

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

Michael Arbey CHACON VALENCIA,

Petitioner,

v.

DAVID PAULK, in his official capacity as the
Warden of Irwin County Detention Center;
KRISTEN SULLIVAN, in her official capacity
as the Acting Field Office Director of U.S.
Immigrant and Customs Enforcement –
Atlanta; TODD LYONS, in his official
capacity as Senior Official Performing the
Duties of the Director, U.S. Immigration and
Customs Enforcement; MARKWAYNE
MULLIN, Secretary, U.S. Department of
Homeland Security; TODD BLANCHE,
Acting U.S. Attorney General,

Respondents.

Case No. 7:26-cv-122

**PETITION FOR WRIT
OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Michael Arbey Chacon Valencia (“Mr. Chacon”), is forced to file this habeas petition to obtain the bond hearing he is entitled to under 8 U.S.C. § 1226(a) because of Respondents’ unlawful and unprecedented policy to mandatorily detain any immigrant who is alleged to have entered the United States (“U.S.”) without inspection – including people who have resided in the United States for many years and have otherwise attended each of their appointments with Immigration and Customs Enforcement (“ICE”).

2. Mr. Chacon is an asylum seeker from Colombia who has been living in the U.S. and going through the asylum process since 2022. He was detained, along with his wife and two minor sons, by U.S. immigration officials after entering the U.S. without inspection in 2022. Those officials released Mr. Chacon and his family members on humanitarian parole to allow them to enter the United States and pursue their asylum applications. Since arriving in the U.S., Mr. Chacon has gained lawful employment and has not been charged with or convicted of any crime.

3. Despite having a pending asylum application and no material changes in circumstances since he was released into the U.S. at the border, ICE agents nevertheless detained Mr. Chacon on April 1, 2026, during a check-in at the ICE field office in Charlotte, North Carolina.

4. Had ICE detained Mr. Chacon before September 5, 2025 – indeed, at any time during the past three decades – he would have been entitled to seek a bond hearing before an Immigration Judge (“IJ”) under 8 U.S.C. §1226(a) (Section 236(a) of the Immigration and Nationality Act (“INA”)). However, in a dramatic reimagining of the law, the Board of Immigration Appeals (“BIA”) issued a decision holding that an IJ has *no jurisdiction* to consider

bond requests for any noncitizen who is “present in the United States without admission,” finding that such individuals are subject to detention under 8 U.S.C. § 1226(b)(2)(A). *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 220 (BIA 2025). Accordingly, Mr. Chacon is currently subject to mandatory detention due to ICE’s and the BIA’s erroneous interpretation of law (an interpretation that has been roundly rejected by habeas courts across the country).

5. This Court has already soundly rejected the BIA’s flawed reasoning in countless recent habeas decisions. *See, e.g., J.A.M. v. Streeval, et al.*, No. 4:25-CV-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *P.R.S. v. Streeval, et al.*, 1, No. 4:25 cv 330 CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025). Similarly, “the majority of district courts . . . have rejected the government’s new position—that all noncitizens who came into the United States illegally but are living in the United States must be detained under § 1225(a) until their removal proceedings are completed.” *Labrada-Hechavarria v. U.S. Att’y Gen.*, No. 23-13664, 2026 WL 496486, at *2 (11th Cir. Feb. 23, 2026).¹

6. And yet, Respondents maintain their disingenuous interpretation of the law and keep Mr. Chacon needlessly detained hundreds of miles from his wife and minor children, without the opportunity to seek review of his custody before a neutral arbiter. To correct this injustice, this Court should grant this petition and order a bond hearing for Mr. Chacon as soon as practicable.

JURISDICTION

7. This Court has subject matter jurisdiction under Art. I § 9, cl. 2 of the U.S. Constitution (Suspension Clause) and 28 U.S.C. § 2241(c)(5) (habeas corpus) because this action

¹ The Eleventh Circuit further highlighted how “the government has been challenged in at least 362 similar cases in federal district court and that 250 of those cases, decided by 160 judges, have resolved this same issue against the government.” *Labrada-Hechavarria v. U.S. Att’y Gen.*, No. 23-13664, 2026 WL 496486, at *2 (citing *Barco Mercado v. Francis*, No. 25-CV-6582, 2025 WL 3295903, *4 (S.D.N.Y. Nov. 26, 2025)).

is a habeas corpus petition and under 28 U.S.C. § 1331 (federal question jurisdiction) because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. § 1101, *et seq.*, and the Administrative Procedure Act, 5 U.S.C. § 1551, *et seq.* Federal district courts have jurisdiction to hear habeas claims brought by noncitizens challenging the lawfulness of their detention. *See Demore v. Kim*, 538 U.S. 510, 516-17 (2003) (recognizing habeas jurisdiction over immigration detention challenges); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001) (same).

8. 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

9. 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, the judicial district in which Mr. Chacon currently is detained.

10. Venue is proper in this district 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. Venue is proper in this division because Mr. Chacon is detained at the Irwin County Detention Center (“ICDC”).

PARTIES

11. Mr. Chacon is a 35-year-old citizen of Colombia, who has been in immigration detention since April 1, 2026.

12. Respondent David Paulk is employed by the private prison company, LaSalle Corrections, as Warden at ICDC, where Mr. Chacon is detained. He has immediate physical custody of Mr. Chacon. Respondent Paulk is sued in his official capacity.

13. Respondent Kristen Sullivan is the Acting Field Office Director of U.S. Immigration and Customs Enforcement – Atlanta and oversees the facility where Petitioner is held. As such, Respondent Sullivan is Mr. Chacon’s immediate legal custodian and is responsible for Mr. Chacon’s detention and removal. She is sued in her official capacity.

14. Respondent Todd Lyons is the Senior Official Performing the Duties of Director of U.S. Immigration and Customs Enforcement and oversees the facility where Petitioner is held. As such, Respondent Lyons is a legal custodian of Mr. Chacon. He is sued in his official capacity.

15. Respondent Markwayne Mullin is the Secretary of the United States Department of Homeland Security (“DHS”). He is responsible for the implementation and enforcement of the Immigration and Nationality Act (“INA”), and oversees ICE, which is responsible for Mr. Chacon’s detention. Respondent Mullins has ultimate custodial authority over Mr. Chacon and is sued in his official capacity.

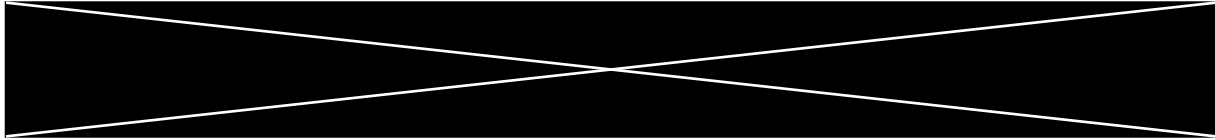
16. Respondent Todd Blanche is the Acting Attorney General of the United States. He is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. He is sued in his official capacity.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

17. Mr. Chacon is a thirty-five-year-old native and citizen of Colombia and a resident of North Carolina. *See* Ex. 1, Mr. Chacon’s Employment Authorization Document.

18. Mr. Chacon fled Colombia in October 2022, after [REDACTED]

[REDACTED]



19. Upon arriving at the U.S.-Mexico border, Mr. Chacon and his family entered the United States without inspection and presented themselves to Border Patrol officials, who detained them and brought them to a processing center near Yuma, Arizona.

20. Shortly after, immigration officials paroled Mr. Chacon and his family into the United States, based on the individualized facts in his case, under 8 U.S.C. § 1182(d)(5) and released them from custody.

21. Upon release, immigration officials ordered Mr. Chacon and his family to check-in virtually through a telephone, issued by ICE, and take a photo using the telephone once per week and submit it to immigration officials.

22. Immigration officials also ordered Mr. Chacon and his family to report to ICE at annual check-in appointments at the local ICE/ERO office in Charlotte, North Carolina, while they pursued the asylum process. At his first appointment, ICE officials collected the telephone used by Mr. Chacon and his family to check-in and simply requested their presence at a check-in appointment in Charlotte, North Carolina once per year. Border officials did not issue a Notice to Appear (“NTA”) or otherwise initiate removal proceedings against Mr. Chacon or his family at this time.

23. Mr. Chacon has complied with the conditions of his release ever since 2022, including attending periodic check-ins with ICE.

24. On or around September 13, 2023, Mr. Chacon submitted an affirmative asylum application, which, if granted, is a pathway to permanent status in the United States. Mr. Chacon filed his asylum application affirmatively to U.S. Citizenship and Immigration Services because

immigration officials had not issued an NTA to him or otherwise started removal proceedings against him in the immigration court.

25. Mr. Chacon's wife and children, who live in North Carolina, were derivative beneficiaries on his asylum application.

26. While waiting for the asylum office to schedule an interview on his asylum application, Mr. Chacon applied for and received employment authorization, which enabled him to work legally. His employment authorization is valid through March 10, 2029. Ex. 1.

27. On April 1, 2026, Mr. Chacon presented himself at the ICE field office in Charlotte, North Carolina for a routine check-in appointment, as he had once per year without incident since 2022. During the appointment, ICE officers incorrectly stated that Mr. Chacon had failed to attend a removal hearing, and that for that reason, they would be detaining him. Mr. Chacon protested and tried to explain that he had never received notice of any removal hearing, but ICE detained him nonetheless.

28. That same day, ICE issued an NTA to Mr. Chacon. Ex. 2, Notice to Appear. The NTA charged him as removable under 8 U.S.C. § 1182(a)(6)(A)(i) (for being present without admission or parole) and § 1182(a)(7)(A)(i)(I) (not in possession of valid documents at time of entry). ICE filed this NTA with the immigration court the next day, initiating removal proceedings against Mr. Chacon more than three years after he initially entered the U.S.

29. Following the check-in appointment, ICE took Mr. Chacon to ICDC, more than three hundred miles away from his loved ones.

30. Mr. Chacon attended his first immigration court hearing on April 21, 2026. His next hearing date is scheduled for April 28, 2026.

31. If he is not released on bond, Mr. Chacon will be forced to proceed with an expedited adjudication of his asylum application before an Immigration Judge, instead of attending a non adversarial interview at the regional asylum office. Because he is so far away from his family and community in North Carolina, it is unclear whether his wife will be able to testify in support of his asylum hearing at ICDC. His detention is also hampering his ability to communicate with his immigration counsel in preparation for the soon-to-be-scheduled asylum hearing.

CLAIMS FOR RELIEF

Count One

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a) *Unlawful Denial of Opportunity to Seek Bond*

32. Mr. Chacon incorporates and realleges all paragraphs above as if fully set forth here.

33. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to those arrested in the interior of the U.S. who are not “seeking admission.” Such noncitizens are detained under § 1226(a) and are eligible for release on bond.

34. Therefore, Mr. Chacon is neither an “applicant for admission” nor is he seeking admission. He is detained pursuant to § 1226(a) and eligible for bond. Indeed, ICE itself previously treated Mr. Chacon as being detained under § 1226(a). *See* Ex. 3, I-94.

35. DHS and the Immigration Court have adopted a policy and practice of applying § 1225(b)(2) to people like Mr. Chacon.

36. The application of § 1225(b)(2) to Mr. Chacon unlawfully mandates his continued detention and violates the INA.

Count Two
VIOLATION OF THE DUE PROCESS OF THE FIFTH AMENDMENT
Procedural Due Process

37. Petitioner realleges all paragraphs above as if fully set forth here.

38. “The Due Process Clause applies to all persons within the United States, including [foreign nationals], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. at 693 (citation modified). “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Id.* at 690.

39. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals’ due process rights.

40. Respondents’ erroneous application of § 1225(b)(2)(A) to Mr. Chacon and deprivation of his ability to seek review of his custody before a neutral adjudicator violates his due process rights under *Mathews* because his liberty interest and the risk of erroneous deprivation of his liberty posted by mandatory detention under § 1225(b)(2)(A) outweigh Respondents’ minimal interest in detaining Mr. Chacon, who is not a flight risk or danger to the community.

PRAYER FOR RELIEF

WHEREFORE, Mr. Chacon prays that this Court grant the following relief:

- a. Assume jurisdiction over this case;
 - b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Respondents not transfer Mr. Chacon outside of the jurisdiction of the U.S. District Court for the Middle District of Georgia during the pendency of this petition;
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- c. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution and/or the Immigration and Nationality Act;
- d. Issue a Writ of Habeas Corpus requiring that, within one day, Respondents release Mr. Chacon;
- e. Alternatively, issue a writ of habeas corpus requiring that, within three days, Respondents provide Mr. Chacon with a bond hearing under 8 U.S.C. § 1226(a);
- 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 further relief this Court deems just and proper.

DATED this is the 23rd day of April, 2026.

Respectfully submitted,

/s/ F. Evan Benz

F. Evan Benz

GA Bar No. 820944

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Counsel for Petitioner

(Pro hac vice forthcoming)

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: April 23, 2026

Respectfully submitted,

/s/ Kjerstin Lewis Shukla
Counsel for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 23rd day of April, 2026, I electronically submitted the foregoing document with the clerk of court for the United States District Court, Middle District of Georgia, using the electronic filing system of the court. I hereby certify that I have served all parties electronically or by another means authorized by Federal Rule of Civil Procedure 5(b)(?)

Dated, April 23, 2026

Respectfully submitted,

/s/ F. Evan Benz

F. Evan Benz