

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Wendy IBARRA MARQUEZ,

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*, 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, Wendy Ibarra Marquez, is a thirty-two-year-old native and citizen of Mexico who entered the United States without inspection in or around 1996, when she was two years old and has resided in the United States for thirty years.

2. Petitioner is in the physical custody of Respondents at the Stewart Detention Center in Lumpkin, Georgia. She 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.

1 6. Petitioner's detention on this basis violates the plain language of the Immigration
2 and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who
3 previously entered and are now residing in the United States. Instead, such individuals are
4 subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
5 That statute expressly applies to people who, like Petitioner, are charged as inadmissible for
6 having entered the United States without inspection.

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

10 8. Further, on February 18, 2026, the District Court of Central California vacated
11 *Matter of Yajure Hurtado. Maldonado Bautista v. Santacruz*, [Dkt. No. 116], No. 5:25-cv-
12 01873-SSS-BFM (C.D. Cal. Feb. 18, 2026). This ruling restored jurisdiction for bond hearings
13 for members of the certified class of noncitizens in the United States without lawful status who
14 entered the United States without inspection and were not apprehended upon arrival.

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

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

23 11. Petitioner is a member of the Bond Eligible Class, as she:
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- a. does not have lawful status in the United States and is currently detained at the Stewart Detention Center. She was apprehended by immigration authorities in April 2026;
- b. entered the United States without inspection over thirty 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 on or about April 19, 2025, the DHS placed her 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. *See Exhibit 1, Copy of Petitioner's 1 862, Notice to Appear.*

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 Stewart Detention Center in Lumpkin, 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 Columbus Division, the judicial district in which Petitioner currently is detained.

19. Respondent Streeval is her 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 Wendy Ibarra Marquez is a citizen and national of Mexico who has been in immigration detention since April 2026. After detaining Petitioner in Fulton County Georgia, ICE did not set bond and Petitioner is unable to obtain review of her custody by an

1 immigration judge, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N.
2 Dec. 216 (BIA 2025). Petitioner is currently detained at the Stewart Detention Center in
3 Lumpkin, Georgia.

4 24. Respondent Jason Streeval is the Warden of the Stewart Detention Center. As
5 such, Respondent Streeval is responsible for the operation of the Detention Center where
6 Petitioner is detained. As ICE contracts with private prisons such as the Stewart Detention Center
7 to house immigration detainees such as the Petitioner, Respondent Streeval has immediate
8 physical custody of the Petitioner.

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

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

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

20 28. Respondent Todd Blanche is the Acting Attorney General of the United States.
21 He is responsible for the Department of Justice, of which the Executive Office for Immigration
22 Review and the immigration court system it operates is a component agency. He is sued in his
23 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 thirty-two-year-old native and citizen of Mexico.

35. Petitioner has resided in the United States since 1996 and lives in Georgia.

36. In April 2026, Petitioner was detained by ICE after going to the county jail to turn herself in for a warrant filed by her ex-boyfriend.

37. Petitioner is the parent of two (2) United States citizen (USC) children, ages 6 and 3 years old.

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

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

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

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7 **CLAIMS FOR RELIEF**

8 **COUNT I**

9 **Violation of the INA**

10 41. Petitioner incorporates by reference the allegations of fact set forth in the
11 preceding paragraphs.

12 42. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all
13 noncitizens residing in the United States who are subject to the grounds of inadmissibility. As
14 relevant here, it does not apply to those who previously entered the country and have been
15 residing in the United States prior to being apprehended and placed in removal proceedings by
16 Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to
17 § 1225(b)(1), § 1226(c), or § 1231.

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

COUNT II

Violation of the Bond Regulations

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

45. 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.

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

47. 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 Due Process

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

49. 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

1 custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the
2 Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

3 50. Petitioner has a fundamental interest in liberty and being free from official
4 restraint.

5 51. The government’s detention of Petitioner without a bond redetermination hearing
6 to determine whether he is a flight risk or danger to others violates her right to due process.

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8 **PRAYER FOR RELIEF**

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

- 10 a. Assume jurisdiction over this matter;
- 11 b. Order that Petitioner shall not be transferred outside the Middle District of
12 Georgia while this habeas petition is pending;
- 13 c. Issue an Order to Show Cause ordering Respondents to show cause why this
14 Petition should not be granted within three days;
- 15 d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in
16 the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. §
17 1226(a) within seven days;
- 18 e. Declare that Petitioner’s detention is unlawful;
- 19 f. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act
20 (“EAJA”), as amended, 28 U.S.C. § 2412, and on any other basis justified under
21 law; and
- 22 g. Grant any other and further relief that this Court deems just and proper.

23 DATED this 1st day of May, 2026.

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1 By: /s/ Emily N. Davis
2 Emily N. Davis, Esq.
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2 I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition
3 for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and
4 belief.

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6 /s/ Emily N. Davis

Date: May 1, 2026