven days;
- (f) Declare that Petitioner's detention is unlawful;
- (g) Grant such other and further relief as this Court deems proper under the circumstances; and
- (h) Grant reasonable attorney's fees and costs of Court to Petitioner under the Equal Access to Justice Act.

Respectfully submitted this April 8, 2026.

/s/ Giovanna Andrea Holden
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