

Dale Anthony Calomeni

DETAINED

Georgia Bar No. 105311 / EOIR ID DP367083

Attorneys for the Petitioner

Calomeni Law Offices, LLLP

4132 Steve Reynolds Blvd.

Norcross, GA 30093

678-585-3606 (Telephone)

Paralegal.calomeni@gmail.com

allysonblairlaw@gmail.com

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

CESAR HERNANDEZ GOMEZ,

Petitioner

vs.

File. No. 4:26-cv-627

**JASON STREEVAL, WARDEN of
THE STEWART DETENTION
CENTER IN LUMPKIN,
GEORGIA,** *in his official capacity* as
Warden of the Stewart Detention
Center in Lumpkin, Georgia

**PETITION FOR WRIT OF
HABEAS CORPUS AND
COMPLAINT FOR
DECLARATORY AND
INJUNCTIVE RELIEF**

CORECIVIC, INC., a foreign profit
company, *in its official capacity* as the
private owner and operator of THE

STEWART DETENTION CENTER
IN LUMPKIN, GEORGIA, and *in its*
official capacity as the Registered /
Designated Agent for Service FOR:
JASON STREEVAL, *in his official*
capacity as Field Office Director of the
ICE Atlanta Field Office of
Enforcement and Removal
Operations, U.S. Immigrations and
Customs Enforcement; U.S.
Department of Homeland Security;

TODD M. LYONS, *in his official*
capacity as Acting Director,
Immigration and Customs
Enforcement, U.S. Department

KRISTEN SULLIVAN, *in her*
official capacity as the Acting Special
Agent in Charge Homeland Security in
Atlanta, covering the fields Georgia,
Florida and North Carolina

MARKWAYNE MULLIN, *in his*
official capacity as Secretary, U.S.
Department of Homeland Security;
and

TODD BLANCHE, *in his official*
capacity as the Acting Attorney
General of the United States,

Respondents.

INTRODUCTION

1. Petitioner, Cesar Hernandez Gomez (hereinafter “Petitioner”), is a citizen of Mexico who has resided continuously in the United States for approximately twenty-seven (27) years and has established deep and substantial ties to this country and to his community and family.
2. Petitioner is currently detained at the Stewart Detention Center located in Lumpkin, Georgia (*See Exhibit A, “ICE Detainee Locator Results”*).
3. Petitioner was not apprehended at or near a port of entry. Rather, he was apprehended within the interior of the United States after almost three (3) decades of residence, family formation, and community integration.
4. Despite these facts, Respondents are detaining Petitioner under 8 U.S.C. § 1225(b)(2)(A), thereby denying him access to a bond hearing.
5. This detention is unlawful.
6. Petitioner is entitled to custody review under 8 U.S.C. § 1226(a), which permits release on bond.
7. Petitioner seeks declaratory and injunctive relief, as well as immediate habeas relief, including immediate release from detention, or, in the alternative, a prompt and

constitutionally adequate bond hearing.

CUSTODY

8. Petitioner is currently in the custody of the Stewart Detention Center, located at 146 CCA Road, Lumpkin, Georgia 31815 (*See Exhibit A*).

9. Petitioner is therefore in the custody of the Department of Homeland Security within the meaning of the habeas corpus statute. See *Jones v. Cunningham*, 371 U.S. 236 (1963).

JURISDICTION

10. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 2243, 28 U.S.C. § 1331, Article I, Section 9, Clause 2 of the United States Constitution, and the Immigration and Nationality Act.

11. Federal district courts have jurisdiction to review challenges to the legality of immigration detention. See *Zadvydas v. Davis*, 533 U.S. 678 (2001).

REQUIREMENTS OF 28 U.S.C. §§ 2241 and 2243.

12. This Court is required to grant the writ of habeas corpus or issue an Order to

Show Cause forthwith unless it appears from the Petition that Petitioner is not entitled to relief. See 28 U.S.C. § 2243.

13. If the Court issues an Order to Show Cause, Respondents must make a return within three days unless additional time, not exceeding twenty days, is allowed for good cause. *Id.*

14. Petitioner is in custody within the meaning of 28 U.S.C. § 2241, as he is detained by Respondents.

VENUE

15. Venue is proper in this Court pursuant to 28 U.S.C. § 1391(e) because Petitioner is detained within the Middle District of Georgia.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

16. Administrative exhaustion is not required in this case because it would be futile.

17. Nevertheless, Petitioner has diligently pursued all available administrative remedies prior to seeking relief before this Court.

18. Petitioner, through counsel, previously filed a Motion to Set Bond

before the Immigration Court.

19. That filing was received and acknowledged by the Executive Office for Immigration Review (“EOIR”), and a Custody Redetermination Hearing was scheduled for April 13, 2026, at 8:30 a.m. The Immigration Judge found at said Hearing that, pursuant to *Matter of Yajure Hurtado*, it did not have jurisdiction to consider the Petitioner’s Motion to Set Bond (**See Exhibit B, “Order of the Immigration Judge”**).

20. Despite the best efforts of the Petitioner and his undersigned counsel to obtain relief through the Immigration Court, Petitioner remains detained without access to a meaningful bond hearing on the merits.

21. Immigration Courts routinely decline jurisdiction over bond in cases such as this, relying solely on *Matter of Yajure Hurtado*, thereby rendering administrative remedies ineffective and futile.

22. Accordingly, further exhaustion would serve no purpose and would only prolong Petitioner’s unlawful detention.

PARTIES

23. Petitioner, Cesar Hernandez Gomez, is a citizen of Mexico who has resided

continuously in the United States for approximately twenty-seven (27) years, almost three (3) decades.

24. Petitioner is currently detained at the Stewart Detention Center located in Lumpkin (Stewart County), Georgia (*See Exhibit A*).

25. Respondent Jason Streeval is the Warden of the Stewart Detention Center and is sued *in his official capacity* as Petitioner's immediate custodian.

26. Respondent CoreCivic, Inc. is sued *in its official capacity* as the private owner and operator of THE STEWART DETENTION CENTER IN LUMPKIN, GEORGIA, and *in its official capacity* as the Registered / Designated Agent for Service FOR: **JASON STREEVAL**, *in his official capacity* as Warden of the Stewart Detention Center.

27. Respondent Kristen Sullivan is sued *in her official capacity* as Acting Field Office Director of the ICE Atlanta Field Office of Enforcement and Removal Operations.

28. Respondent Todd M. Lyons is sued *in his official capacity* as Acting Director of U.S. Immigration and Customs Enforcement.

29. Respondent Markwayne Mullin is sued *in his official capacity* as Secretary of the U.S. Department of Homeland Security.

30. Respondent Todd Blanche is sued *in his official capacity* as Acting Attorney General of the United States.

LEGAL BACKGROUND AND ARGUMENT

31. The Immigration and Nationality Act establishes distinct statutory schemes governing the detention of noncitizens.

32. Section 1226 of that Act governs the detention of noncitizens who are present in the United States and not seeking admission at a port of entry.

33. Under 8 U.S.C. § 1226(a), such individuals are entitled to individualized custody determinations and may be released on bond.

34. Section 1225 applies to individuals who are seeking admission to the United States at or near a port of entry.

35. For decades, individuals apprehended within the interior of the United States have been detained under § 1226(a) and afforded bond hearings before Immigration Judges.

36. Respondents are improperly detaining Petitioner under 8 U.S.C. § 1225(b)(2)(A).

37. Petitioner is not an arriving noncitizen and is not seeking admission to the United States at or near a port of entry.

38. Respondents' application of § 1225(b)(2) to Petitioner is contrary to the plain language of the statute and longstanding precedent.

39. As a result, Petitioner has been denied access to a bond hearing to which he is entitled under § 1226(a).

40. The Supreme Court has made clear that immigration detention must comply with statutory and constitutional limits. See *Zadvydas v. Davis*, 533 U.S. 678 (2001).

41. Federal courts have rejected the government's interpretation of § 1225(b)(2) in similar circumstances.

42. Accordingly, Petitioner's continued detention is unlawful.

STATEMENT OF FACTS

43. Petitioner is a citizen of Mexico and has resided continuously in the United States for twenty-seven (27) years, almost three (3) decades. Petitioner has resided in the State of Georgia since 2002, approximately twenty-four (24) years.

44. Petitioner is legally married to his spouse, Anahi Quintero Ochoa.

45. Petitioner is the devoted father of seven (7) United States citizen children who substantially depend on him for emotional and financial support.

46. Petitioner maintains a stable residence in the State of Georgia, at the address of 

47. Petitioner has consistently filed federal and state tax returns, demonstrating continuous presence, employment, and good moral character.

48. Petitioner has no significant violent criminal history and poses no danger whatsoever to the community.

49. Petitioner has established strong community ties through family, employment, and community involvement. Over the last twenty-seven (27) years, the Petitioner has demonstrated he is a family-oriented individual whose release would benefit, and not endanger his community in any way.

50. Petitioner, through counsel, previously filed a motion for a custody redetermination before the Immigration Court.

51. The Executive Office for Immigration Review acknowledged receipt of the filing, and a Custody Redetermination Hearing was scheduled for April 14, 2026, at 8:30 a.m. The Immigration Judge found at said Hearing that, pursuant to *Matter of Yajure Hurtado*, it did not have jurisdiction to consider the Petitioner's Motion to Set Bond (*See Exhibit B*).

52. Thus, despite the best efforts of the Petitioner and his legal counsel, Petitioner remains detained without access to a meaningful bond hearing on the merits.

COUNT I

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Release on Bond

53. Petitioner restates and realleges all preceding paragraphs as if fully set forth herein.

54. Petitioner may be detained, if at all, pursuant to 8 U.S.C. § 1226(a).

55. Under § 1226(a) and its implementing regulations, Petitioner is entitled to an

individualized bond hearing before an Immigration Judge.

56. Respondents have unlawfully subjected Petitioner to mandatory detention and denied him access to a bond hearing.

57. Because Petitioner has not been, and will not be, provided with the bond hearing required by law, his continued detention is unlawful.

COUNT II

Violation of the Bond Regulations, 8 C.F.R. §§ 236.1, 1236.1, and 1003.19

59. Petitioner restates and realleges all preceding paragraphs as if fully set forth herein.

60. Following the enactment of IIRIRA, federal regulations made clear that noncitizens present in the United States without having been admitted or paroled are eligible for custody determinations and bond hearings.

61. Specifically, the governing regulations provide that such individuals may seek release on bond and are entitled to custody redetermination before an Immigration Judge.

62. Respondents' application of mandatory detention under 8 U.S.C. §

1225(b)(2) directly contravenes these binding regulations.

63. As a result, Petitioner has been unlawfully deprived of the procedural protections guaranteed by 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT III

Violation of 8 U.S.C. § 1225(b)(2) and Unlawful Detention Under This Provision

64. Petitioner restates and realleges all preceding paragraphs as if fully set forth herein.

65. Section 1225(b)(2) applies only to noncitizens who are seeking admission to the United States at or near the border or a port of entry.

66. Petitioner is not an arriving noncitizen and is not presently seeking admission to the United States at or near the border or a port of entry.

67. Petitioner has resided continuously in the United States for approximately twenty-seven (27) years and was apprehended in the interior of the country.

68. Accordingly, the statutory framework governing arriving applicants for admission does not apply to him.

69. Respondents' application of § 1225(b)(2) to Petitioner is therefore contrary

to the plain language of the statute, its implementing regulations, and longstanding federal precedent.

70. Because § 1225(b)(2) does not apply to Petitioner, his detention under that provision is unlawful.

COUNT IV

Violation of the Fifth Amendment Right to Due Process

71. Petitioner restates and realleges all preceding paragraphs as if fully set forth herein.

72. The Fifth Amendment's Due Process Clause prohibits the federal government from depriving any person of liberty without due process of law.

73. The Supreme Court has repeatedly emphasized that the Constitution requires a meaningful bond hearing before the government may deprive a person of liberty.

74. Petitioner has been deprived of his liberty through civil immigration detention without being afforded a constitutionally adequate opportunity to challenge the legality and necessity of that detention.

75. Under the balancing framework established in *Mathews v. Eldridge*, the

factors weigh overwhelmingly in favor of Petitioner.

76. Petitioner's interest in freedom from physical detention is fundamental.

77. The risk of erroneous deprivation is exceptionally high where, as here, Petitioner has been categorically denied a meaningful bond hearing on the merits.

78. Petitioner has no significant violent criminal history and poses no danger to the community.

79. Petitioner has substantial family ties, including his seven (7) U.S. citizen children.

80. The Government's interest in detaining Petitioner without providing a bond hearing is minimal.

81. Immigration detention is civil in nature and not punitive and may only be justified to prevent danger to the community or to ensure appearance at proceedings.

82. The categorical denial of a bond hearing violates fundamental principles of due process.

83. Accordingly, Petitioner's continued detention without an individualized bond hearing violates the Fifth Amendment.

IRREPARABLE HARM

84. Petitioner is suffering and will continue to suffer irreparable harm absent immediate judicial intervention.

85. Continued detention deprives Petitioner of his fundamental liberty interest, which constitutes irreparable injury as a matter of law.

86. Petitioner's detention is causing severe harm to his seven (7) United States citizen children, who substantially depend on him for emotional and financial support.

87. The separation of a parent from his minor children constitutes a profound and irreparable injury that cannot be remedied by monetary damages.

88. Each additional day of unlawful detention exacerbates the constitutional injury suffered by Petitioner.

LIKELIHOOD OF SUCCESS ON THE MERITS

89. Petitioner has an Appeal regarding his 42-b Application for Cancellation of Removal that is pending, and all parties are still awaiting a decision in that regard.

90. As set forth above, his detention under 8 U.S.C. § 1225(b)(2) is contrary to

the plain language of the statute, its implementing regulations, and controlling federal precedent.

91. Federal courts have rejected the interpretation adopted in *Matter of Yajure Hurtado* as applied to individuals apprehended within the United States, and not at or near a port or point of entry.

92. Petitioner is therefore entitled to a bond hearing under 8 U.S.C. § 1226(a).

BALANCE OF EQUITIES AND PUBLIC INTEREST

93. The balance of equities weighs overwhelmingly in Petitioner's favor.

Petitioner faces continued unlawful detention and prolonged separation from his family, including his seven (7) United States citizen children, while Respondents suffer no cognizable harm from providing a bond hearing or releasing Petitioner under appropriate conditions.

94. The public interest strongly favors adherence to constitutional protections and statutory limits on government authority. Ensuring that immigration detention complies with the Immigration and Nationality Act and the Constitution serves the public interest.

HABEAS ACTIONS AND BAIL DETERMINATIONS

95. Petitioner has diligently sought relief through available administrative channels prior to filing this action.
96. Petitioner, through counsel, previously filed a Motion to Set Bond before the Immigration Court.
97. The Executive Office for Immigration Review acknowledged receipt of the filing, and a Custody Redetermination Hearing was scheduled for April 14, 2026, at 8:30 a.m. The Immigration Judge found at said Hearing that, pursuant to *Matter of Yajure Hurtado*, it did not have jurisdiction to consider the Petitioner's Motion to Set Bond (**See Exhibit B**).
98. Clearly and despite Petitioner's efforts to obtain relief through the Immigration Court, he remains detained without access to a meaningful bond hearing on the merits.
99. Immigration Courts routinely decline jurisdiction over bond in cases such as this, relying solely on *Matter of Yajure Hurtado*, thereby rendering administrative remedies ineffective.

100. Federal courts possess inherent authority to grant release on bond where such relief is necessary to render the habeas remedy effective. See *Mapp v. Reno*, 241 F.3d 221 (2d Cir. 2001).

101. Courts have recognized that release is appropriate where a petitioner presents substantial claims and where continued detention would render habeas relief meaningless.

102. Under these circumstances, this Court possesses both the authority and the obligation to ensure that the writ of habeas corpus remains an effective remedy.

PRAYER FOR RELIEF

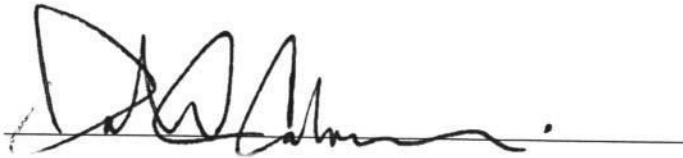
WHEREFORE, Petitioner prays that this Court will:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner not be transferred outside of this District during the pendency of these proceedings;
- (3) Issue an Order to Show Cause directing Respondents to demonstrate, within three days, why this Petition should not be granted;

- (4) Declare that Petitioner's continued detention is unlawful under the Immigration and Nationality Act and the Constitution of the United States;
- (5) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from custody, or, in the alternative, to provide a prompt and meaningful bond hearing on the merits before an Immigration Judge pursuant to 8 U.S.C. § 1226(a) and the Due Process Clause, within a time certain not to exceed seven days;
- (6) Grant such temporary and preliminary injunctive relief, including a Temporary Restraining Order, as may be necessary to preserve the Court's jurisdiction and prevent irreparable harm pending final adjudication of this matter;
- (7) Award Petitioner attorney's fees and costs pursuant to the Equal Access to Justice Act and any other applicable provisions of law; and
- (8) Grant such other and further relief as this Court deems just and proper.

Dated this 16th day of April 2026.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Dale A. Calomeni', is written over a horizontal line.

Dale A. Calomeni, Esq.
Georgia Bar No. 105311 / EOIR ID DP367083
Attorneys for the Petitioner

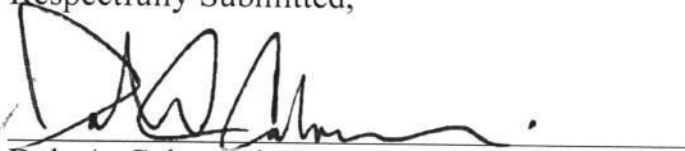
Calomeni Law Offices, LLP
4132 Steve Reynolds Blvd.
Norcross, GA 30093
678-585-3606 (Telephone)
Paralegal.calomeni@gmail.com
allysonblairlaw@gmail.com

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent the Petitioner, **Cesar Hernandez Gomez**, and submit this verification on his behalf. I hereby declare under penalty of perjury that the factual statements contained in the foregoing Petition for Writ of Habeas Corpus and Complaint for Declaratory and Injunctive Relief are true and correct to the best of my knowledge and belief, pursuant to 28 U.S.C. § 2242 and the Constitution of the United States.

Dated this 16th day of April 2026.

Respectfully Submitted,

A handwritten signature in black ink, appearing to read 'Dale A. Calomeni', is written over a horizontal line.

Dale A. Calomeni, Esq.
Georgia Bar No. 105311 / EOIR ID DP367083
Attorneys for the Petitioner

Calomeni Law Offices, LLLP
4132 Steve Reynolds Blvd.
Norcross, GA 30093
678-585-3606 (Telephone)
Paralegal.calomeni@gmail.com
allysonblairlaw@gmail.com