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

Vivekkumar Shambhubhai CHAUDHARI, (A[redacted])	
Petitioner,	
vs.	
David PAULK, Warden, Irwin Detention Center; **Ladeon FRANCIS**, Field Office Director, Atlanta Field Office, U.S. Immigration and Customs Enforcement; **Todd M. LYONS**, Acting Director, U.S. Immigration and Customs Enforcement; **Markwayne MULLIN**, Secretary of the Department of Homeland Security;	CIVIL ACTION FILE Case No.: **Habeas Corpus**
in their official capacities,	**28 U.S.C. §2241**
Respondents.	

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

Petitioner Vivekkumar Shambhubhai Chaudhari, by and through his undersigned counsel, hereby respectfully petitions this Honorable Court for a writ of habeas corpus to seek enforcement of their rights pursuant to *J.A.M. v. Streeval*, No. 4:25-CV- 342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-CV- 330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025). Mr. Chaudhari alleges as follows:

INTRODUCTION

1. Petitioner is in the physical custody of Respondents at the Irwin County Detention Center in Ocilla, Georgia. He now faces unlawful detention because an immigration judge denied his bond, and the Department of Homeland Security (DHS) and the Executive Office for Immigration Review (EOIR) continue to detain him in violation of his statutory and constitutional rights.

2. 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).

3. The Executive Office for Immigration Review and its subagency, the Immigration Court, together with the Department of Homeland Security (DHS), have unlawfully continued Petitioner's detention by denying him a meaningful opportunity for release on bond, notwithstanding his statutory and constitutional rights.

4. Petitioner Vivekkumar Shambhubhai Chaudhari is eligible for bond, as he does not have lawful status in the United States and is currently detained at the Irwin County Detention Center in Ocilla, Georgia. He was apprehended by immigration authorities on April 2, 2026; entered the United States without inspection years ago and was not apprehended upon arrival; and is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

5. Respondents are bound by the judgment in *Maldonado Bautista*, as it has the full "force and effect of a final judgment." 28 U.S.C. § 2201(a). Nevertheless, Respondents continue to flagrantly defy the judgment in that case and continue to subject Petitioner to unlawful detention despite his clear entitlement to consideration for release on bond as a Bond Eligible Class member.

6. Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

7. In any event, this Honorable Court already ruled on many occasions that aliens detained under 8 U.S.C. § 1226(a) are not subject to mandatory detention under § 1225(b)(2) and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge.

8. Nevertheless, an Immigration Judge denied Petitioner's bond on April 20, 2026, asserting a lack of jurisdiction based on the ruling in *Matter of Yajure Hurtado.*

9. At the time of his arrest, Petitioner was an alien in the United States who

had not been lawfully admitted, and thus he falls within the broad definition of "applicant for admission," but based on the present record, he was not attempting to be lawfully admitted. Therefore, he does not qualify as an "alien seeking admission" subject to mandatory detention under § 1225(b)(2)(A), which requires both presence and seeking admission.

10. Because Respondents are detaining Petitioner in violation of the declaratory judgment issued in *Maldonado Bautista,* the Court should accordingly order that within one day, Respondent DHS must release Petitioner.

11. In addition, pursuant to *J.A.M. v. Streeval*, No. 4:25-CV- 342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-CV- 330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025) which are controlling in this case, the Court should order Petitioner's release unless Respondents provide another bond hearing under 8 U.S.C. § 1226(a) within seven days.

JURISDICTION AND VENUE

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

13. 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).

14. 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.

15. 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 (Valdosta Division), the judicial district in which Petitioner currently is detained.

16. 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 (Valdosta Division).

REQUIREMENTS OF 28 U.S.C. § 2243

17. 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*.

18. 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).

19. Petitioner argues any bond motion before an immigration judge or any appeal to the BIA would be futile at this point considering a September 5, 2025, BIA decision where the BIA adopted DHS' interpretation of the INA as mandating detention without bond for millions of noncitizens who reside in the U.S. See *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA's decision held that immigration judges lack jurisdiction to hold bond hearings or grant bond to all individuals charged with entering the country without inspection. *Id.*

PARTIES

20. Petitioner Vivekkumar Shambhubhai Chaudhari is a citizen of India who has been in immigration detention since April 2, 2026. He entered the United States in 2023 without inspection.

21. After Petitioner was arrested in April 2026, ICE did not set bond, and on April 20, 2026, an IJ refused to set bond because the IJ was bound to follow the agency's prior decision in *Matter of Yajure Hurtado*.

22. Respondent David Paulk is the Warden of the Irwin County Detention Center, where Petitioner Vivekkumar Shambhubhai Chaudhari is currently detained. He is Petitioner's immediate custodian and is named in his official

capacity. See *Doe*, 108 F.4th at 1194-97.

23. Respondent Ladeon Francis is the Field Office Director of the Atlanta Field Office of ICE with administrative jurisdiction over Mr. Chaudhari 's case. He is Petitioner Vivekkumar Shambhubhai Chaudhari's legal custodian and is named in his official capacity.

24. Respondent Todd M. Lyons is the Acting Director of ICE. He is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants. He is a legal custodian of Petitioner and is named in his official capacity.

25. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security ("DHS"), an agency of the United States, is responsible for the administration of the immigration laws. 8 U.S.C. § 1103(a). He is a legal custodian of Petitioner and is named in his official capacity.

26. 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.

CLAIM FOR RELIEF

COUNT ONE
Violation of the INA:
8 U.S.C. § 1226(A)

27. Petitioner is detained under 8 U.S.C. § 1226(a), which authorizes the government to detain certain individuals during removal proceedings with the option to release them on bond or conditional parole.

28. After Petitioner was arrested, Immigration and Customs Enforcement (ICE) did not set bond. Petitioner cannot obtain release under bond as Immigration judges have informed class members in bond hearings that they have been instructed by "leadership" that the declaratory judgment in *Maldonado Bautista* is not controlling, even with respect to class members, and that instead IJs remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). Therefore, Petitioner is filing this Petition for Habeas Corpus as it is the only remedy to determine that Petitioner is not an applicant for admission and should be afforded a meaningful bond hearing.

29. Petitioner has resided in the United States since 2023. Despite his ties to the United States, the denial of a bond hearing based on *Matter of Yajure Hurtado* has resulted in his continued detention without a meaningful opportunity for release, raising serious statutory and constitutional concerns.

30. In *Leal-Hernandez v. Noem*, the court rejected the Government's assertion that a noncitizen who had resided in the United States for years without admission or parole was subject to mandatory detention under 8 U.S.C. § 1225(b). Instead, the court held that because the petitioner was not apprehended at a port of entry or interdicted at sea, and had not recently entered the country, he was not an "arriving alien" or "applicant for admission" under the INA and was therefore subject to discretionary detention under § 1226(a), not mandatory detention. See *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, (D. Md. Aug. 24, 2025).

31. As in *Leal-Hernandez*, the original NTA in this case did not charge Petitioner as an "arriving alien," but rather as an "alien present in the United States who has not been admitted or paroled," removable under INA § 212(a)(6)(A)(i). Petitioner was arrested inside the United States, not at a port of entry, and was never charged or treated as an "arriving alien" under 8 C.F.R. § 1001.1(q). See "Notice to Appear," attached as **Exhibit 1**. The Government cannot retroactively reclassify Petitioner as an arriving alien or applicant for admission merely by modifying the charge sheet and therefore cannot invoke the mandatory detention provisions of § 1225(b) to override the immigration judge's valid exercise of bond authority under § 1226(a).

32. This Honorable Court also ruled that aliens detained under 8 U.S.C. §

1226(a) are not subject to mandatory detention under § 1225(b)(2) and are entitled to consideration for release on bond by immigration officers and, if not released, a custody redetermination hearing before an immigration judge. See *J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25 CV 330 CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

33. ICE's refusal or failure to release Petitioner following this lawful bond determination constitutes unauthorized detention under the Immigration and Nationality Act (INA) and violates the plain language of § 1226(a). Here, an Immigration Judge already unlawfully denied bond, arguing a lack of jurisdiction under *Matter of Yajure Hurtado*. See Order of the Immigration Judge, attached as **Exhibit 2**. Petitioner's detention is no longer tethered to any lawful purpose under the INA and therefore exceeds the statutory framework, warranting immediate release.

COUNT TWO
Violation of the Due Process Clause of the Fifth Amendment to the U.S. Constitution:

34. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty 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*, 533 U.S. at 690. This protection applies to all persons within the United States, including noncitizens in immigration detention.

35. Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. See id. at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention. First, the primary purpose is to mitigate the risk of flight, so that the government's goal of removal proceedings and, ultimately, removal, may be effectuated; and a secondary purpose is to prevent danger to the community while removal proceedings and/or removal efforts are pending. Id.; *Demore v. Kim*, 538 U.S. 510, 528 (2003).

36. Prolonged civil detention also violates due process unless it is accompanied by strong procedural protections to guard against the erroneous deprivation of liberty. *Zadvydas*, 533 U.S. at 690–91; *Kansas v. Hendricks*, 521 U.S. at 346, 364–69 (1997); *Foucha v. Louisiana*, 504 U.S.71, 81–83 (1992); *United States v. Salerno*, 481 U.S. 739, 750–52 (1987).

Further, procedural due process requires that a detained individual be provided with a meaningful opportunity to challenge their detention. Here, Petitioner received a custody hearing but was denied bond and continues to be detained

without sufficient justification or meaningful access to further process.

PRAYER FOR RELIEF

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

(1) Assume jurisdiction over this matter;

(2) Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

(3) Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

(4) 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

(5) Grant any other and further relief which this Honorable Court deems just and proper.

This 28th day of April, 2026.

Respectfully Submitted,



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