UNITED STATES DISTRICT COURT FOR THE
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Oscar O. HERNANDEZ ALDANA Petitioner, v. George STERLING, in his official capacity as Field Office Director of Enforcement and Removal Operations, Atlanta Field Office, Immigration and Customs Enforcement; Markwayne MULLIN, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; Tod BLANCHE, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Jason STREEVAL, Warden of Stewart Detention Center, Respondents.	Case No. **PETITION FOR WRIT OF HABEAS CORPUS**

I. INTRODUCTION

1. Petitioner, **Oscar Orland Hernandez Aldana (A[redacted])**, is currently in physical custody of Respondents at the **Stewart Detention Center**. Petitioner is subject to unlawful detention as the Department of Homeland Security ("DHS") and the Executive Office for Immigration Review ("EOIR") have determined that he is subject to mandatory detention.

2. Petitioner is charged with being an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time other than as designated by the Attorney General. *212*(a)(6)(A)(i) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the

Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act. *(See TAB A)*

3. Based on this allegation in Petitioner's removal proceedings, DHS denied 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.

4. 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.

5. Petitioner now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded that Petitioner is subject to mandatory detention, pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and *Matter of Q Li* ,29 I&N Dec. 66 (BIA 2025). As a result of this jurisdictional ruling, the Immigration Judge could not consider any individualized custody factors, including danger to the community, risk of flight, community ties, or alternatives to detention.

6. Respondent's recent legal interpretation directly contravenes the statutory framework and departs from decades of established agency practice applying 8 U.S.C. § 1226(a) to similarly situated individuals, including Petitioner.

7. Petitioner's continued detention without any individualized custody determination violates the Due Process Clause of the Fifth Amendment, the Administrative Procedure Act, the Suspension Clause of the United States Constitution, and binding agency regulations. DHS's reliance on a categorical jurisdictional bar has resulted in prolonged civil confinement without adequate procedural safeguards or

meaningful judicial review.

8. Petitioner seeks habeas relief ordering his immediate release from ICE custody or, in the alternative, an order directing Respondents to provide him with a prompt, constitutionally adequate, and individualized custody determination before a neutral decisionmaker with authority to order release. For the foregoing reasons, the Court should grant the writ and restore Petitioner's liberty

II. JURISDICTION

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

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the legality of his ongoing civil immigration detention and seeks relief that is within the traditional scope of habeas corpus. Jurisdiction also lies under 28 U.S.C. § 1331, as this Petition raises federal questions arising under the Constitution, laws, and treaties of the United States. The Suspension Clause of the United States Constitution further guarantees Petitioner's right to seek habeas corpus review where no other adequate remedy exists.

11. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the legality of his ongoing civil immigration detention and seeks relief that is within the traditional scope of habeas corpus. Jurisdiction also lies under 28 U.S.C. § 1331, as this Petition raises federal questions arising under the Constitution, laws, and treaties of the United States. The Suspension Clause of the United States Constitution further guarantees Petitioner's right to seek habeas corpus review where no other adequate remedy exists.

12. Federal district courts have jurisdiction to hear habeas corpus claims brought by noncitizens challenging the lawfulness of their immigration detention. See *Demore v. Kim*, 538 U.S. 510, 516–17 (2003) (recognizing habeas jurisdiction over challenges to immigration detention); *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (same). That jurisdiction extends to claims alleging that detention exceeds statutory authority, violates constitutional guarantees, or results from agency action that is

arbitrary, capricious, or contrary to law.

13. No petition for a writ of habeas corpus has previously been filed in any court regarding Petitioner.

III. VENUE

14 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 Petitioner currently is detained.

15. 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.

IV. REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

17. 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).

18. Petitioner satisfies the requirements of 28 U.S.C. §2243 because he is presently in custody under the authority of Respondents and is being unlawfully restrained in violation of the Constitution and laws of the United States. Petitioner respectfully requests that this Court issue an Order to Show Cause directing Respondents to state the legal basis for Petitioner's continued detention and to provide any records relied upon to justify such detention.

19. Courts have long recognized the significance of the habeas statute in protecting

individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of int or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

V. PARTIES

20. Petitioner **Oscar Orland Hernandez Aldana (A[redacted])** is a citizen of El Salvador who is in immigration detention since May 1, 2026. After arresting Petitioner, ICE did not set bond, and Petitioner is unable to obtain a review of his custody by an IJ, pursuant to the Board's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) and *Matter of Q Li* ,29 I&N Dec. 66 (BIA 2025.

21. Respondent George Sterling is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division. As such, George Sterling is the Petitioner's immediate custodian and is responsible for the Petitioner's detention and removal. He is named in his official capacity.

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

23. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

24. Respondent Tod Blanche is the 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.

25. Respondent Executive Office for Immigration Review (EOIR) is the federal agency responsible for implementing and enforcing INA in removal proceedings, including for custody redeterminations in bond hearings.

26. Respondent Jason Streeval is named in his official capacity as the Warden of the Stewart

Detention Center, where Petitioner is detained. As Warden, he is responsible for the operations of the Stewart Detention Center, including overseeing the people in the facility's custody, and as such, he is a custodian of the Petitioner. Respondent Warden's address is 146 CCA Road, Lumpkin, GA 31815. He is sued in his official capacity.

VI. LEGAL FRAMEWORK

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

28. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *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).

29. 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).

30. 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).

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

32. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRAIRA) of 1996, Pub. L. No. 104-–208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

33. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

34. Section 1226(a) applies by default to all persons "pending a decision on whether the

noncitizen is to be removed from the United States." These removal hearings are held under § 1229a, to "decide the inadmissibility or deportability of a noncitizen."

35. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the Rodriguez Vazquez court explained, "when Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." Rodríguez Vázquez, 779 F. Supp. 3d at 1257 (citing Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co., 559 U.S. 393, 400 (2010)); see also Gomes, 2025 WL 1869299, at *7. 1. Section 1226, therefore, leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

36. While *Matter of Q. Li* interprets the scope of mandatory detention under INA § 236(c), administrative precedent cannot negate constitutional protections. The Fifth Amendment guarantees that civil detention must be accompanied by adequate procedural safeguards, including a meaningful opportunity to contest continued confinement. Civil immigration detention is non-punitive. When detention becomes prolonged, due process requires an individualized assessment of whether continued detention is justified by flight risk or danger. Even where Congress authorizes detention, the Constitution limits how long and under what conditions detention may persist without review. The Supreme Court has repeatedly emphasized that liberty is the norm, and detention is the carefully limited exception. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

37. Petitioner's ongoing detention imposed without any opportunity for an individualized custody determination and based solely on a categorical jurisdictional interpretation has resulted in prolonged and potentially indefinite civil confinement. His detention under restrictive, penal-like conditions, despite his compliance with immigration authorities, inflicts serious liberty harms and raises grave constitutional concerns.

38. Petitioner was arrested without a warrant pursuant to 8 U.S.C. § 1226(a). Respondents did not revoke or formally modify the prior release determination, nor did they provide any meaningful

process before re-detaining him.

39. Petitioner affirmatively sought an individualized custody redetermination before the Immigration Court. The Immigration Court in *Matter of Q LI* expressly denied the bond request solely on jurisdictional grounds, concluding that the court lacked authority to consider bond or conduct any custody review based on DHS's classification of Petitioner as subject to mandatory detention under INA § 235(b).

40. As the Immigration Court expressly determined in *Yahure Hurtado*, that it lacked jurisdiction to conduct any custody redetermination, Petitioner has no administrative mechanism through which to challenge the legality, duration, or necessity of his detention.

41. On or about January 13, 2026, Chief Immigration Judge Teresa L. Riley issued nationwide guidance instructing all immigration judges that: "*Maldonado Bautista* is not a nationwide injunction and does not purport to vacate, stay or enjoin *Yajure Hurtado*." Immigration judges are instructed to treat the BIA's decision in *Matter of Yajure Hurtado* as binding precedent. EOIR guidance further states that a "declaratory judgment" is not binding and lacks authority to compel specific action. Under these circumstances, no administrative body within EOIR has authority to provide the relief sought.

42. As a result of his continued detention, Petitioner remains separated from his two children, his partner, and his family. Petitioner is unable to provide the essential financial, emotional, and parental support upon which his household depends, thereby causing substantial hardship and disruption to his family unit and adversely affecting the well-being and stability of his children and loved ones.

43. His detention is unlawful under the Immigration and Nationality Act and violative of the Fifth Amendment. Because Respondents have applied an inapplicable mandatory detention provision and denied him the procedural safeguards guaranteed by statute, immediate release is the appropriate remedy. In the alternative, and at a minimum, Petitioner is entitled under 8 U.S.C. § 1226(a) to an individualized bond hearing with full procedural protections. Continued detention without release—or without the bond hearing mandated by statute— is arbitrary, unreasonable, and contrary to both the INA and the Constitution.

A. Due Process

44. Although Petitioner requests, in the alternative, an individualized bond hearing under 8 U.S.C. § 1226(a), he respectfully submits that such relief would not provide a meaningful remedy under the current circumstances.

45. The immigration courts, operating under recent precedential directives and institutional constraints, have declined to exercise bond jurisdiction in cases materially identical to Petitioner's. As explained in the following section, the structural limitations imposed by recent agency interpretations prevent the provision of a genuinely neutral and effective custody determination.

46. Noncitizens present in the United States are entitled to due process protections. See, e.g., *Trump v. J.G.G.*, 604 U.S. 670 (internal citations and quotations omitted) ("It is well established that the Fifth Amendment entitles aliens to due process of law in the context of removal proceedings."); *Zadvydas*, 533 U.S. at 693 (applying due process in the context of detention).

47. The rights of noncitizens include rights to "notice and opportunity to be heard 'appropriate to the nature of the case.'" *J.G.G.*, 604 U.S. at 673 (quoting *Mullane v. Central Hanover Bank & Trust Co.*, 339 U.S. 306, 313 (1950)); see also *Mathews v. Eldrige*, 424 U.S. 319, 332 (1976). To determine whether detention violates procedural due process, the court weighs (1) the private interest at stake, (2) the risk of an erroneous deprivation of that private interest and the value of additional safeguards, and (3) the Government's countervailing interests. Id.

48. To reach this conclusion, it is not necessary to decide whether the Petitioner was subject to mandatory detention. The subject of this analysis not Respondents' authority to detain, **but the adequacy of the process by which they detained the Petitioner**. See *Caisa Telenchana v. Hermosillo*, No. 2:26-CV-00363-GJL, 2026 WL 696806, at 10; *Rodríguez Cabrera v. Mattos*, 808 F. Supp. 3d 1159, 1178 (D. Nev. 2025).

B. The Government's Interest

49. The Government has a strong interest in the efficient administration of immigration laws, including those regarding detention of noncitizens. *Rodriguez Diaz*, 53 F.4th at 1208. However, the

Government's interests will still be adequately protected if immigrants are afforded some minimal procedural guarantees. *Rodriguez Cabrera*, 808 F. Supp. 3d at 1182; *see Gaitan Coreas*, 2026 WL 1121974, at *7 ("[T]he government's interest in detaining Petitioner without a hearing is low").

50. Respondents do not have a legitimate interest in pursuing the detention of noncitizens in a manner that violates their own regulations, nor have they demonstrated that continued detention is necessary under the circumstances. In fact, maintaining Petitioners in continued detention imposes significant and unnecessary governmental costs, particularly where less restrictive alternatives are available and Petitioners do not pose a danger to the community or a flight risk.

C. The INA Establishes Two Distinct Detention Frameworks

51. The Immigration and Nationality Act ("INA") establishes multiple detention authorities governing noncitizens in removal proceedings, depending on procedural posture and statutory classification. These detention provisions operate against the backdrop of constitutional limitations on civil confinement and long-recognized principles of individualized custody review.

52. First, INA § 236(a), 8 U.S.C. § 1226(a), authorizes the discretionary detention of noncitizens placed in full removal proceedings under INA § 240, 8 U.S.C. § 1229a.

53. Historically, individuals in section 1226(a) detention are 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).

54. Second, INA § 235(b), 8 U.S.C. § 1225(b), governs the detention of noncitizens classified as "applicants for admission," including individuals subject to expedited removal under § 1225(b)(1) and those referred to full removal proceedings under § 1225(b)(2). Section 1225(b)(2)(A) provides that certain applicants for admission "shall be detained" pending removal proceedings, subject to limited parole authority.

55. Finally, the Act also provides for the detention of noncitizens who have previously been ordered removed, including those in withholding-only proceedings. See 8 U.S.C. § 1231(a)–(b).

56. The detention provisions at section 1226(a) and 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA") of 1996, Pub. L. No. 104-208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009-582 to 3009-583, 3009-585. Section 1226(c) was most recently amended earlier this year by the LRA, Pub. L. No. 119- 1, 139 Stat. 3 (2025). Congress enacted these provisions against a longstanding background principle that civil immigration detention must remain tied to legitimate regulatory purposes and must comport with constitutional due process requirements.

57. Following IIRIRA's enactment, the Executive Office for Immigration Review promulgated regulations explaining that, as a general matter, noncitizens who entered without inspection and were placed in § 240 removal proceedings were detained under § 1226(a), not § 1225(b). See *Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997). In the decades that followed, most noncitizens who entered without inspection—unless they were subject to some other detention authority—received bond hearings. This practice was also consistent with pre-IIRIRA procedure, in which noncitizens not deemed "arriving" were entitled to a custody hearing before an Immigration Judge or other hearing officer. See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that section 1226(a) simply "restates" the detention authority previously found at section 1252(a)).

58. On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement ("ICE") stating that "[t]his message serves as notice that DHS, in coordination with the Department of Justice (DOJ), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA) [8 U.S.C. § 1225], rather than section 236 [8 U.S.C. § 1226], is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department's legal interpretation while additional operational guidance is developed." The memo further stated DHS' new position regarding custody determinations as follows:

> An "applicant for admission" is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival. INA § 235(a)(1). Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole.

> These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated. **The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).**
>
> Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I 286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286. See https://www.aila.org/ice-memointerim-guidance-regarding-detention-authorityfor-applications-foradmission (last accessed August 4, 2025) (emphasis original).

59. As a result, DHS now considers all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including longtime U.S. residents, are now considered to be subject to mandatory detention under section § 1225(b) and ineligible for release on bond. Conversely, according to DHS "[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) [8 U.S.C. § 1226(a)] during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c) [8 U.S.C. § 1226(c)]." Id.

60. On September 5, 2025, the BIA issued a precedential decision in Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025), holding that, based on the plain language of 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to noncitizens who are present in the United States without admission. Courts across the country have rejected this expansive interpretation because it conflicts with the statutory text, structure, and longstanding practice.

61. Section 1225(b)(1) applies only to noncitizens subject to expedited removal for fraud under § 1182(a)(6)(C) or lack of proper documentation under § 1182(a)(7), and only when encountered at a port of entry or within the expedited-removal designation period. See 8 U.S.C. § 1225(b)(1)(A)(i).

62. In this case, the Respondents themselves validated the propriety of placing Petitioner in full removal proceedings under INA § 240, as reflected in the Notice to Appear issued in this case and by their decision to release him shortly after his apprehension at the border more than two years ago. By

issuing an NTA and initiating regular removal proceedings—rather than placing him in expedited removal—Respondents confirmed that his case falls outside the scope of § 1225(b).

63. Because neither subsection of § 1225(b) applies to Petitioner, his detention must be analyzed under 8 U.S.C. § 1226(a). Section 1226(a) governs individuals detained "pending a decision on whether the alien is to be removed from the United States." Removal proceedings under § 1229a determine inadmissibility or deportability, and the text of § 1226 expressly contemplates custody determinations for individuals charged as inadmissible including those present without admission.

64. The structure of the statute confirms this conclusion. Congress created specific mandatory detention categories in § 1226(c), including for certain inadmissible individuals. See 8 U.S.C. § 1226(c)(1)(E). By carving out those limited mandatory categories within § 1226 itself, Congress demonstrated that § 1226(a) is the default detention authority for individuals in removal proceedings. As courts have explained, when Congress creates specific exceptions within a statutory framework, it confirms that the general rule otherwise applies. See Rodriguez Vazquez, 779 F. Supp. 3d at 1257.

65. District courts within Georgia and the Eleventh Circuit have adopted this reasoning, holding that § 1226(a)—not § 1225(b)—governs detention of noncitizens arrested in the interior after residing in the United States. See *Aguirre Villa*, 2025 WL 3095969; *Patel v. Parra*, No. 2:25-cv-00870 (M.D. Fla. Dec. 1, 2025). These courts have recognized that § 1225(b) is a border-focused statute and does not extend to individuals long present within the country.

66. Courts confronting materially identical facts, including *Granados* and *Pineda*, have likewise concluded that detention under § 1225(b) in such circumstances is unlawful. Accordingly, because § 1225(b) does not apply, Petitioner is being detained under an inapplicable mandatory detention provision. His detention lacks statutory authority. Habeas relief is therefore proper. Absent intervention by this Court, Petitioner will remain confined without lawful authorization and without the individualized custody review Congress expressly provided under § 1226(a).

67. For these reasons, Petitioner's detention is not only contrary to the statutory scheme—it is unconstitutional. Respondents have invoked an inapplicable mandatory detention provision and, in doing so, have deprived Petitioner of the individualized custody determination Congress required and the

Constitution demands. When detention lacks lawful statutory authority and is imposed without the procedural safeguards guaranteed by the Fifth Amendment, continued confinement cannot be justified. Under these circumstances, release is not merely appropriate—it is constitutionally compelled. This Court should therefore grant the writ and order Petitioner's immediate release from custody.

D. Due process requires that an Impartial Adjudicator Decides if Petitioner's Continued Detention Bears Reasonable Relation of flight risk and danger to Community

68. As relevant here, due process requires that immigration detention "bear a reasonable relation to the purpose for which the individual was committed." Demore v. Kim, 538 U.S. 510, 527 (2003) (quoting Zadvydas v. Davis, 533 U.S. 678, 690 (2001)).

69. Specifically, immigration detention must be reasonably related to the government's goals of preventing flight and protecting the community from harm and be accompanied by adequate procedural protections to ensure that those goals are being served. See Zadvydas, 533 U.S. at 690-91.

70. Chief among these procedural protections is "the guarantee of an impartial and disinterested tribunal," which the Due Process Clause requires "in both civil and criminal cases." Marshall v. Jerrico, Inc., 446 U.S. 238, 242 (1980).

71. The immigration court system has been transformed into a body that is structurally incapable of upholding Petitioner's statutory and constitutional rights. The immigration court system is not an independent adjudicative body. It operates under the Department of justice ("DOJ"). In the last year the DOJ and its sub-agencies, the Executive Office for Immigration Review ("EOIR") and the Board of Immigration Appeals ("BIA"), in apparent coordination with the Department of Homeland Security ("DHS") have systematically dismantled the integrity of the immigration court system to turn it into an extension of DHS' deportation and detention operations.

72. The evidence of EOIR's institutional capture falls into five categories, each independently sufficient to establish bias, but together demonstrating systematic destruction of judicial independence: (1) the ongoing mass-scale purge of immigration judges perceived as obstacles to DHS' enforcement agenda; (2) the parallel purge and reconstitution of the BIA, resulting in a 97% pro-government decision

rate; (3) the recruitment and installation of two explicitly enforcement-aligned "deportation judges" with dramatically reduced qualifications; (4) EOIR policy directives establishing expectations that adjudications favor the government over noncitizens; and (5) explicit instructions to defy district court rulings that impede DHS's enforcement goals.

73. The message to remaining immigration judges is unmistakable: neutrality is a terminable offense. No adjudicator can remain impartial when faced with the choice between upholding due process and keeping their position. Any immigration judge assigned to Petitioner's bond hearing now operates under the understanding that granting bond may cost them their livelihood.

74. Under these circumstances, ordering a bond hearing would not cure the constitutional violation. A custody determination conducted within a structurally compromised system—one operating under binding precedent that forecloses jurisdiction, directives that prioritize enforcement over neutrality, and leadership that has openly resisted federal court rulings—cannot provide the meaningful process the Constitution requires. Due process guarantees not the mere formality of a hearing, but a fair and impartial adjudication. Where the adjudicatory mechanism itself has been rendered incapable of delivering that protection, additional process becomes illusory.

75. Accordingly, because Petitioner's detention lacks lawful statutory authority and because no neutral forum presently exists to review its necessity, immediate release is the only remedy capable of fully vindicating his statutory and constitutional rights.

VII. FACTS

76. Petitioner entered the United States on or about Octoner 10, 2023.

77. Removal proceedings were initiated on Octoner 11, 2023, pursuant to 8 U.S.C. § 1229a by DHS.

78. That on June 30, 2025, the Immigration Judge in the Atlanta Georgia Immigration Court closed the case due to a failure to prosecute the Petitioner's removal matters.

79. Petitioner was residing in Georgia, before his detention and he is currently being held at the Stewart Detention Center in Lumpkin, Georgia.

80. The Petitioner was stopped for speeding and arrested for not possessing a valid driver's license. To our knowledge, Petitioner does not have any additional pending criminal charges. Throughout the traffic stop, the Petitioner remained polite and cooperative with the Police and ICE Agents. The Petitioner agreed to take part in all tests, including tests, and was always fully cooperative. The Petitioner did not cause any physical harm to himself or others. No property was damaged or tarnished.

81. Pursuant to Matter of Qli, the immigration judge lacks jurisdiction to consider Petitioner's bond request.

82. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months in immigration custody, separated from his family and community.

83. Petitioner does not present a risk of flight or a danger to the community.

VIII. CLAIMS FOR RELIEF

COUNT ONE

Unlawful Detention in Violation of the Immigration and Nationality Act (INA) and Implementing Regulations

84. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

85. The Immigration and Nationality Act authorize immigration detention only to the extent it serves legitimate, non-punitive statutory purposes, namely, to ensure an individual's appearance at future proceedings or to protect public safety. Detention that does not advance those purposes, or that becomes arbitrary and indefinite, exceeds the government's statutory authority. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001); Clark v. Martinez, 543 U.S. 371, 381 (2005).

86. Petitioner entered the United States on or about October 10, 2023, was placed into removal proceedings under INA § 240, and has pending applications with USCIS for asylum, withholding of removal, and protection under the Convention Against Torture. His removal proceedings remain ongoing.

87. Petitioner has no criminal convictions and no record of violence and has never exhibited

conduct suggesting danger to the community or risk of flight. Nothing in his immigration file indicates that he poses a threat to public safety or that he would fail to appear for his hearings if released.

88. Petitioner has been continuously detained in civil immigration custody since May 1, 2026, following an ICE enforcement operation, and is currently confined at the Stewart Detention Center.

89. The INA does not permit detention to operate as punishment, deterrence, or coercion, nor does it authorize prolonged confinement absent a meaningful mechanism to assess whether continued detention is necessary to serve its legitimate aims. *Zadvydas*, 533 U.S. at 690–91; Clark, 543 U.S. at 380–81.

90. Even where detention is initially authorized under INA § 235(b)(2)(A), the statute must be applied consistent with its limited purpose and in conjunction with the INA's broader detention framework, including DHS's continuing discretionary authority to release noncitizens through parole, supervision, or other conditions where detention no longer serves a legitimate statutory objective. See 8 U.S.C. § 1182(d)(5)(A); 8 C.F.R. § 212.5.

91. DHS has not conducted any individualized assessment of whether Petitioner's continued detention is necessary to ensure appearance or protect public safety, nor has it articulated any reasoned basis for rejecting less restrictive alternatives to detention. The categorical reliance on Yajure Hurtado as a blanket bar to custody review effectively transforms a civil detention scheme into one of indefinite confinement without statutory justification.

92. Petitioner's continued detention bears no reasonable relationship to the purposes of the INA. It is not tied to imminent removal, is not supported by any individualized finding of danger or flight risk, and persists solely because of a categorical legal interpretation that eliminates all meaningful custody review.

93. Detention under these circumstances exceeds the detention authority Congress conferred in the INA and contravenes the statute's non-punitive design, its implementing regulations, and controlling Supreme Court precedent limiting civil immigration detention to what is reasonably necessary to achieve its lawful purposes.

94. Accordingly, Petitioner's continued detention is unlawful under the Immigration and

Nationality Act and its implementing regulations. Petitioner respectfully requests that this Court grant habeas relief by ordering his immediate release, or, in the alternative, ordering Respondents to provide a prompt, lawful, and meaningful individualized custody determination consistent with the INA and governing law.

COUNT TWO

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

95. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Noncitizens physically present in the United States including those who entered without inspection are "persons" within the meaning of the Fifth Amendment and entitled to full procedural due process protections. Zadvydas v. Davis, 533 U.S. 678, 693 (2001); Landon v. Plasencia, 459 U.S. 21, 32 (1982) 92.

96. Petitioner has been categorically barred from receiving any hearing before a neutral adjudicator to determine whether his detention is justified. He has been denied the opportunity to present evidence, contest the government's assertions, or obtain a meaningful review of his custody.

97. The Supreme Court has made clear that the absence of a statutory right to a bond hearing does not foreclose as-applied constitutional challenges to immigration detention. In Jennings v. Rodriguez, 583 U.S. 281 (2018), the Court rejected a statutory bond-hearing requirement but expressly remanded for consideration of constitutional due process claims. Id. at 302–03. 101.

98. Petitioner faces a substantial risk of prolonged or indefinite detention under penal-like conditions without any finding that his confinement is necessary to serve the government's legitimate interests.

99. The constitutional infirmity here is not merely the length of detention but the complete absence of any meaningful custody process. Petitioner is detained pursuant to a regime in which: a). No immigration judge may conduct a bond hearing; b). DHS is not required to justify continued detention with evidence; and c) No neutral decisionmaker is empowered to order release, regardless of the Petitioner's lack of danger or flight risk.

100. This categorical denial of any individualized custody determination violates procedural

due process. Fundamental fairness requires, at a minimum, a meaningful opportunity to be heard before a neutral adjudicator when the government restrains physical liberty for a prolonged period. Zadvydas, 533 U.S. at 690; Mathews v. Eldridge, 424 U.S. 319, 333 (1976).

101. Accordingly, Petitioner's continued detention without an individualized custody determination violates the Fifth Amendment as applied to him. Habeas relief is warranted. Petitioner respectfully requests that this Court order his immediate release from ICE custody; or in the alternative, order Respondents to provide a prompt, constitutionally adequate individualized custody hearing before a neutral decisionmaker with authority to grant release, at which the government bears the burden of justifying continued detention.

COUNT THREE

Violation of the Equal Protection Guarantee of the Fifth Amendment

102. The Due Process Clause of the Fifth Amendment contains an implicit guarantee of equal protection that prohibits the federal government from treating similarly situated individuals differently without a rational and legitimate governmental purpose. Reno v. Flores, 507 U.S. 292, 302 (1993); Plyler v. Doe, 457 U.S. 202, 210 (1982); Bolling v. Sharpe, 347 U.S. 497, 499 (1954).

103. Petitioner currently remains without access to an individualized custody determination due to Respondents' position that he falls outside the Immigration Court's bond jurisdiction based upon Matter of Q. Li, 29 I&N Dec. 66 (BIA 2025), and Matter of Yajure-Hurtado, 29 I&N Dec. 216 (BIA 2025). As a result, Petitioner faces continued detention without any meaningful opportunity to demonstrate that he does not present a danger to the community or a flight risk. Petitioner is effectively deprived of the ability to present evidence regarding his compliance with immigration requirements, family and community ties, history of appearing as directed, and the existence of less restrictive alternatives to detention. Therefore, Petitioner seeks relief from this Court to obtain access to the individualized custody review that is otherwise being denied.

104. Equal protection requires that detention classifications bear a rational relationship to a legitimate governmental purpose. Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000). Civil immigration detention is permissible only insofar as it serves the non-punitive purposes of ensuring

appearance at proceedings or protecting public safety. Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

105. For nearly three decades, DHS and EOIR treated noncitizens in Petitioner's posture as eligible for individualized custody determinations. DHS's abrupt departure from that settled practice without individualized justification underscores the arbitrariness of the disparate treatment imposed here.

106. By denying Petitioner any opportunity to obtain an individualized custody determination while granting such a process to similarly situated noncitizens, DHS has violated the equal protection component of the Fifth Amendment.

107. Habeas relief is therefore warranted to remedy this unconstitutional disparate treatment. Petitioner respectfully requests that this Court order his immediate release or, in the alternative, direct Respondents to provide him with a prompt and meaningful individualized custody determination under constitutionally adequate standards.

COUNT FOUR

Violation of the Suspension Clause of the United States Constitution

108. The Suspension Clause of the United States Constitution provides that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. art. I, § 9, cl. 2. The Clause guarantees the availability of judicial review to challenge the lawfulness of executive detention. Boumediene v. Bush, 553 U.S. 723, 745–46 (2008); INS v. St. Cyr, 533 U.S. 289, 300–05 (2001).

109. Habeas corpus remains available to all persons in the United States who are detained by executive authority, including noncitizens in civil immigration custody. The Supreme Court has repeatedly held that Congress and a fortiori the Executive may not eliminate all avenues of meaningful judicial review of the legality of detention. St. Cyr, 533 U.S. at 305–06; Boumediene, 553 U.S. at 779.

110. The Suspension Clause forbids the government from implementing a detention scheme that eliminates all meaningful opportunity for detainees to test the legality of their confinement. Boumediene, 553 U.S. at 779 ("The writ must be effective."). When no adequate and effective substitute exists, habeas review is constitutionally required. St. Cyr, 533 U.S. at 305.

111. Petitioner's detention prolonged, non-punitive in name but punitive in effect, and wholly

insulated from individualized review implicates the core protections of the Suspension Clause. Without habeas corpus, Petitioner has no judicial or administrative forum in which to contest the legality of his ongoing confinement.

112. Accordingly, habeas corpus relief is constitutionally required. Petitioner respectfully requests that this Court grant the writ and order Petitioner's immediate release from ICE custody or, in the alternative, direct Respondents to provide a prompt, meaningful, and individualized custody determination before a neutral decisionmaker with authority to order release.

113. In the ordinary case, "the Constitution requires some **kind of hearing before the State deprives a person of liberty or property**." *Zinermon v Burch*, 494 U.S. 113, 127 (1990) (emphasis in original). Thus, "**because the constitutional violation is the absence of predeprivation process, the proper remedy is to restore the status quo ante—that is, to return [Petitioner] to the conditions that existed before his unlawful detention**." *Kirykovich v. Hernandez*, No. 2:26-cv-00695-JNW, 2026 WL 890459, at *4 (Wash. Apr. 1, 2026) (emphasis in original).

COUNT FIVE

Violation of the Accardi Doctrine with Respect to 8 C.F.R. § 287.8(C)(2)(I)

114. Under the Accardi doctrine, federal agencies are required to follow their own binding regulations, and failure to do so renders resulting agency action unlawful. United States ex rel. Accardi v. Shaughnessy, 347 U.S. 260, 267–68 (1954); Morton v. Ruiz, 415 U.S. 199, 235 (1974). This principle applies with full force in immigration proceedings and is enforceable through habeas corpus where regulatory violations result in unlawful detention.

115. The United States has also failed to follow immigration-specific arrest and processing regulations. Regulations governing immigration enforcement require that warrantless arrests comply with the standards set forth in 8 C.F.R. § 287.8(c). Specifically, for any arrest, immigration officers must have reason to believe that an individual committed an offense against the United States or was present in the United States illegally. 8 C.F.R. § 287.8(c)(2)(i). And, for a warrantless arrest, officers must also have reason to believe that an individual is "likely to escape before a warrant can be obtained." 8 C.F.R. §

287.8(c)(2)(ii).

116. These regulatory requirements are mandatory, not discretionary. They impose substantive limitations on ICE's authority to conduct warrantless arrests in the interior of the United States and are designed to protect against arbitrary deprivations of liberty.

117. At the time he was taken into ICE custody and at all times thereafter, Petitioner had complied with all immigration requirements, including appearing for his immigration proceedings and remaining available to immigration authorities.

118. Federal courts have repeatedly recognized that habeas corpus is an appropriate vehicle to remedy detention that results from an agency's failure to follow its own regulations, particularly where those regulations are designed to protect individual liberty. See Accardi, 347 U.S. at 267–68; St. Cyr, 533 U.S. at 301–05.

119. By arresting Petitioner without a warrant and without satisfying the regulatory requirements governing such arrests, DHS violated the Accardi doctrine and deprived Petitioner of liberty in a manner not authorized by law.

Habeas relief is therefore warranted. Petitioner respectfully requests that this Court grant the writ and order his immediate release from ICE custody or, in the alternative, provide appropriate relief to remedy the unlawful detention resulting from DHS's regulatory violations

PRAYER FOR RELIEF

The "equitable and flexible nature of habeas relief" affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution. *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); see also *Schlup v. Delo*, 513 U.S. 298, 319 (1995) **("[H]abeas corpus is, at its core, an equitable remedy**"). This Court should order a remedy that fully addresses the statutory and constitutional violations in this case and is efficient to administer. *Carafas v. LaVallee,* 391 U.S. 234, 238 (1968) (the habeas statute "does not limit the relief that may be granted to discharge of the applicant from physical custody. Its mandate is broad with respect to the relief that may be granted").

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

1. Assume jurisdiction over this habeas corpus action pursuant to 28 U.S.C. §§ 2241 and 1331;
2. Pursuant to 28 U.S.C. § 2243, issue an order to show cause directing Respondents to file a return within three (3) days, absent good cause for a short extension not exceeding ten days, and set the matter for a prompt hearing;
3. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of this action, absent further order of the Court;
4. Declare that Petitioner's continued detention violates the Constitution and laws of the United States, including but not limited to the Due Process Clause of the Fifth Amendment; the equal protection component of the Fifth Amendment; the Suspension Clause of Article I, Section 9 of the United States Constitution; the Administrative Procedure Act, 5 U.S.C. § 706(2)(A); and the Accardi doctrine, based on Respondents' failure to comply with binding immigration arrest regulations;
5. Grant the writ of habeas corpus and order Petitioner's immediate release from ICE custody; OR in the alternative, order Respondents to provide Petitioner with a prompt, constitutionally adequate, and individualized custody determination before a neutral decisionmaker with actual authority to order release, at which the government bears the burden of proving by clear and convincing evidence that continued detention is necessary to serve a legitimate governmental purpose and that no less restrictive conditions of supervision would suffice;
6. Award Petitioner her costs and reasonable attorneys' fees pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
7. Grant any other further relief this Court deems just and proper.

VERIFICATION

On Petitioner's behalf, I, William Matos, 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: June 17, 2026

Respectfully submitted,



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