UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

ESCORCIA BASTIDAS, Isamar Rebeca 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,* 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. [redacted]

I. INTRODUCTION

1. Petitioner, Ms. Escorcia Bastidas is a 33-year-old native and citizen of Venezuela who entered the United States at or near Eagle Pass, TX, on or about September 2022.
2. Respondent was detained on or about January 7, 2026, by the Department of Homeland Security.
3. Petitioners now seek a writ of habeas corpus directing the Respondents to provide Petitioner with a bond hearing to determine if she may be released on bond under § 1226(a)(2) and the applicable regulations. See 8 C.F.R. §§ 236.1 & 1236.1.

II. VENUE AND JURISDICTION

4. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the Constitution (Suspension Clause).

5. Venue lies in this Division because Petitioner is detained at Stewart Detention Center, within the Columbus Division, and Respondent Streeval is her immediate custodian. See 28 U.S.C. §§ 2241(d), 1391(e).

III. PARTIES

6. Petitioner Ms. Escorcia Bastidas is a 33-year-old Venezuelan national who resides in Lawrenceville, GA. She is currently detained at the Stewart Detention Center in Lumpkin, GA.

7. Respondent Jason Streeval is the Warden of Stewart Detention Center. As such, Respondent Streeval is responsible for the operation of the Detention Center where Petitioner is detained. Because ICE contracts with private prisons such as Stewart to house immigration detainees such as Ms. Escorcia Bastidas. Respondent Streeval has immediate physical custody of the Petitioner.

8. Respondent Todd Lyons is the Acting Direction of Immigration and Customs Enforcement (hereinafter "ICE"). As such, Respondent Lyons is being sued in his official capacity.

9. Respondent Ladeon Francis is the Atlanta Field Office Director for Immigration and Customs Enforcement (hereinafter "FOD"). As such, Respondent Francis is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Francis is being sued in his official capacity.

10. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security (hereinafter "DHS"). As Secretary of DHS, Secretary Mullin is responsible for the general administration and enforcement of the immigration laws of the United States. Respondent Mullin is being sued in official capacity.

11. Respondent Todd Blanche is the Acting Attorney General of the United States. He 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. He is sued in his official capacity.

IV. EXHAUSTION OF REMEDIES

12. Petitioner has exhausted her administrative remedies to the extent required by law, and her only remedy is by way of this judicial action.

V. STATEMENT OF FACTS

13. Petitioner, Ms. Escorcia Bastidas is a native and citizen of Venezuela who entered the United States without inspection on or about September 2022 and has continuously resided in the United States for the past 4 years. See **Exhibit 1**, *Notice to Appear.*

14. On or about January 7, 2026, Petitioner was detained by the Gwinnett County Police Department on several charges and was subsequently placed on an ICE hold. On or about February 3, 2026, all charges were dismissed. See **Exhibit 2**, *Dismissal from Gwinnett County District Attorney's Office.*

15. Petitioner filed Form I-589, Application for Asylum and for Withholding of Removal and it is pending with the Immigration Court. Based on this filing, Petitioner was issued an Employment Authorization Document ("EAD") allowing her to lawfully work and

contribute to the community while her application is adjudicated. See **Exhibit 3,** *USCIS Approval Notice*.

16. On September 5, 2025, the Board of Immigration Appeals ("BIA") issued a decision which proposes that, "[b]ased on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission." See *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

17. As of January 7, 2026, Petitioner has been detained for 98 days and denied the opportunity to request bond before an Immigration Judge.

18. Petitioner's continued detention is causing irreparable harm, as she has been separated from her family and continues to suffer trauma as a result of this unlawful restraint on her liberty.

VI. LEGAL FRAMEWORK

19. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings.

20. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. See 8 U.S.C. § 1229a. This provision applies to "applicants for admission," defined as those "present in the United States who has not been admitted." § 1225(a)(1). Individuals in §1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention until their removal proceedings are concluded, *see* 8 U.S.C. § 1226(c).

21. 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).

22. Third, the INA provides for detention of noncitizens who have received a final order of removal from the United States, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231 (a)-(b).

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

VII. CAUSES OF ACTION

COUNT I

Violation of 8 U.S.C. 1226(a)
Unlawful Denial of Release on Bond

24. Petitioner incorporates by reference the allegations and facts set forth in paragraphs 1-18.

25. At the time of her arrest, Petitioner was a noncitizen present in the United States who had not been admitted, and thus she falls within the broad definition of "applicant for admission," which is distinct from an "alien seeking admission," and her detention is therefore governed by § 1226(a)(2).

26. The BIA has wrongfully construed § 1225(b)(2) as applying to all noncitizens who are found in the United States unlawfully, such as the Petitioner. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

27. The BIA's decision in *Yajure Hurtado* erroneously synonymizes the terms "applicant for admission" and "alien seeking admission" in order to apply mandatory detention under § 1225(b)(2) to an entire class of noncitizens for whom it was never intended by Congress.

28. The unlawful application of § 1225(b)(2) to Petitioner unlawfully mandates her continued detention without a discretionary bond hearing and violates the INA.

COUNT II
Violation of the Bond Regulations, 8 C.F.R. §§ 236.1 and 1003.19
Unlawful Denial of Release on Bond

29. Petitioner incorporates by reference the allegations and facts set forth in paragraphs 1-18.

30. 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 headings 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 Judge's under 8 U.S.C. § 1226 and its implementing regulations.

31. Nonetheless, the BIA has asserted that, instead, § 1225(b)(2) should apply to those noncitizens "present without having been admitted or paroled."

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

COUNT III

Violation of Fifth Amendment Due Process Clause

33. Petitioner incorporates by reference the allegations and facts set forth in paragraphs 1-18.

34. The Fifth Amendment provides that "[n]o person" shall "be deprived of life, liberty, or property, without due process of law."

35. "Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the hear of the liberty that Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

36. Moreover, "[t]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

37. Respondents' mandatory detention of Petitioner without consideration for release on bond or access to a bond hearing violates her due process rights.

PRAYER FOR RELIEF

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

1) Assume jurisdiction over this matter;
2) Grant Petitioner a writ of habeas corpus directing Respondents to immediately provide Petitioner with a bond hearing to determine if he may be released on bond under § 1226(a)(2) and the applicable regulations. See 8 C.F.R. §§ 236.1, 1236.1.
3) Order Respondents to refrain from transferring Petitioner out of the jurisdiction of this court during the pendency of these proceedings and while the Petitioner remains in Respondents' custody;
4) Order Respondents to file a response within 3 days of the filing of this petition;
5) Award attorneys' fees to Petitioner; and

6) Grant any other and further relief which this Court deems just and proper.

I affirm, under penalty of perjury, that the foregoing is true and correct.

Respectfully submitted this April 15, 2026.

/s/ Jessica Calmes
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Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief.

/s/ Jessica Calmes Date: April 15, 2026