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

RODRIGUEZ AGUILAR, JOSE

Petitioner

Vs

David Venturella, Acting Director of U.S. Immigration and Customs Enforcement; Kristen Sullivan, Acting Field Office Director of Enforcement and Removal Operations, Atlanta Field Office, Immigration and Customs Enforcement; Markwayne MULLIN, Secretary, U.S. DEPARTMENT OF HOMELAND SECURITY; Todd 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
Under 28 USC §2241

INTRODUCTION

Petitioner **Jose Rodriguez Aguilar** (A[redacted]), a native and citizen of El Salvador, has been detained by Respondents since March 28, 2026. He has been placed in removal proceedings and has a viable claim for asylum based on his well-founded fear of political persecution in El Salvador. Petitioner's custody is governed by 8 U.S.C. § 1226(a) because he was arrested in the interior of the United States more than ten years after his initial entry, not while seeking admission at a port of entry. Nevertheless, Respondents have treated him as categorically ineligible for bond, invoking *Matter of Q-L-I-*, 27 I&N Dec. 671 (BIA 2019), to argue that a brief border encounter in 2015 permanently rendered Petitioner an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). The Immigration Judge accepted that position and found it lacked jurisdiction to

consider a bond request. Petitioner has exhausted all available administrative remedies. His continued confinement violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment because it imposes indefinite detention without an individualized determination that his detention reasonably relates to legitimate governmental objectives. Absent intervention by this Court, Petitioner has no adequate remedy and will remain unlawfully detained; accordingly, he respectfully requests that this Court grant appropriate relief, including an order requiring an immediate bond hearing applying the proper legal standards or, in the alternative, his immediate release from custody.

JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).
3. This Court has jurisdiction over the claims asserted in this action pursuant to 28 U.S.C. § 1331, 28 U.S.C. § 1361, and 28 U.S.C. § 1651 because Petitioner asks this Court to compel Respondents, officers of the United States, to perform their duties owed under 8 U.S.C. § 1226(a).
4. The jurisdiction of this Court is also invoked pursuant to 28 U.S.C. §§ 2201-02 which authorizes the issuance of declaratory judgments.
5. 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.

VENUE

1. Venue is proper in this District because Petitioner is detained at the **STEWART DETENTION CENTER 146 Cca Rd, Lumpkin, GA 31815**, which is within the jurisdiction of this District. *See Braden v. 30th Judicial Circuit Court of Kentucky, 419 U.S. 484, 493-500 (1973).*

2. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and a substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

1. 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.*
2. 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).

PARTIES

1. Petitioner is a native and citizen of El Salvador who is being detained at the **STEWART DETENTION CENTER 146 Cca Rd, Lumpkin, GA 31815** He was assigned alien number A# [redacted] Petitioner is under the direct control and in the custody of Respondents and their agents
2. Respondent **David Venturella** is the Acting Director of US ICE. Respondent is the legal custodian of Petitioner and has the direct authority to release Petitioner. David Venturella is sued in his official capacity.
3. Respondent **Kristen Sullivan** is the Acting Field Office Director of the Atlanta Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations. Respondent is the legal custodian of Petitioner and has the direct authority to release Petitioner. Kristen Sullivan is sued in her official capacity.
4. Respondent **Todd Blanche** is the Attorney General of the United States and responsible for the Executive Office for Immigration Review (EOIR). He has the legal authority to order an immigration judge to undertake any actions which this Court may order.

5. Respondent **Markwayne Mullin** is the Secretary of the U.S. Department of Homeland Security. Respondent is the legal custodian of Petitioner and has the direct authority to release Petitioner. Markwayne Mullin is sued in his official capacity.
6 **Jason Streeval** is the Warden of the **STEWART DETENTION CENTER 146 Cca Rd, Lumpkin, GA 31815** is sued as the direct custodian of Petitioner. The Warden is sued in his or her official capacity.

STATEMENT OF FACTS

1. Petitioner is a native and citizen of El Salvador, assigned alien number A# [redacted]. In August 2015, Petitioner entered the United States without inspection near Reynosa, Texas, crossing through the border without authorization after traveling through Guatemala and Mexico. At or near the time of entry, Petitioner was encountered by immigration enforcement officers, who released him on bond rather than placing him in expedited removal proceedings. Petitioner has resided continuously in the United States for approximately eleven (11) years since that entry.
2. Although Petitioner was briefly encountered by immigration officers upon his 2015 entry and released on bond, he was never placed in expedited removal proceedings, never subjected to a removal order, and was permitted to remain in the United States. He subsequently lived and worked in the United States continuously and without incident for more than ten years prior to his 2026 arrest.
3 Petitioner was placed into removal proceedings under Section 240 of the Immigration and Nationality Act, 8 U.S.C. § 1229a. On September 21, 2023, Petitioner's removal proceedings were administratively closed by the Immigration Judge, with the hearing clock paused at zero days elapsed. Petitioner had no outstanding order of removal at the time of his 2026 arrest. Following his arrest and transfer to ICE custody in March 2026, those proceedings were reopened, and Petitioner appeared before the Immigration Judge on April 22, 2026.
4. In early 2026, Petitioner was arrested in Georgia on a minor traffic offense — a misdemeanor driving under the influence charge with a pending disposition — for which he posted bond and was released from state custody. Upon his release from state custody,

ICE officers assumed custody of Petitioner and transferred him to immigration detention without a judicial warrant. Petitioner was transported to and is currently held at the Stewart Detention Center, 146 CCA Road, Lumpkin, Georgia 31815, which lies within the Middle District of Georgia. Because Petitioner was arrested in the interior of the United States, more than eight years after his initial entry, and not while presenting himself at a port of entry or seeking admission, his custody is governed by 8 U.S.C. § 1226(a), not the mandatory detention provisions of 8 U.S.C. § 1225(b)(2)(A). This permits him to pursue any applications for relief that might entitle him to remain in the United States.

5. Petitioner's immigration proceedings take place within the immigration courts administered by EOIR. Petitioner's reopened removal proceedings are before the Immigration Court administered by EOIR. Petitioner has a viable claim for asylum and withholding of removal based on his well-founded fear of persecution in El Salvador on account of his political opinion, [redacted] He appeared before the Immigration Judge on April 22, 2026. He is entitled to pursue these claims for relief and to remain in the United States pending a final determination on his application.
6. Respondents did not undertake *any* legal process before detaining him, including a judicial warrant. Respondents assumed custody of Petitioner upon his release from state criminal custody via a jail transfer and did not obtain an independent judicial warrant before taking him into immigration detention.
7. At his April 22, 2026 hearing, the Department of Homeland Security moved to deny Petitioner a bond hearing by invoking *Matter of Q-L-I-*, 27 I&N Dec. 671 (BIA 2019), arguing that Petitioner's 2015 border encounter rendered him an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), and that the Immigration Judge therefore lacked jurisdiction to entertain a bond request. DHS submitted evidence of the 2015 border encounter in support of that argument. The Immigration Judge accepted DHS's position and declined to take action on Petitioner's bond request, finding that the court lacked jurisdiction to consider it. Petitioner has therefore exhausted all available administrative remedies with respect to his custody status, and this Court's intervention under 28 U.S.C. § 2241 is the only avenue of relief remaining.
8. Petitioner continues to be unlawfully detained by Respondents.

CLAIMS FOR RELIEF
COUNT I
Violation of Fifth Amendment Right to Due Process

1. The above paragraphs are realleged and incorporated herein.
2. The Department of Homeland Security has unlawfully detained Petitioner under "mandatory detention" authority reserved for aliens who are in the process of entering the United States, 8 U.S.C. § 1225.
3. This section of the Immigration and Nationality Act is reserved for individuals arriving in the United States. Petitioner was not arriving in the United States at the time of his detention; he had been in the United States for more than eight (8) years.
4. This Court has already and repeatedly held that noncitizens who are found in the United States unlawfully and arrested in the interior, without having been inspected by an examining immigration officer, are subject to discretionary custody review under 8 U.S.C. § 1226(a) rather than mandatory detention under 8 U.S.C. § 1225(b)(2). *See J.A.M. v. Streeval*, No. 4:25-CV-342-CDL, 2025 WL 3050094, at *3 (M.D. Ga. Nov. 1, 2025); *P.R.S. v. Streeval*, No. 4:25-cv-330-CDL, 2025 WL 3269947, at *1–*2 (M.D. Ga. Nov. 24, 2025). In light of these rulings and the volume of similar petitions arising from Stewart Detention Center, this Court entered Standing Order No. 2026-01 (Jan. 29, 2026), directing that petitions falling within the parameters of *J.A.M.* and *P.R.S.* may proceed under an expedited order requiring Respondents to provide a bond hearing within seven days. Petitioner's circumstances fall squarely within this framework, and Petitioner respectfully submits that the same relief is warranted here.
5. Petitioner's detention violated the Immigration and Nationality Act and his due process rights because he was detained without "a warrant issued by the Attorney General" as required by Section 236(a) of the Immigration and Nationality Act.
6. Having been unlawfully detained, Petitioner requests the only appropriate relief from this Court: "*release* from unlawful detention". *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020).
7. There is no other avenue for release that Petitioner can seek. Respondents have determined that all individuals like Petitioner are ineligible for bond and must be detained. The Executive Office for Immigration Review has issued precedential decisions holding that

immigration judges unequivocally have no jurisdiction to entertain granting bond in Petitioner's exact circumstances. *See, e.g., Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

8. Petitioner's continued detention is a violation of his rights under the Fifth Amendment of the US Constitution.

COUNT II
Violation of Regulations Governing Custody Determinations (Accardi Doctrine)

1. The allegations in the above paragraphs are realleged and incorporated herein.
2. Regulations at 8 CFR § 236.1(c)(9) and (g) require specific procedures to release or revoke the release of an individual. This regulation also limits the authority to make these decisions to specific enumerated officers.
3. Respondents violated the provisions at 8 CFR § 236.1(c)(9) because they did not make individualized findings specific to Petitioner's circumstances.
4. Respondents violated the provisions at 8 CFR § 236.1(c)(9) because Petitioner's custody determination was not rendered by one of the specified officers.
5. Petitioner's detention is unlawful because the Department of Homeland Security violated the regulations and procedures at 8 CFR § 236.1(c)(9).
6. This unlawful detention and violation of existing regulations also violates the Administrative Procedure Act. *See* 5 U.S.C. § 706(2).

PRAYER FOR RELIEF
Petitioner respectfully asks that the Court:

A. Assume jurisdiction over this matter;
B. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
C. Order that Respondents not transfer Petitioner from this District to any other District during the pendency of this matter;
D. Order that Respondents not remove Petitioner from the United States until this matter has concluded;
E. Order Respondents to provide Petitioner with an individualized bond hearing before an immigration judge under 8 U.S.C. § 1226(a) within seven (7) days, consistent with this

Court's Standing Order No. 2026-01 and its rulings in *J.A.M. v. Streeval* and *P.R.S. v. Streeval*, or, in the alternative;

F. Order that Respondents immediately release Petitioner from detention;

G. Order that Respondents return all personal property that was confiscated from Petitioner at the time of the unlawful detention;

H. and Grant any further relief this Court deems just and proper.

Respectfully submitted,

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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.

Respectfully submitted,



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