FILED
2026 May-19 AM 10:18
U.S. DISTRICT COURT
N.D. OF ALABAMA

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION

Erick Salazar Salguero (A No. [redacted]), Petitioner, v. **WARDEN,** in his official capacity as warden of the Pickens County Jail, **CHARLES ANDERSON,** in his official capacity Senior Detention and Deportation Officer, Homewood Field Office, U.S. Immigration and Customs Enforcement; Respondents.	**Case No. 26-cv-_____** **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner, Erick Salazar-Salguero, a native and citizen of El Salvador, petitions this Court for a Writ of Habeas Corpus under 28 U.S.C. § 2241 to challenge his continued detention by the United States Department of Homeland Security, through its component arm, U.S. Immigration and Customs Enforcement ("ICE"). The Petitioner entered the United as an unaccompanied minor ("UAC"), and now has an approved I-360, Special Juvenile Status Petition, with a work permit. Exhibit A and Exhibit B. He

has filed an I-485, with a priority date of September 12, 2019, and did not have a visa available until March 2024. Exhibit C. His I-485 was received on the date of March 28, 2024, at the USCIS, and is currently awaiting approval. *Id.* At that time, he will be issued a green card. He also has a pending I-589 with the USCIS. Exhibit D. The Petitioner is now being held in immigration detention at Pickens County Jail. Exhibit E. The Petitioner is not eligible for a request for a bond and custody redetermination hearing. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

2. Petitioner's continued detention by Respondents without any mechanism to challenge his unlawful confinement violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment to the United States Constitution, and presents a federal question under 28 U.S.C. § 1331, though the Immigration and Nationality Act ("INA"), (8 U.S.C. § 1101 *et seq.*). Respondent seeks declaratory and injunctive relief under 28 U.S.C. § 1331 in conjunction with 28 U.S.C. § 2201, in the form of an order from this Court requiring her immediate release or, alternatively, a custody determination and, if necessary, a bond hearing before a neutral and impartial immigration judge.

JURISDICTION AND VENUE

3. Petitioner is currently detained in Pickens County Jail, which is located in this Honorable Court's jurisdiction. Exhibit E. On information and belief, Petitioner is set to be imminently transferred to a detention facility in Mississippi or Louisiana. The Petitioner is within the jurisdiction of the United States District Court for the Northern District of Alabama.

4. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 ("habeas corpus"), 28 U.S.C. § 1651 ("All Writs Act"), 28 U.S.C. § 1331 ("federal question"), the INA, and U.S. CONST. amend. V (the "Due Process Clause").

5. This Court has jurisdiction to adjudicate habeas corpus claims brought by foreign nationals who challenge the legality of their detention by U.S. immigration officials. *See Reno v. Flores*, 507 U.S. 292, 307 (1993) ("It is well established that the Fifth Amendment entitles aliens to due process of law in deportation proceedings."); *see also Djadju v. Vega*, 32 F.4th 1102, 1105-06 (11th Cir. 2022) ("Although our jurisdiction to consider challenges under § 2241 to an alien's detention is limited, we have jurisdiction to address a challenge to the legal basis of the detention, including constitutional challenges.") (citing *Madu v. U.S. Att'y Gen.*, 470 F.3d 1362, 1368 (11th Cir. 2006)).

6. Title 8 U.S.C. § 1252(g) does not operate as a jurisdictional bar because that statute does not apply to actions taken to detain foreign nationals. *See Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) ("Section 1252(g) 'applies only to three discrete actions,' i.e. commencement of removal proceedings, adjudication of removal cases, and execution of removal orders").

7. Title 8 U.S.C. § 1252(b)(9) does not preclude jurisdiction because that statute applies to review of removal orders and not to detention decisions made prior to the issuance of a removal order. *See Demore v. Kim*, 538 U.S. 510, 517 (2003) ("'where Congress intends to preclude judicial review of constitutional claims, its intent to do so must be clear.'") (quoting *Webster v. Doe*, 486 U.S. 592, 603 (1988)).

EXHAUSTION

8. A petitioner seeking habeas corpus under 28 U.S.C. § 2241 need not exhaust administrative remedies because the statute does not require exhaustion. *Compare* 28 U.S.C. § 2241 *with* 28 U.S.C. § 2254(b)(1)(A); *see McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) ("where Congress has not clearly required exhaustion, sound judicial discretion governs.") (citation omitted); *Stephens v. Lindsey*, 304 F. Supp. 203, 205 (S.D. Ga. 1969) (holding that

failure to exhaust did not deprive the court of jurisdiction to adjudicate a habeas corpus petition under 28 U.S.C. § 2241).

9. The usual method of exhaustion through the Board of Immigration Appeals ("the Board") would be futile, as it is extremely unlikely that the Board will reverse the decision that it issued in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). "A district court may excuse the failure to exhaust if resorting to an available administrative scheme would be futile or the remedy inadequate . . . or where a claimant is denied meaningful access to the administrative review scheme in place." *Bolton v. Inland Fresh Seafood Corp. of Am., Inc.*, 155 F.4th 1272, 1282 (11th Cir. 2025) (internal quotations omitted) (alteration in original). The Court should therefore waive the prudential exhaustion requirement.

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court should enjoin Petitioner's transfer from the jurisdiction, grant the petition for writ of habeas corpus, or issue an order to show cause to the Respondents forthwith, unless Petitioner is not entitled to relief. *See* 28 U.S.C. § 2243. If an order to show cause is issued, the Court should require respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

PARTIES

11. Petitioner is a native and citizen of El Salvador and is now detained by Respondents within the Northern District of Alabama. He is in custody at a Pickens County detention facility and under the direct control of Respondents and their agents.

12. The Warden of the Pickens County Jail is named in their official capacity. Respondent has immediate physical custody of Petitioner and has the authority to release him from custody.

13. Respondent Charles Anderson is sued in his official capacity as the SDDO over the Homewood, Alabama, ICE field office, the office with the authority to direct the actions of the Warden, with regard to immigration detainees.

STATEMENT OF FACTS

14. Petitioner is a native and citizen of El Salvador. He entered the United States in 2019 and was deemed an "Unaccompanied Alien Child" (UAC). He has resided in Alabama since entry and is a contributing member of this community. Exhibit A.

15. Petitioner has an approved I-360. Exhibit B.

16. Petitioner was awaiting the approval of his I-485. Exhibit C.

17. Petitioner has an approved I-765.

18. Petitioner was taken into custody by U.S. immigration officials the week of May 9, 2026. Unfortunately, the family did not come to our office until , today, May 18, 2026.

19. Last year, the Board of Immigration Appeals issued a precedential decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). That decision asserts that immigration judges lack jurisdiction to hold bond hearings for foreign nationals who are present in the United States without admission. *See id.* at 220. It bears noting that the Board issued *Yajure Hurtado* just two months after the Department of Homeland Security, through its Acting Director of U.S. Immigration and Customs Enforcement, "revisited" the Executive Branch's decades-old position that 8 U.S.C. § 1226(a) applies to foreign nationals who have crossed the border and are apprehended in the interior of the United States. *See Martinez v. Hyde*, 792 F. Supp. 3d 211, 217-218 (D. Mass. 2025).

20. Petitioner is being held without bond.

21. The United States Court of Appeals for the Eleventh Circuit recently held that many noncitizens arrested inside the United States are not subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and are instead entitled to a bond hearing under § 1226(a). *See Hernandez Alvarez v. U. S. Attorney*

General (consolidated with *Cerro Pérez*), No. 25-14065, ___ F.4th ___ (11th Cir. May 6, 2026).

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Immigration and Nationality Act, 8 U.S.C. §§ 1225(b) and 1226(a)

22. Petitioner incorporates and realleges all paragraphs as if fully set forth here.

23. Respondents' theory that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b) rests on their mistaken recent reinterpretation of the INA's detention provisions at 8 U.S.C. §§ 1225(b)(2)(A) and 1226(a). Several reasons demonstrate the incorrectness of the Respondents' reinterpretation of these statutes.

24. First, the plain language of the INA's pre-removal order detention statutes dictate that Petitioner is not properly detained under § 1225(b)(2). Section 1225(b)(2) "applies where an arriving alien is 'seeking admission' into the United States, and that provision mandates detention for aliens who are 'applicants for admission.'" *Antonio Aguirre Villa v. Normand*, 2025 U.S. Dist. LEXIS 217348, at *13 (S.D. Ga. Nov. 4, 2025) (quoting 8 U.S.C. § 1225(b)(2)(A)). Petitioner entered the United States in 2004. He cannot be said to be "arriving," nor can he be said to be "seeking" admission. *See id.* at *18 ("The expression 'alien seeking admission' plainly describes individual

taking some action, and, given the placement in the statute, that action would likely occur at the border upon inspection.") (citations omitted).

25. This understanding of § 1225(b) is consistent with *Jennings v. Rodriguez*, where the Supreme Court instructed that 8 U.S.C. § 1225(b) "applies primarily to aliens seeking entry into the United States ('applicants for admission' in the language of the statute)." 583 U.S. 281, 297 (2018).

26. In contrast, section 1226 has historically "authorize[d] the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings[.]" *Jennings*, 583 U.S. at 289 (emphasis and alteration added). "Section 1226(a) creates a default rule for those aliens by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings." *Id.* at 303. "Section 1226(a) also permits the Attorney General to release those aliens on bond . . ." *Id.*

27. In short, the plain language of the statute makes clear that the Respondents' detention authority would fall under § 1226(a). *See Jennings*, 583 U.S. at 289.

28. Second, the Respondents' reinterpretation of §§ 1225(b)(2)(A) and 1226(a) is contrary to the recent legislative history of the INA. It is settled that a "statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or superfluous, void or insignificant . . . ."

Hibbs v. Winn, 542 U.S. 88, 101 (2004) (internal quotations omitted)). In January 2025, Congress passed the Laken Riley Act, "amending § 1226(c) to add a category of noncitizens subject to mandatory detention." *Aguirre Villa*, 2025 U.S. Dist. LEXIS 217348, at *24 (citing Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025)). "This category includes noncitizens who are (1) inadmissible under §§ 1182(6)(A), (6)(C), or (7)(A), and (2) that have been charged with 'burglary, theft, larceny, shoplifting or assault of a law enforcement officer offense, or any crime that results in death or serious bodily injury to another person.'" *Id.* (quoting 8 U.S.C. § 1226(c)(1)(E)(ii)). If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions of the Laken Riley Act would be "meaningless." *Id.*

29. Third, the Respondents' reinterpretation of the detention provisions "would upend decades of practice. Indeed, mandatory detention for all applicants has only been the official policy of the Department of Homeland Security ("DHS") . . . since July 8, 2025, when Acting Director of U.S. Immigration and Customs Enforcement, Todd M. Lyons, issued an internal memorandum explaining that the agency had revisited its legal position." *Martinez v. Hyde*, 792 F. Supp. 3d 211, 217-218 (D. Mass. 2025) (internal quotation omitted); *see Paz v. Walker*, 2026 U.S. Dist. LEXIS 5154, at *2 (S.D. Fla. Jan. 12,

2026) (same). The Respondents' nearly three-decade interpretation of the INA's detention provisions should inform the Court as to the correctness of that interpretation. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 386 (2024).

30. The novelty of the Respondents' theory of immigration detention is underscored by the conflicting pronouncements of it by the Respondents themselves. In an August 4, 2025, order, the Attorney General determined that foreign nationals arrested in the interior of the United States (other than at a port of entry) are entitled to bond hearings and are detained under 8 U.S.C. § 1226. She did this by designating as precedent "in all proceedings involving the same or similar issues" the Board's decision in *Matter of Akhmedov*, 29 I. & N. Dec. 166 n.1 (BIA 2025).

31. In *Akhmedov*, the Board considered the Department of Homeland Security's appeal of an Immigration Judge's grant of bond to a foreign national arrested in the interior of the United States. *See* 29 I. & N. Dec. at 166, 168. The Board's decision - as adopted by the Attorney General – could hardly be clearer: "The respondent's custody determination is governed by the provisions of section 236(a) of the Immigration and Nationality Act, 8 U.S.C. § 1226(a) (2018)." *Id.* at 166.

32. Just like the foreign national in *Matter of Akhmedov*, Petitioner was arrested by immigration officers in the interior of the United States. Just like the foreign national in *Matter of Akhmedov*, Petitioner is, at a minimum, entitled to a bond hearing.

33. By statute, the Attorney General's determinations and rulings on all questions of law pertaining to the Immigration and Nationality Act bind the Executive Branch. *See* 8 U.S.C. § 1103(a)(1); see also 8 C.F.R. § 1003.1(d)(1)(i) ("The Board shall be governed by the provisions and limitations prescribed by applicable law, regulations, and procedures, and by decisions of the Attorney General (through review of a decision of the Board, by written order, or by determination and ruling pursuant to section 103 of the Act)."

34. Approximately one month after the Attorney General ordered that *Akhmedov* is binding, the Board of Immigration Appeals issued its decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). In that case, the Board determined that a foreign national who has not been admitted to the United States is not entitled to a bond hearing and is detained under 8 U.S.C. § 1225(b)(2)(A). *See id.* at 220. *Yajure Hurtado* cannot be reconciled with the Attorney General's decision in *Akhmedov* (decided a month earlier), where the Attorney General determined that 8 U.S.C. § 1226(a) governs foreign

nationals who enter the United States unlawfully and who immigration officers later encounter. *See Matter of Akhmedov*, 29 I. & N. Dec. at 166.

COUNT TWO

Violation of Fifth Amendment Right to Substantive Due Process

35. Petitioner incorporates and realleges all paragraphs as if fully set forth here.

36. It is settled that the Fifth Amendment's Due Process Clause applies to all "persons" within the United States. *See Matthews v. Diaz*, 426 U.S. 67, 77 (1976). The guarantee of substantive due process includes "aliens, whether their presence here is lawful, unlawful, temporary, or permanent.") *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citations omitted).

37. It is equally well settled that freedom from confinement is a core liberty interest and violation of that liberty interest raises a colorable substantive due process claim. S*ee, e.g., Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (citing *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)); *Reno v. Flores*, 507 U.S. 292, 301 (1993) (collecting cases); *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (bodily freedom is the "most elemental of liberty interests")."

38. "[G]overnment detention violates th[e Due Process] Clause unless the detention is ordered in a *criminal* proceeding with adequate procedural protections or, in certain special and 'narrow' nonpunitive 'circumstances'

where a special justification . . . outweighs the 'individual's constitutionally protected interest in avoiding physical restraint." *Zadvydas*, 533 U.S. at 690 (emphasis in original) (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)).

39. The Court should grant the Habeas Corpus Petition and order Petitioner's immediate release because the Respondents are engaged in an ongoing violation of her right to substantive due process.

COUNT THREE

Violation of Fifth Amendment Right to Procedural Due Process

40. Petitioner incorporates and realleges all paragraphs as if fully set forth here.

41. Petitioner also has a right to procedural due process. Immigration proceedings are civil, and they are intended to be "nonpunitive in purpose and effect." *Zadvydas*, 533 U.S. at 690. Over a century of Supreme Court precedent instructs that the Fifth Amendment entitles foreign nationals to procedural due process. *See Reno*, 507 U.S. at 306 (citing *The Japanese Immigrant Case*, 189 U.S. 86, (1903).

42. "To determine whether detention violates procedural due process rights, courts apply the three-part test articulated in *Mathews v. Eldridge*, 424 U.S. 319 (1976)." *Merino v. Ripa*, 2025 U.S. Dist. LEXIS 206662, at *11 (S.D. Fl. Oct. 15, 2025). "Under Mathews, courts weigh the following three

factors: (1) 'the private interest that will be affected by the official action'; (2) 'the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards'; and (3) 'the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail.'" *Id.* (quoting *Mathews*, 424 U.S. at 335).

43. First, Petitioner invokes "the most elemental of liberty interests – the interest in being free from physical detention . . ." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

44. Second, the risk of erroneously depriving Petitioner of his freedom is high because he is being held without an individualized assessment of the need for detention pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

45. Third, any government interest would be protected by the individualized determination of an immigration judge in whether he should be granted bond under § 1226. *See Merino v. Ripa*, 2025 U.S. Dist. LEXIS 206662 at *13 (S.D. Fl. (Oct. 15, 2025) (citing *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017) ("the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community

and whose appearance at future immigration proceedings can be reasonably ensured by a lesser bond or alternative conditions.").

46. In Petitioner's case, all three *Mathews* factors weigh heavily in favor of holding that the Respondents' refusal to provide him with any process whatsoever violates his right to procedural due process. The petitioner is the victim of a crime and has been wrongly assigned the tag of perpetrator. The DACA recipient should be given an opportunity to clear his name, if he is in Louisiana or Mississippi, that will never happen. For these reasons, the Court should grant the petition for a Writ of Habeas Corpus for this reason as well.

COUNT FOUR

Petitioner is a *Maldonada Bautista* Class Member

47. Petitioner incorporates and realleges all paragraphs as if fully set forth here.

48. In *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), the United States District Court for the Central District of California certified a nationwide class of noncitizens present in the United States without lawful status who "(1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security

makes an initial custody determination." *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 23, 2025).

49. On November 20, 2025, the Court issued relief to all members of the class, stating that their immigration detention authority falls under 8 U.S.C. § 1226(a), rather than § 1225(b)(2)(A).

50. On December 18, 2025, the Court entered final judgment certifying the nationwide class and declaring unlawful the policy of categorically detaining individuals who entered without inspection under § 1225(b)(2)(A).

51. Petitioner meets all requirements for *Maldonado Bautista* class membership. He is a foreign national who entered the United States in 2004 and was not intercepted by an immigration official upon entry.

52. Petitioner's membership in the *Maldonado Bautista* class is another independent reason why the Court should grant the habeas petition forthwith. *See* 8 U.S.C. § 2243.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

(3) Declare that the Respondents' detention of Petitioner violates the Due Process Clause of the Fifth Amendment and is unlawful under the Immigration and Nationality Act (INA);

(4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately or, alternatively, order that a neutral and impartial adjudicator conduct a bond hearing pursuant to 8 U.S.C. § 1226(a);

(5) Enjoin Respondents from transferring Petitioner outside of this district; and

(6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ John Charles Bell
John Charles Bell
ASB-240L73J

The Law Office of John Charles Bell
3430 Independence Drive, Suite 140
Homewood, Alabama 35209
Ph.: (205) 637-6390
Fax: (205) 637-6804
Em: john@jcbjustice.com
Em.: johncharlesbellatty@johncharlesbell.com
Attorney for Petitioner

Dated: May 18, 2026

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

I represent Petitioner 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 18th day of May, 2026.

/s/ John Charles Bell
John Charles Bell

UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ALABAMA
NORTHERN DIVISION

Erick Salazar-Salguero (A No. [redacted]6), Petitioner, v. **WARDEN,** in his official capacity as warden of the Pickens County Jail, **CHARLES ANDERSON,** in his official capacity Senior Detention and Deportation Officer, Homewood Field Office, U.S. Immigration and Customs Enforcement; Respondents.	**Case No. 26-cv-_____** **PETITION FOR WRIT OF HABEAS CORPUS**

EXHIBITS

Exhibit A	Copy of "Unaccompanied Alien Child" (EAC);
Exhibit B	Copy of approved I-360 for Erick Salazar-Salguero, priority date 09/12/2019, and notice date 05/12/2022;
Exhibit C	Copy of pending I-485 for Erick Salazar-Salguero filed April 19, 2019;
Exhibit D	Copy of pending I-589 for Erick Salazar-Salguero filed April 19, 2019;
Exhibit E	Copy of the ICE Detainer Locator for the Petitioner, printout the evening of 5/18/2026;

Respectfully submitted this 18th day of May, 2026.

/s/ John Charles Bell
John Charles Bell.
ASB 240L73J

The Law Office of John Charles Bell
3430 Independence Drive, Suite 140
Homewood, Alabama 35209
Ph.: (205) 637-6390
Fax: (205) 637-6804
Em: john@jcbjustice.com
Em.: johncharlesbellatty@johncharlesbell.com