

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Fernando Martinez Salazar,

Petitioner,

v.

Jason STREEVAL, *in his official capacity as
Warden of Stewart Detention Center*, and Todd
LYONS, *in his official capacity as Acting
Director of Immigration and customs
Enforcement*, and Ladeon FRANCIS, *Field
Office Director ICE Atlanta Field Office*, and
Markwayne MULLIN, *Secretary of Homeland
Security*, and Todd Blanche, *in his official
capacity as Acting Attorney General, United
States Department of Justice*

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

Alien File No.



INTRODUCTION

1
2 1. Petitioner, Fernando Martinez Salazar, is a twenty-six-old native and citizen of
3 Mexico who entered the United States without inspection in 2016 when he was around 15 or 16
4 years old. He has lived in the United States since that time.

5 2. Petitioner is in the physical custody of Respondents at the Stewart Detention
6 Center in Lumpkin, Georgia. He now faces unlawful detention because the Department of
7 Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have
8 concluded Petitioner is subject to mandatory detention.

9 3. Upon information and belief, Petitioner is charged with, inter alia, having entered
10 the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

11 4. Upon information and belief, based on this allegation in Petitioner's removal
12 proceedings, DHS denied the Petitioner release from immigration custody, consistent with a new
13 DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE)
14 employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the
15 United States without admission or inspection—to be subject to detention under 8 U.S.C. §
16 1225(b)(2)(A) and therefore ineligible to be released on bond.

17 5. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or
18 Board) issued a precedent decision, binding on all immigration judges, holding that an
19 immigration judge has no authority to consider bond requests for any person who entered the
20 United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).
21 The Board determined that such individuals are subject to detention under 8 U.S.C. §
22 1225(b)(2)(A) and therefore ineligible to be released on bond.

1 6. Petitioner's detention on this basis violates the plain language of the Immigration
2 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
3 previously entered and are now residing in the United States. Instead, such individuals are
4 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
5 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
6 having entered the United States without inspection.

7 7. Respondents' new legal interpretation is plainly contrary to the statutory
8 framework and contrary to decades of agency practice applying § 1226(a) to people like
9 Petitioner.

10 8. Also, on December 18, 2025, the District Court of Central California entered
11 Final Judgment in the nationwide class action *Maldonado Bautista v. Santacruz*. See *Maldonado*
12 *Bautista v. Santacruz*, 2025 U.S. Dist. LEXIS 262265 (C.D. Cal. Dec. 18, 2025). This final
13 judgment certified Bond Eligible Class members and declared that *Yajure-Hurtado* was no
14 longer tenable. See *Order Granting in Part and Denying in Part Petitioner's Ex Parte*
15 *Application for Reconsideration or Clarification* [DKT. No. 87], 5:23-cv-01873-SSS-BFM, EC
16 No. 92 at 6 (C.D. Cal. Dec. 18, 2025). The judgment holds that Bond Denial Class members are
17 detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond
18 under § 1225(b)(2)(A). The District Court Order granting petitioners' motion to enforce the
19 judgment was recently temporarily stayed. See *Order Granting Administrative Stay*, *Maldonado*
20 *Bautista v. U.S. Dep't of Homeland Security*, DKT. No. 5.1], No. 26-1044 (9th Cir. Mar. 6,
21 2026).

22 9. The Court should order Petitioner's release unless Respondents provide a bond
23 hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

10. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Stewart Detention Center in Lumpkin, Georgia.

11. 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).

12. 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

13. 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 within the Columbus Division, the judicial district in which Petitioner currently is detained.

14. Respondent Streeval is Petitioner's immediate custodian.

15. 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.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court should grant the petition for writ of habeas corpus forthwith, as the legal issues presented have already been resolved by this Court, which has recognized that most similarly situated petitioners are entitled to the relief sought. *See e.g. J.A.M. v. Streeval, No.*

1 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-
2 cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

3 17. Habeas corpus is “perhaps the most important writ known to the constitutional
4 law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or
5 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). “The application for the
6 writ usurps the attention and displaces the calendar of the judge or justice who entertains it and
7 receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208
8 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

9 PARTIES

10 18. Petitioner Fernando Martinez Salazar is a citizen and national of Mexico who has
11 been in immigration detention since approximately April 2, 2026. After detaining Petitioner,
12 ICE did not set bond and Petitioner is unable to obtain review of his custody by an immigration
13 judge, pursuant to the Board’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA
14 2025). Petitioner is currently detained at the Stewart Detention Center in Lumpkin, Georgia.

15 19. Respondent Jason Streeval is the Warden of the Stewart Detention Center. As
16 such, Respondent Streeval is responsible for the operation of the Detention Center where
17 Petitioner is detained. As ICE contracts with prisons such as the Stewart Detention Center to
18 house immigration detainees such as the Petitioner, Respondent Streeval has immediate physical
19 custody of the Petitioner.

20 20. Respondent Todd Lyons is the Director of the Field Office of ICE’s Enforcement
21 and Removal Operations division. As such, Respondent Lyons is being sued in his official
22 capacity.

26. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

27. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

28. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

FACTS

29. Petitioner is a twenty-six-old native and citizen of Mexico. *See Exhibit 1, Petitioner's Passport.*

30. Petitioner entered the United States without inspection in 2016 when he was 15 or 16 years old and has resided in the United States since that time. He is in a committed relationship with a United States Citizen, and the couple had planned to marry in August. Petitioner and his partner are the parents of a four-year-old United States Citizen daughter and both work together to support the family. *See Exhibits 2 & 3, Daughter's birth certificate and information regarding partner's United States Citizenship.*

31. Petitioner was placed in removal proceedings after being stopped for driving without a valid driver's license in Cumming, Georgia. He was subsequently transferred to the Stewart Detention Center. *See Exhibit 4, Online Detainee Locator.*

32. Petitioner has strong family and community ties. He has lived in the United States since he was a teenager, is in a committed relationship with a U.S. citizen, is the father of a U.S. citizen child, and has developed deep relationships and connections within his community.

33. Petitioner is neither a flight risk nor a danger to the community. He lives with his partner, who has a valid driver's license and has arranged her schedule to ensure that she will

1 personally drive him everywhere he needs to go, including but not limited to, all court hearings,
2 appointments, and any other required appearances.

3 34. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider
4 Petitioner's bond request.

5 35. As a result, Petitioner remains in detention. Without relief from this court, he
6 faces the prospect of months, or even years, in immigration custody, separated from his family
7 and community.

8 **CLAIMS FOR RELIEF**

9 **COUNT 1** 10 **Violation of the INA:**

11 36. Petitioner repeats, re-alleges, and incorporates by reference each and every
12 allegation in the preceding paragraphs as if fully set forth herein.

13 37. Petitioner is entitled to consideration for release on bond under 8 U.S.C.
14 § 1226(a).

15 38. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is
16 subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory
17 rights under the INA.

18 **COUNT II**

19 **Violation of the Bond Regulations**

20 39. Petitioner incorporates by reference the allegations of fact set forth in preceding
21 paragraphs.

22 40. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-
23 Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA.
24 Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the

1 agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present
2 without having been admitted or paroled (formerly referred to as [noncitizens] who entered
3 without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323
4 (emphasis added). The agencies thus made clear that individuals who had entered without
5 inspection were eligible for consideration for bond and bond hearings before Immigration Judges
6 under 8 U.S.C. § 1226 and its implementing regulations.

7 41. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and
8 practice of applying § 1225(b)(2) to individuals like Petitioner.

9 42. The application of § 1225(b)(2) to Petitioner unlawfully mandates Petitioner’s
10 continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

11 COUNT III

12 **Violation of Fifth Amendment Right to Due Process**

13 43. Petitioner repeats, re-alleges, and incorporates by reference each and every
14 allegation in the preceding paragraphs as if fully set forth herein.

15 44. The government may not deprive a person of life, liberty, or property without due
16 process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government
17 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
18 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

19 45. Petitioner has a fundamental interest in liberty and being free from official
20 restraint.

21 46. The government’s detention of Petitioner without a bond redetermination hearing
22 to determine whether he is a flight risk or danger to others violates Petitioner’s right to due
23 process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief.

- 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. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- e. Declare that Petitioner's detention is unlawful;
- f. Award Petitioner 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 13th day of April of 2026.

By: /s/ Rebecca Rojas
Rebecca Rojas, Esq.
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3 I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition
4 for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and
5 belief.

6 /s/ Rebecca Rojas

Date: April 13, 2026

CERTIFICATE OF SERVICE

This is to certify that on this 13th day of April 2026, the foregoing **PETITION FOR A WRIT OF HABEAS CORPUS** and its accompanying Exhibits were submitted to the Federal District Court for the Middle District of Georgia to be served upon Respondent's in accordance with established court procedure

The Rojas Firm, LLC

/s/ Rebecca Rojas

Rebecca Rojas, Esq.

GA Bar #: 306532

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List of Exhibits

<u>Exhibit</u>	<u>Description</u>
1.	<i>Petitioner's Passport</i>
2.	<i>Daughter's Birth Certificate</i>
3.	<i>Partner's driver's license, proof of US citizenship and support letter</i>
4.	<i>Online Detainee Locator</i>