UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
VALDOSTA DIVISION

Nestor ORDONEZ ISAGUIRRE,

Petitioner,

v.

Warden of Irwin County 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. Petitioner, Nestor Ordonez Isaguirre, is a forty-three-year-old native and citizen of Honduras who entered the United States without inspection around 2004, and has resided in the United States for twenty-two years.

2. Petitioner is in the physical custody of Respondents at the Irwin County Detention Center in Ocilla, 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.

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

4. Based on this allegation in Petitioner's removal proceedings, DHS denied the 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.

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

6. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. 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), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

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

8. Further, on February 18, 2026, the District Court of Central California vacated *Matter of Yajure Hurtado*. *Maldonado Bautista v. Santacruz*, [Dkt. No. 116], No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Feb. 18, 2026). This ruling restored jurisdiction for bond hearings for members of the certified class of noncitizens in the United States without lawful status who entered the United States without inspection and were not apprehended upon arrival.

9. However, on March 6, 2026, this ruling was appealed to the Ninth Circuit Court of Appeals. An emergency motion for a stay was filed by the Department of Homeland Security which was granted, temporarily staying the declaratory judgment from *Maldonado Bautista* as well the order vacating *Matter of Yajure Hurtado*. *See Bautista v. U.S. Dep't Homeland Sec.*, [Dkt. No. 5.1], No. 26-1044 (9th Cir. Mar. 6, 2026).

10. The judgment in the District Court held that Bond Denial Class members are detained under 8 U.S.C. § 1226(a), and thus may not be denied consideration for release on bond under § 1225(b)(2)(A).

11. Petitioner is a member of the Bond Eligible Class, as he:

a. does not have lawful status in the United States and is currently detained at the Irwin County Detention Center. he was apprehended by immigration authorities in April 2026;

b. entered the United States without inspection over twenty-two years ago and was not apprehended upon arrival, *cf. id.*; and

c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

12. After apprehending Petitioner in April 2026, the DHS placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection, and under 8 U.S.C. § 1182(a)(7)(A)(i)(I), as someone present in the United States without a valid unexpired visa and without a valid unexpired passport.

13. The Court should expeditiously grant this petition

14. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

15. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Irwin County Detention Center in Ocilla, Georgia.

16. 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).

17. 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

18. 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 Valdosta Division, the judicial district in which Petitioner currently is detained.

19. Respondent Warden is his immediate custodian.

20. 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

21. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved for class members in *Maldonado Bautista*.

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

PARTIES

23. Petitioner Nestor Ordonez Isaguirre is a citizen and national of Honduras who has been in immigration detention since April 2026. After detaining Petitioner in Chester, South

Carolina, ICE did not set bond and Petitioner is unable to obtain review of his custody by an immigration judge, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Petitioner is currently detained at the Irwin County Detention Center in Ocilla, Georgia.

24. Respondent Warden is the Warden of the Irwin County Detention Center. As such, Respondent Warden is responsible for the operation of the Detention Center where Petitioner is detained. As ICE contracts with price prisons such as the Irwin County Detention Center to house immigration detainees such as the Petitioner, Respondent Warden has immediate physical custody of the Petitioner.

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

26. Respondent Ladeon Francis is the Atlanta Field Office Director for Immigration and Customs Enforcement. As such, Respondent Francis is responsible for the oversight of ICE operations at the Irwin County Detention Center. Respondent Francis is being sued in his official capacity.

27. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security. He is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

28. 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.

LEGAL FRAMEWORK

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

30. 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. 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, *see* 8 U.S.C. § 1226(c).

31. 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).

32. 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).

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

FACTS

34. Petitioner is a forty-three-year-old native and citizen of Honduras.

35. Petitioner has resided in the United States since 2004 and lives in North Carolina.

36. In April 2026, Petitioner was detained by ICE after being arrested for driving without a license.

37. Petitioner is the father of a United States citizen child who is three years old.

38. Petitioner's criminal history consists only of minor traffic violations.

39. Petitioner is neither a flight risk nor a danger to the community.

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

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

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

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

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

44. The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents v The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II
Violation of the Bond Regulations

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

46. 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.

47. Nonetheless, pursuant to Matter of Yajure Hurtado, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

48. 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 Due Process

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

50. 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).

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

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

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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 23rd day of April, 2026.

By: /s/ Carlos E. Solomiany
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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/ Carlos E. Solomiany Date: April 23, 2026