

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

JUAN LOPEZ TOMAS,

Petitioner,

v.

JASON STREEVAL, in his official
capacity as Warden of Stewart Detention
Center; LADEON FRANCIS, in his
official capacity as Field Office Director
of Enforcement and Removal
Operations, Atlanta Field Office,
Immigration and Customs Enforcement;
MARKWAYNE MULLIN, in his
official capacity as Secretary, U.S.
Department of Homeland Security;
TODD BLANCHE, in his official
capacity as acting U.S. Attorney General,

Respondents.

Case No.

**PETITION FOR WRIT OF
HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Juan Lopez Tomas is in the physical custody of Respondents at the Stewart Detention Center located in Lumpkin, Georgia. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. Petitioner is likely to be charged with entering the United States without admission or inspection. *See* 8 U.S.C. § 1182(a)(6)(A)(i).

3. Based on Petitioner's manner of entry, DHS has denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

4. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act ("INA"). Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a),

1 that allows for release on conditional parole or bond. That statute expressly applies
2 to people who, like Petitioner, are inadmissible for having entered the United
3 States without inspection.

4
5 5. Respondents' new legal interpretation is plainly contrary to the
6 statutory framework and contrary to decades of agency practice applying § 1226(a)
7 to people like Petitioner.

8 6. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he
9 be released immediately. In the alternative, Petitioner requests that Respondents
10 provide a new custody redetermination hearing under § 1226(a) within seven days
11 whereby the Immigration Judge does have jurisdiction over Petitioner's custody
12 redetermination request, or else release Petitioner after 7 days have passed.

14 JURISDICTION

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

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

20 9. This Court may grant relief pursuant to 28 U.S.C. § 2241, the
21 Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28
22 U.S.C. § 1651.
23
24

VENUE

10. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500 (1973), venue lies with the district court having jurisdiction over the custodian of the detainee. In the case at hand, venue is proper with the United States District Court for the Middle District of Georgia, the judicial district encompassing the Stewart Detention Center in Lumpkin, Georgia in Stewart County, Georgia.

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.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith”, unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

13. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all

1 cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963)
2 (emphasis added).

3
4 **PARTIES**

5 14. Petitioner Juan Lopez Tomas is a citizen of the Guatemala who
6 entered the United States in or around 2009. Petitioner is currently detained at the
7 Stewart Detention Center in the custody, and under the direct control, of
8 Respondents and their agents. After arresting Petitioner, ICE did not set bond.

9 15. Respondent Jason Streeval is employed by CoreCivic as Warden of
10 the Stewart Detention Center where Petitioner is detained. He has immediate
11 physical custody of Petitioner. He is sued in his official capacity.
12

13 16. Respondent LaDeon Francis is the Director of the Atlanta Field
14 Office of ICE’s Enforcement and Removal Operations division. As such, LaDeon
15 Francis is Petitioner’s immediate custodian and is responsible for Petitioner’s
16 detention and removal. He is named in his official capacity.

17 17. Respondent Markwayne Mullin is the Secretary of the Department of
18 Homeland Security. He is responsible for the implementation and enforcement of
19 the Immigration and Nationality Act (INA), and oversees ICE, which is
20 responsible for Petitioner’s detention. Mr. Mullin has ultimate custodial authority
21 over Petitioner and is sued in his official capacity.
22
23
24

1 18. Respondent Todd Blanche is the acting Attorney General of the
2 United States. He is responsible for the Department of Justice, of which the
3 Executive Office for Immigration Review and the immigration court system it
4 operates is a component agency. He is sued in his official capacity.
5

6 LEGAL FRAMEWORK

7 19. The INA prescribes three basic forms of detention for the vast
8 majority of noncitizens in removal proceedings.

9 20. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in
10 standard removal proceedings before an Immigration Judge. *See* 8 U.S.C. § 1229a.
11 Individuals detained pursuant to § 1226(a) are generally entitled to a bond hearing
12 at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while
13 noncitizens who have been arrested, charged with, or convicted of certain crimes
14 are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).
15

16 21. Second, the INA provides for mandatory detention of noncitizens
17 subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent
18 arrivals seeking admission referred to under § 1225(b)(2).
19

20 22. Last, the INA also provides for detention of noncitizens who have
21 been ordered removed, including individuals in withholding-only proceedings, *see*
22 8 U.S.C. § 1231(a)–(b).
23
24

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

3 24. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted
4 as part of the Illegal Immigration Reform and Immigrant Responsibility Act
5 (IIRIRA) of 1996, Pub. L. No. 104--208, Div. C, §§ 302--03, 110 Stat. 3009-546,
6 3009--582 to 3009--583, 3009--585. Section 1226(a) was most recently amended
7 earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

9 25. Following the enactment of the IIRIRA, EOIR drafted new
10 regulations explaining that, in general, people who entered the country without
11 inspection were not considered detained under § 1225 and that they were instead
12 detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens;
13 Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum
14 Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

16 26. Thus, in the decades that followed, most people who entered without
17 inspection and were placed in standard removal proceedings received bond
18 hearings, unless their criminal history rendered them ineligible pursuant to 8
19 U.S.C. § 1226(c). That practice was consistent with many more decades of prior
20 practice, in which noncitizens who were not deemed “arriving” were entitled to a
21 custody hearing before an Immigration Judge or other hearing officer. *See* 8 U.S.C.
22

1 § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that
2 § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).
3

4 27. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new
5 policy that rejected well-established understanding of the statutory framework and
6 reversed decades of practice.

7 28. The new policy, entitled “Interim Guidance Regarding Detention
8 Authority for Applicants for Admission,”¹ claims that all persons who entered the
9 United States without inspection shall now be subject to a mandatory detention
10 provision under § 1225(b)(2)(A). This interpretation of the statute applies
11 regardless of when a person is apprehended and affects those who have resided in
12 the United States for months, years, and even decades.
13

14 29. On September 5, 2025, the BIA adopted this same position in a
15 published decision, *Matter of Yajure Hurtado*. There, the Board held that all
16 noncitizens who entered the United States without admission or parole are subject
17 to mandatory detention under § 1225(b)(2)(A) and are therefore ineligible for bond
18 hearings.
19

20 30. Since Respondents adopted their new policies, dozens of federal
21 courts have rejected their new interpretation of the INA’s detention authorities.
22

23
24 ¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

1 Indeed, this Court has followed suit in numerous recent decisions, ultimately
2 issuing a standing order authorizing the Magistrate Judges to issue orders granting
3 petitions for writs of habeas corpus so long as they fall within the parameters of
4 *J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1,
5 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga.
6 Nov. 24, 2025).

8 31. Even before ICE or the BIA introduced these nationwide policies,
9 Immigration Judges in the Tacoma, Washington, immigration court stopped
10 providing bond hearings for persons who entered the United States without
11 inspection and who have since resided here. There, the U.S. District Court in the
12 Western District of Washington found that such a reading of the INA is likely
13 unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not
14 apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779
15 F. Supp. 3d 1239 (W.D. Wash. 2025).

17 32. Subsequently, several courts have adopted the same reading of the
18 INA's detention authorities and rejected ICE and EOIR's new interpretation. Most
19 notably, the Central District of California declared that indefinite detention of
20 individuals such as Plaintiff is unlawful; and vacated the underlying DHS Policy
21 that the Government relied on to continue detaining individuals like Plaintiff. *See*
22 *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d -
23
24

1 ---, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). On February 18, 2026, District
2 Court Judge Sunshine Suzanne Sykes of the Central District of California granted a
3 motion to enforce the court's previous decision and further issued an order
4 vacating the Board of Immigration Appeal's decision in *Matter of Yajure Hurtado*.
5 See *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2026 WL
6 468284 (C.D. Cal. Feb. 18, 2026). Unfortunately, the Ninth Circuit Court of
7 Appeals temporarily stayed the district court's 12/18/25 declaratory judgment
8 and 02/18/26 order pending a ruling on the government's emergency motion for a
9 stay pending appeal.
10

11 33. Courts have uniformly rejected DHS's and EOIR's new interpretation
12 because it defies the INA. As the *Maldonado Bautista* court and others have
13 explained, the plain text of the statutory provisions demonstrates that § 1226(a),
14 not § 1225(b), applies to people like Petitioner.
15

16 34. Section 1226(a) applies by default to all persons "pending a decision
17 on whether the [noncitizen] is to be removed from the United States." These
18 removal hearings are held under § 1229a, to "decid[e] the inadmissibility or
19 deportability of a[] [noncitizen]."
20

21 35. The text of § 1226 also explicitly applies to people charged with being
22 inadmissible. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such
23 people makes clear that, by default, such people are afforded a bond hearing under
24

1 subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress
2 creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent
3 those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp.
4 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559
5 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

7 36. Section 1226 therefore leaves no doubt that it applies to people who
8 face charges of being inadmissible to the United States.

9 37. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry
10 or who recently entered the United States. The statute’s entire framework is
11 premised on inspections at the border of people who are “seeking admission” to the
12 United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained
13 that this mandatory detention scheme applies “at the Nation’s borders and ports of
14 entry, where the Government must determine whether a[] [noncitizen] seeking to
15 enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

17 38. Accordingly, the detention provision of § 1225(b)(2)(A) does not
18 apply to people like Petitioner, who have already entered and were residing in the
19 United States at the time they were apprehended.

21 **FACTS**

22 39. Petitioner has resided in the United States since approximately 2009.
23
24

1 40. Petitioner lives with his long-term partner and their children. There
2 are six children living in the home with them, two of which are U.S. Citizens.

3 41. Petitioner is prima facie eligible for relief from removal by filing
4 Form EOIR-42B Cancellation of Removal for Certain Nonpermanent Residents
5 based on his two biological U.S. Citizen children.
6

7 42. According to Petitioner, on or about March 27, 2026, he was stopped
8 in Chastworth, GA and asked to present his license. He was arrested and taken to
9 jail before being transferred to DHS ICE custody. Petitioner is now detained by
10 DHS at the Stewart Detention Center in Lumpkin, Georgia.
11

12 43. The Petitioner maintains a fixed address as he lives with his partner and
13 children. Petitioner has significant ties to the community and is not a flight risk.

14 44. To the knowledge of undersigned counsel, Petitioner has not been
15 arrested for any dangerous or violent criminal violations. As such, Petitioner is not
16 a danger to the community.

17 45. Following Petitioner's arrest and transfer to the Stewart Detention
18 Center, ICE issued a custody determination to continue Petitioner's detention
19 without an opportunity to post bond or be released on other conditions.
20

21 46. Presently in practice, following grants of habeas relief, custody
22 redetermination proceedings frequently fail to provide the individualized analysis
23 contemplated by the Court's order, instead resulting in summary denials based on
24

1 generalized findings of flight risk. Without relief from this court, specifically in the
2 form of immediate release as requested, Petitioner faces the prospect of months, or
3 even years, in immigration custody, separated from his family and community.
4

5 **CLAIMS FOR RELIEF**

6 **COUNT I**

7 **Violation of the Immigration and Nationality Act**

8
9 47. Petitioner incorporates by reference the allegations of fact set forth in
10 the preceding paragraphs.

11 48. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not
12 apply to all noncitizens residing in the United States who are subject to the grounds
13 of inadmissibility. As relevant here, it does not apply to those who previously
14 entered the country and have been residing in the United States for years prior to
15 being apprehended and placed in removal proceedings by Respondents. Such
16 noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), §
17 1226(c), or § 1231.
18

19 49. The application of § 1225(b)(2) to Petitioner unlawfully mandates his
20 continued detention and violates the INA.
21
22
23
24

COUNT II

Violation of the Bond Regulations

50. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

51. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before Immigration Judges under 8 U.S.C. § 1226 and its implementing regulations.

52. Nonetheless, EOIR has a policy and practice of applying § 1225(b)(2) to individuals like Petitioner.

53. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III

Violation of Fifth Amendment Right to Due Process

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

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

56. Petitioner has a fundamental interest in liberty and being free from official restraint.

57. The government’s detention of Petitioner without a custody redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

58. Petitioner has a right to a fair and impartial bond hearing.

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 Court of Georgia while this habeas petition is pending;

- 1 c. Issue an Order to Show Cause ordering Respondents to show cause
2 why this Petition should not be granted within three days;
3
4 d. Issue a Writ of Habeas Corpus requiring that Respondents
5 immediately release Petitioner; or, in the alternative, release Petitioner
6 if they do not provide Petitioner with a bond hearing pursuant to 8
7 U.S.C. § 1226(a) within seven days of the order;
8
9 e. Declare that Petitioner's detention is unlawful.
10
11 f. Award Petitioner attorney's fees and costs under the Equal Access to
12 Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any
13 other basis justified under law; and
14
15 g. Grant any other and further relief that this Court deems just and
16 proper.

17 It is RESPECTFULLY SUBMITTED this 15th day of April, 2026.

18 The Kennedy Immigration Firm, LLC
19 /s/Alexandra H. Bradley
20 Alexandra H. Bradley, Esq.
21 *Attorney for Petitioner*
22 GA Bar #592597
23 Address: 1899 Powers Ferry Road, Suite 445
24 Atlanta, GA 30339
Tel: (770) 303-8212
Email: alex@kennedyimmigrationfirm.com