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

JOXANA JUDESTY CUMANA CHAURANT, Petitioner, v. JASON STREEVAL, *Warden of Stewart Detention Center*; KRISTEN SULLIVAN, *Field Office Director, Atlanta Field Office, U.S. Immigration and Customs Enforcement;* DAVID J. VENTURELLA, *Acting Director of Immigration and Customs Enforcement;* MARKWAYNE MULLIN, *Secretary of the U.S. Department of Homeland Security;* and TODD BLANCHE, *Acting Attorney General of The United States, in their official capacities,* Respondents.	)	Case No. 4.26-cv-00957 **PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

INTRODUCTION

1. Petitioner, Joxana Judesty Cumana Chaurant, ("J.J.C.C." or "Petitioner") a native and citizen of Venezuela, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner is currently detained by Immigration and Customs Enforcement ("ICE") at the Stewart Detention Center in Lumpkin, Georgia, without access to a bond hearing, in violation of the Immigration and Nationality Act ("INA") and the United States Constitution.

2. When Petitioner entered the United States in 2023, she was briefly detained near the border and then released. Critically, and as stated in DHS's own Notice of Custody

Determination, the decision to release Petitioner was made "*[p]ursuant to the authority contained in section 236 of the Immigration and Nationality Act and part 236 of title 8, Code of Federal Regulations.*" Furthermore, that release was documented on ICE's own Form I-220A, Order of Release on Recognizance, which expressly states on its face that the release was *"[i]n accordance with section 236 of the Immigration and Nationality Act."* DHS itself, through its official forms, classified Petitioner's detention and release under INA § 236(a), 8 U.S.C. § 1226(a). Having done so, DHS cannot now retroactively reclassify that prior action as detention under INA § 235(b), 8 U.S.C. § 1225(b), simply because re-detaining Petitioner under § 235(b) would be more convenient for the Government's litigation position.

3. The Government contends that Petitioner is an "applicant for admission" subject to mandatory no-bond detention under § 1225(b)(2)(A), relying on *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025). In this case, *Q. Li* is factually inapposite, it concerned an alien arrested without a warrant while *arriving* at the border, then released on § 212(d)(5) parole. Notably, in 2023 Petitioner was not identified as "an arriving alien" on DHS's Notice to Appear and she was released on an INA § 236(a) Order of Release on Recognizance not on INA § 212(d)(5) parole. DHS issued a Form I-200, Warrant for Arrest of Alien against Petitioner in 2023. That distinction is dispositive. Petitioner is now detained under INA § 236(a), 8 U.S.C. § 1226(a) and is entitled to a bond hearing, and this Court should order that Petitioner is detained under § 1226(a) and thus entitled to a bond hearing.

4. Petitioner requested bond proceedings however, in the bond proceedings, the Immigration Judge agreed with DHS in finding that Petitioner is an "applicant for admission" according to *Matter of Q. Li* and thus ineligible for bond. Petitioner did not appeal to the Board of Immigration Appeals ("BIA") because requiring Petitioner to appeal to the BIA to

prudentially exhaust is not efficient and would cause irreparable harm by continuing to deprive Petitioner of their liberty.

5. This Court has already ruled, repeatedly and unambiguously, that persons in Petitioner's circumstance are entitled to bond hearings. *See J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *see also P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025). On January 29, 2026, this Court issued Standing Order No. 2026-01 directing expedited bond hearing orders in cases falling within certain parameters. This case fits within that framework.

JURISDICTION AND VENUE

6. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq*.

7. This Court has jurisdiction under 28 U.S.C. § 2241, 28 U.S.C. § 1331, and Article I, § 9, cl. 2 of the United States Constitution (the Suspension Clause). Habeas corpus extends to any person "in custody under or by color of the authority of the United States" who establishes detention in violation of federal law or the Constitution. 28 U.S.C. § 2241(c)(3).

8. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et. seq*., the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq*., and the All Writs Act, 28 U.S.C. § 1651.

9. Venue lies in the Columbus Division of the Middle District of Georgia because Petitioner is physically confined at the Stewart Detention Center, located in Lumpkin, Georgia, within this District and Division. *See Rumsfeld v. Padilla*, 542 U.S. 426, 434–35 (2004) (habeas jurisdiction lies in the district of confinement).

REQUIREMENTS OF 28 U.S.C. §2243

10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.

PARTIES

11. Petitioner J.J.C.C. is an asylum applicant who has resided in the United States since 2023. Petitioner is currently detained at the Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815, in the custody, and under the direct control of Respondents and their agents.

12. Respondent Jason Streeval, Warden of Stewart Detention Center, is the immediate custodian of Petitioner and is responsible for her day-to-day custody. *See Padilla*, 542 U.S. at 434–35. They are sued in their official capacity.

13. Respondent Kristen Sullivan is the Field Office Director of the Atlanta Field Office of U.S. Immigration and Customs Enforcement ("ICE") and exercises supervisory authority over Petitioner's detention. They are sued in their official capacity.

14. Respondent David J. Venturella is the Acting Director of ICE and exercises supervisory authority over all detentions by U.S. Immigration and Customs enforcement. They are sued in their official capacity.

15. Respondent Markwayne Mullin is the Secretary of Homeland Security and exercises authority over the detention and removal of noncitizens. They are sued in their official capacity.

16. Respondent Todd Blanche is the Attorney General of the United States, with overall authority over immigration enforcement. They are sued in their official capacity.

LEGAL FRAMEWORK

17. The writ of habeas corpus extends to cases where a person is "in custody under or by color of the authority of the United States," or when a person is "in custody in violation of the Constitution or laws or treaties of the United States." 28 U.S.C. § 2241(c)(1), (3).

18. The Supreme Court has long recognized that habeas jurisdiction extends to challenges to immigration detention. See *Zadvydas v. Davis,* 533 U.S. 678 (2001).

19. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores,* 507 U.S. 292, 306 (1993).

20. Asylum is not an admission to the United States and an applicant for asylum, while they must be physically present in the United States to apply, need not apply for or seek admission to the United States. *Matter of V-X-*, 26 I&N Dec. 147 (BIA 2013).

21. Pursuant to 8 U.S.C. § 1357(a)(2) an Immigration Officer may conduct a warrantless arrest of an alien who is entering, attempting to enter, or present in the United States if the officer has a "reason to believe that the alien so arrested is in the United States in violation of any such law or regulation and is likely to escape before a warrant can be obtained for his arrest." The alien should then "be taken without unnecessary delay for examination before an officer of the Service having authority to examine aliens as to their right to enter or remain in the United States." 8 U.S.C. § 1357(a).

22. Congress created two distinct detention regimes. Section 8 U.S.C. § 1225(b), INA § 235(b) governs inspection and limited mandatory detention of arriving aliens or those apprehended shortly after entry; 8 U.S.C. § 1226(a), INA § 236(a) governs arrests in the interior on warrant, authorizing detention pending a removal decision with discretionary release on bond. See *Jennings v. Rodriguez*, 583 U.S. 281, 297, 302–03 (2018) (describing §

235(b) as "primarily" for those seeking entry and § 236(a) as applying to aliens "already in the United States" and arrested "on warrant").

23. An alien who is found within the United States without having been admitted or paroled may be charged with inadmissibility under section 212(a)(6)(A)(i) of the INA, 8 U.S.C. § 1182(a)(6)(A)(i), and placed in removal proceedings.

24. According to the BIA, where the Department of Homeland Security (DHS) elects to place individuals apprehended near the border in full removal proceedings under INA § 240, 8 U.S.C. § 1229a, and then releases them, that release is a conditional parole pursuant to INA § 236(a)(2)(B), 8 U.S.C. § 1226(a)(2)(B) rather than humanitarian parole pursuant to INA § 212(d)(5). *Matter of Cabrera-Fernandez*, 28 I&N Dec. 747 (BIA 2023).

25. "The text of § 1225(b)(2)(A) is clear that mandatory detention applies only to a narrower category of applicants for admission: those seeking lawful entry into the United States." *Alvarez v. Warden, Fed. Det. Ctr. Miami,* 25-14065, (11th Cir. May 06, 2026). The United States Court of Appeals for the Eleventh Circuit held that § 1225(b)(2)(A) does not apply to unadmitted aliens merely present in the country's interior unless they are actively seeking lawful entry after inspection by an immigration officer. *See Alvarez v. Warden, Fed. Det. Ctr. Miami,* 25-14065, 25-14075 (11th Cir. May 06, 2026). *Id.* at 35. Instead, 8 U.S.C. § 1226 governs the detention of such individuals, making them generally eligible for bond. *See Id.*

26. In the United States District Court for the Middle District of Florida, the court found that when an alien had been apprehended after entering the United States, denied admission, served with a Notice to Appear, and then released, they are no longer seeking lawful entry as the lawful entry was denied, therefore at the time they get re-detained the "[f]ederal regulations

provide that [he] receive a bond hearing." *Garcia v. Warden*, No. 2:26-cv-1143-KCD-NPM (M.D. Fla. May 14, 2026)(quoting *Jennings*, 583 U.S. at 306).

27. This Court has previously ruled that most of the Petitioners detained in the Stewart Detention Center are entitled to the relief they seek as they are detained under § 1226. *See* e.g. *J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025) and *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025).

28. In *J.A.M. v. Streeval,* the Court found that "for aliens who are found in the country unlawfully and are arrested, an immigration officer or immigration judge has the discretion, after considering all the circumstances, not to detain such aliens and instead grant them release on bond." *J.A.M.*, 2025 WL 3050094, at 10.

29. In *P.R.S. v. Streeval,* the Court found that Petitioner M.M.M., who had been detained "upon entry into the United States in 2014," then "released on bond pending removal proceedings" was not detained ten years later under 8 U.S.C. § 1225(b)(1)(B)(iii)(IV), as asserted by Respondents. *P.R.S.*, 2025 WL 3269947, at 4-5. The Court found that "the Government dismissed the removal proceedings that were initiated when Petitioner was deemed inadmissible in 2014" and "initiated new removal proceedings after it arrested Petitioner M.M.M." in 2025, and thus Petitioner was "detained under 8 U.S.C. § 1226(a), not § 1225(b)(1), and…is not subject to mandatory detention." *Id.* at 5.

30. On January 29, 2026, this Court entered Standing Order No. 2026-01, directing Magistrate Judges to issue bond hearing orders as a matter of course to persons falling within the parameters of *J.A.M.* and *P.R.S.* This case falls within the parameters of *J.A.M.* and *P.R.S.* therefore the Magistrate Judge should issue a bond hearing order with a finding that Petitioner is detained under 8 U.S.C. § 1226(a).

STATEMENT OF FACTS

31. Petitioner is a native and citizen of Venezuela. She entered the United States on or about April 24, 2023, without inspection or admission.

32. Shortly after entry, Petitioner was encountered and briefly detained by U.S. Customs and Border Protection ("CBP") agents near the border through a warrantless arrest.

33. Following that brief detention, DHS placed Petitioner in removal proceedings under INA § 240, 8 U.S.C. § 1229a, and served her with Form I-862, Notice to Appear ("NTA"). The NTA did not identify Petitioner as an "arriving alien" and charged her with inadmissibility under INA § 212(a)(6)(A)(i) for being present in the United States without admission or parole. A true and correct copy of the Notice to Appear is attached.

34. DHS completed a Custody Determination, and found Respondent could be released on conditional parole under § 236 of the INA. A true and correct copy of the Notice of Custody Determination is attached.

35. Petitioner was subsequently released with Form I-220A, Order of Release on Recognizance ("OOR"). From I-220A expressly states, on its face: "You have been arrested and placed in removal proceedings. *In accordance with section 236 of the Immigration and Nationality Act* and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance." (Emphasis added.) DHS's own official form thus identified INA § 236(a), 8 U.S.C. § 1226(a), as the statutory authority governing Petitioner's arrest and release. A true and correct copy of Petitioner's Form I-220A is attached.

36. Together with the I-220A, Petitioner was served with Form I-200, Warrant for Arrest of Alien. A true and correct copy of Form I-200 is attached.

37. Upon information and belief, Petitioner was never informed that her detention in 2023 was pursuant to 8 U.S.C. § 1225, nor was Petitioner given any documentation indicating her detention was pursuant to 8 U.S.C. § 1225. Every document indicated her detention and release were completed pursuant to 8 U.S.C. § 1226(a).

38. Petitioner was not released on parole pursuant to INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A), the mechanism for release of someone who is under mandatory detention pursuant to § 1225.

39. Following her release, DHS failed to file the 2023 Notice to Appear with the immigration court and the removal proceedings were dismissed for failure to prosecute.

40. Petitioner applied for asylum with United States Citizenship and Immigration Services (USCIS) within the first year of her entry and has complied with all conditions of her OOR, reporting as directed to all scheduled check-ins. *See* Receipt Notice for Form I-589, Application for Asylum and For Withholding of Removal attached.

41. Petitioner obtained a driver's license and employment authorization document and has worked as security in a high crime area, interacting frequently with the Atlanta Police Department to help prevent thefts, loitering, and other crimes while residing in Georgia for the last three years. *See* Letter of Good Character from Police Officer Abiel Urena attached.

42. On or about June 9, 2026, ICE agents arrested and detained Petitioner at a scheduled check-in appointment in Atlanta, GA, located in the interior of the United States, far from any port of entry or international border.

43. Petitioner was transported to and is presently detained at the Stewart Detention Center in Lumpkin, Georgia.

44. Petitioner has no criminal conviction that would trigger mandatory detention under INA § 236(c), 8 U.S.C. § 1226(c). She poses no danger to the community and no significant risk of flight as she continues with her asylum case and her employer would like her to go back to work when she is released. *See* National Criminal and Offense Report attached.

45. Petitioner requested a bond hearing before the Immigration Judge. The Immigration Judge erroneously denied that Petitioner was eligible for release on bond, relying on *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), concluding that Petitioner is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *See* Order Denying Bond attached.

46. While detained at Stewart Detention Center, Petitioner has been getting threatening and discriminatory comments from other detained individuals due to [redacted]

47. Petitioner is currently detained without access to any bond determination.

CLAIMS FOR RELIEF

COUNT ONE
Violation of Fifth Amendment Right to Due Process

48. Petitioner restates and realleges all paragraphs as if fully set forth here.

49. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

50. The Supreme Court has recognized that civil immigration detention must bear a "reasonable relation to the purpose for which the individual is detained." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

51. Where DHS itself classified Petitioner's detention as 8 U.S.C. § 1226, INA § 236 in 2023, reversed course without notice, and now seeks to use § 235(b) as a basis for indefinite no-bond detention, Petitioner's due process rights are violated.

52. Due Process requires, at minimum, a hearing at which the Government demonstrates that continued detention is justified.

53. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
Unlawful Detention Under 8 U.S.C. §1225(b)(2)

54. Petitioner restates and realleges all paragraphs as if fully set forth here.

55. Respondents assert that Petitioner is subject to mandatory detention under 8 U.S.C. §1225(b)(2) as an "applicant for admission." That classification is legally incorrect.

56. Noncitizens who are arrested inside the United States and placed in removal proceedings are detained under 8 U.S.C. §1226, which governs detention pending a decision on whether the noncitizen is to be removed from the United States. Section 1226(a) expressly provides that such individuals may be released on bond pending removal proceedings.

57. The Eleventh Circuit's controlling decision in Hernandez Alvarez v. Warden, Federal Detention Center Miami, No. 25-14065 (11th Cir. May 6, 2026), is dispositive. The court held that § 1225(b)(2)(A) "does not apply to unadmitted aliens merely present in the country's interior unless they are actively seeking lawful entry after inspection by an

immigration officer," and that § 1226 governs detention of persons found in the interior, making them "generally eligible for bond."

58. By classifying Petitioner under §1225(b)(2) rather than §1226(a), Respondents have unlawfully subjected Petitioner to mandatory detention and denied her the opportunity to seek release on bond.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Grant this Petition for Writ of Habeas Corpus;
2. Declare that Petitioner's detention is governed by INA § 236(a), 8 U.S.C. § 1226(a), and not by INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A);
3. Order Respondents to provide Petitioner with a bond hearing before an Immigration Judge within seven (7) days of this Court's order, consistent with Standing Order No. 2026-01, where the burden of proof shall rest on the Government to demonstrate by clear and convincing evidence that Petitioner poses a danger to the community or a risk of flight;
4. Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court pending resolution of this petition; and
5. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 22 day of June 2026.

/s/ Luz M. Pedraza

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

I represent Petitioner, Joxana J. Cumana Chaurant, and submit this verification on her 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.

Date this 22 of June 2026.

/s/ Luz M. Pedraza
LUZ M. PEDRAZA
Attorney for Petitioner