

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

Adonis
ESTUARDO BAUTISTA

Petitioner,

v.

*TODD LYONS, Acting Director of ICE,
JASON STREEVAL, Warden, Stewart
Detention Center; KRISTEN SULLIVAN,
Acting ERO Director of Atlanta Field
Office, U.S. Immigration and Customs
Enforcement ("ICE"); MARKWAYNE
MULLIN, Secretary of the U.S. Department
of Homeland Security; TODD BLANCHE,
Acting Attorney General of the United
States; and WILLIAM KEYES, U.S.
Attorney for the Middle District of Georgia,
in their official capacities,

Respondents.*

Case No. **4:26-cv-733**

**PETITION FOR
WRIT OF HABEAS
CORPUS**

Alien File No. 

INTRODUCTION

1. Petitioner, Adonis ESTUARDO BAUTISTA (hereinafter "Petitioner") is a 31-year-old native and citizen of Guatemala who entered the United States without

inspection in or around October of 2021 and has resided in the country for nearly the past five years.

2. On February 6, 2024, he filed form I-589 Application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture with the United States Citizenship and Immigration Services (“USCIS”). He has resided in the United States for nearly the past five years and has complied with all immigration and legal requirements.
3. Respondent was detained on or about March 11, 2026, by the Department of Homeland Security while complying with his ICE Check in requirement.
4. Petitioner now seeks a writ of habeas corpus directing the Respondents to 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.

I. VENUE AND JURISDICTION

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

II. PARTIES

7. Petitioner, is a 31-year old Guatemalan national who prior to detention, resided in Lumberton, North Carolina. He is currently detained at the Stewart Detention Center in Lumpkin, GA.
 8. 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 Petitioner. Respondent Streeval has immediate physical custody of the Petitioner.
 9. Respondent Todd Lyons is the Acting Director of Immigration and Customs Enforcement (hereinafter “ICE”). As such, Respondent Lyons is being sued in his official capacity.
 10. Respondent Kristen Sullivan is the Acting ERO Director of the Atlanta Field Office (hereinafter “FOD”). As such, Respondent Sullivan is responsible for the oversight of ICE operations at the Stewart Detention Center. Respondent Sullivan is being sued in her official capacity.
 11. 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 Noem is being sued in her official capacity.
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12. 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.

III. EXHAUSTION OF REMEDIES

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

IV. STATEMENT OF FACTS

14. On or about February 6, 2024, Petitioner filed form I-589 Application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture with EOIR – Executive Office for Immigration Review. He has resided in the United States for nearly the past five years and has complied with all immigration requirements – including his ICE check ins.

15. On or about March 11, 2026, Petitioner was arbitrarily detained by immigration authorities during his compliance with an ICE check in scheduled for that date.

16. Petitioner has a pending Form I-589, Application for Asylum, Withholding of Removal, and Protection under the Convention Against Torture, which remains pending with EOIR.

17. 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).

18. As of March 11, 2026, Petitioner has been detained for about 43 days and denied the opportunity to request bond before an Immigration Judge.

19. Petitioner’s continued detention is causing severe and ongoing irreparable harm. Prior to his detention, Petitioner fully complied with all EOIR requirements, all ICE reporting requirements and maintained a stable residence in the United States. He poses no danger to the community and no risk of flight. His detention has resulted in the loss of his ability to work, support himself, and maintain his familial and community ties. Because Respondents have denied him any opportunity to seek release, these harms are ongoing and cannot be remedied absent judicial intervention.

V. LEGAL FRAMEWORK

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

21. 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).

22.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).

23.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).

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

25.Respondents are currently detaining Petitioner without affording him access to a bond hearing under 8 U.S.C. § 1226(a), while simultaneously asserting that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). This leaves Petitioner in a legal void in which no lawful statutory mechanism is being applied to justify his continued detention.

26.Where the Government detains an individual without valid statutory authority, such detention is ultra vires and unlawful *ab initio*. Under such circumstances,

the appropriate remedy is release, not merely remand for further administrative proceedings.

27. Because Respondents have failed to place Petitioner within a lawful detention framework that provides any meaningful opportunity for release, this Court may order Petitioner's immediate release from custody.

VI. CAUSES OF ACTION

COUNT I

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

28. Petitioner incorporates by reference the allegations and facts set forth in paragraphs 1-19.

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

30. 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).

31.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.

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

33.Even assuming arguendo that Respondents contend that Petitioner is subject to detention under 8 U.S.C. § 1225(b)(2), such interpretation cannot justify the complete denial of any individualized custody determination.

34.By refusing to provide Petitioner with a bond hearing under § 1226(a), while simultaneously invoking § 1225(b)(2) to foreclose release, Respondents are effectively detaining Petitioner without any operative statutory authority permitting his continued confinement.

35.In such circumstances, continued detention is unlawful, and the appropriate remedy is immediate release or, at minimum, a prompt bond hearing before a neutral adjudicator applying the correct legal standard.

COUNT II

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

36.Petitioner incorporates by reference the allegations and facts set forth in paragraphs 1-19.

37. 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.

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

39. 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 Fifth Amendment Due Process Clause

40. Petitioner incorporates by reference the allegations and facts set forth in the preceding paragraphs as if fully set forth herein.

41. The Fifth Amendment provides that “[n]o person” shall “be deprived of life, liberty, or property, without due process of law.”
42. “Freedom from imprisonment – from government custody, detention, or other forms of physical restraint – lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
43. 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.
44. Respondents’ mandatory detention of Petitioner without consideration for release on bond or access to a bond hearing violates his due process rights.
45. The constitutional violation in this case is not merely the duration of Petitioner’s detention, but the complete denial of any meaningful process by which he may seek release.
46. Respondents have placed Petitioner in a regime of detention in which no Immigration Judge will hear a request for bond, and no alternative administrative mechanism exists to challenge his confinement.
47. Such detention, without any available procedure for individualized review, constitutes impermissible indefinite detention in violation of the Due Process Clause.
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48. Due process requires, at minimum, a meaningful opportunity to be heard before a neutral decisionmaker regarding the necessity of continued detention. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
49. Where the Government fails to provide any such process, federal courts have the authority to order release from custody, as continued detention serves no constitutionally permissible purpose.
50. Accordingly, because Respondents have denied Petitioner any avenue to seek release, this Court should order his immediate release or, in the alternative, a prompt bond hearing subject to constitutionally adequate safeguards.

PRAYER FOR RELIEF

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

- 1) Assume jurisdiction over this matter;
- 2) Order Respondents to immediately release Petitioner from custody; or, in the alternative, order Respondents to provide Petitioner with an individualized bond hearing before a neutral decisionmaker within seven (7) days pursuant to § 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.

Respectfully submitted,

This April 29, 2026

COCHRAN
IMMIGRATION

/s/ Johanna Cochran
by: Johanna Cochran
Georgia Bar No. 611902
Attorney for the
Petitioner

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

I represent Petitioner, Adonis ESTUARDO BAUTISTA, and submit this verification on his behalf. I hereby verify that the factual statements made in the

foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this April 29, 2026.

/s/ Johanna Cochran

by: Johanna Cochran

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