UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

Juan Andres Salinas Hernandez,

Petitioner,

v.

Kristen SULLIVAN, 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; TODD BLANCHE, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW; Jason STREEVAL, Warden of STEWART DETENTION CENTER

Respondents.

Case No. 4:26-cv- 1015

**PETITION FOR WRIT OF HABEAS CORPUS**

## INTRODUCTION

1. Petitioner Juan Andres Salinas Hernandez brings this petition for a writ of habeas corpus to seek enforcement of their right to seek release from custody under 8 U.S.C. §1226(a). Petitioner is in the physical custody of Respondents at the Stewart Detention facility. The Petitioner has been detained since at least June 10, 2026. The Petitioner does not contest that they are an alien present in the United States that was not admitted to the United States.

2. Rather, Petitioner presents a narrow question of statutory interpretation: whether Respondents may categorically deny Petitioner access to a bond hearing solely because they classify him as an "applicant for admission" pursuant to *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025).

3. Respondents contend that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b) because he entered the United States without inspection, was later paroled pursuant to INA § 212(d)(5), and therefore remains an "applicant for admission." Relying exclusively upon *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), Respondents assert that the Immigration Judge lacked jurisdiction to conduct any bond hearing whatsoever. As a result, the Immigration Court took no action on Petitioner's request for a custody redetermination and never reached the merits of whether Petitioner presents a danger to the community or a risk of flight.

4. Respondents' position rests on the premise that every noncitizen deemed an "applicant for admission" is categorically ineligible for an individualized bond hearing. Nothing in the Immigration and Nationality Act (INA) clearly compels that sweeping conclusion. Although the INA defines certain noncitizens as applicants for

admission, Congress did not expressly provide that such classification forever forecloses access to bond proceedings or deprives an Immigration Judge of authority to conduct an individualized custody determination in every case.

5. This case therefore does not present a dispute over Petitioner's removability or ultimate eligibility for release. Instead, it presents a pure question of law: whether the INA authorizes Respondents to categorically deny individualized bond hearings based solely upon the legal classification of "applicant for admission." The answer to that question turns upon the proper interpretation of the detention provisions enacted by Congress, not merely the Board of Immigration Appeals' interpretation of those provisions in *Matter of Q. Li*.

6. Properly construed, the INA does not authorize Respondents' categorical rule. Respondents' interpretation effectively transforms the statutory phrase "applicant for admission" into a permanent jurisdictional bar to bond review, regardless of the procedural posture of the removal proceedings or the individual circumstances of the detainee. Such an interpretation finds no clear support in the statutory text, undermines the structure of the INA's detention provisions, and improperly deprives Immigration Judges of authority that Congress did not expressly remove.

7. Because Respondents' interpretation unlawfully deprives Petitioner of an individualized custody determination, this Court should grant the writ and order Respondents to provide Petitioner with a bond hearing before an Immigration Judge within seven days or, alternatively, release Petitioner.

## JURISDICTION

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

9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

10. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

**VENUE**

11. 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.

12. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Georgia.

**REQUIREMENTS OF 28 U.S.C. § 2243**

13. The Court should grant the Petition for Writ of Habeas Corpus "forthwith" because this case presents a pure question of statutory interpretation. Specifically, the issue before the Court is whether Respondents may categorically deny Petitioner an individualized bond hearing based solely on their determination that he is an "applicant for admission" pursuant to *Matter of Q. Li*. The relevant facts are largely undisputed, and the legality of Petitioner's continued detention turns entirely on Respondents'

interpretation of the Immigration and Nationality Act. Accordingly, prompt resolution of this Petition is warranted pursuant to 28 U.S.C. § 2243.

14. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

**PARTIES**

15. Petitioner Juan Andres Salinas Hernandez is alleged to be a citizen of Nicaragua who has been in immigration detention since June 10, 2026. Following Petitioner's arrest, ICE did not set bond, and Petitioner requested a custody redetermination before an Immigration Judge. At the bond proceedings before the Stewart Immigration Court, DHS argued that Petitioner remained an "applicant for admission" and, pursuant to *Matter of Q. Li*, was subject to mandatory detention under INA § 235(b), thereby depriving the Immigration Judge of jurisdiction to conduct an individualized bond hearing. Based on Respondents' position, the Immigration Court took no action on Petitioner's request for bond.

16. Respondent Kristen SULLIVAN is the Director of the Atlanta Field Office of ICE's Enforcement and Removal Operations division. As such, Kristen SULLIVAN is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. She is named in her official capacity.

17. 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 Petitioner's detention. Mr. Mullin has ultimate custodial authority over Petitioner and is sued in his official capacity.

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

19. Respondent Todd 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.

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

21. Respondent Jason STREEVAL is employed by Core Civic as Warden of the Stewart Detention Center, where Petitioner is detained. They have immediate physical custody of Petitioner. They are sued in their official capacity.

## FACTUAL ALLEGATIONS

22. Petitioner is presently detained by U.S. Immigration and Customs Enforcement at the Stewart Detention Center in Lumpkin, Georgia. He has remained in ICE custody since June 10, 2026.

23. Petitioner has no criminal history and is currently in removal proceedings before the Immigration Court.

24. On or about August 21, 2021, Petitioner was encountered by a United States Border Patrol Agent after entering the United States from Mexico at a location other than a designated port of entry.

25. According to DHS's Form I-213, Petitioner was subsequently paroled into the United States pursuant to INA § 212(d)(5) following being encountered by the McAllen, Texas Border Patrol Sector. The Form I-213 further states that Petitioner was released "without the issuance of any charging documents" and instructed to report upon arrival at his destination.

26. Petitioner was not placed in expedited removal proceedings under INA § 235(b)(1), nor was an expedited removal order ever entered against him.

27. Rather DHS thereafter initiated ordinary removal proceedings by issuing a Notice to Appear pursuant to INA § 240, charging Petitioner as removable under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I).

28. The notice to appear was subsequently amended to include the date and time of Petitioner's removal proceedings. Petitioner appeared before the Immigration Court and conceded the factual allegations and charges of removability. His removal proceedings remain pending.

29. Following his release on parole, Petitioner complied with the conditions of his release by reporting to ICE as instructed and attending his scheduled check-ins. At no time prior to his detention on June 10, 2026, did DHS allege that Petitioner failed to comply with his reporting obligations or otherwise violated the conditions of his release.

30. On June 10, 2026, Immigration and Customs Enforcement arrested Petitioner following his appearance at a routine ICE check-in and placed him into immigration detention at the Stewart Detention Center.

31. Petitioner requested a custody redetermination hearing before the Immigration Court.

32. During the custody proceedings, DHS argued that Petitioner is an "applicant for admission" and, pursuant to *Matter of Q. Li*, is detained under 8 U.S.C. § 1225(b). DHS therefore asserted that the Immigration Judge lacked jurisdiction to conduct a bond hearing.

33. Based upon Respondents' legal position, the Immigration Court took no action on Petitioner's request for bond. The Immigration Judge did not conduct an individualized custody determination and did not consider whether Petitioner presents a danger to the community, a risk of flight, or whether conditions of release could reasonably ensure his appearance at future proceedings.

34. As a result, Petitioner remains detained without ever receiving an individualized bond hearing. His continued detention rests solely upon Respondents' interpretation that his classification as an applicant for admission categorically forecloses any opportunity for bond review under the Immigration and Nationality Act.

35. This Petition challenges only that legal determination. Petitioner does not seek review of his removability or any discretionary immigration decision. Rather, Petitioner seeks an order requiring Respondents to provide the individualized bond hearing that they contend the Immigration and Nationality Act categorically prohibits.

## CLAIM FOR RELIEF

**Violation of the INA:**
**Respondents Have Unlawfully Interpreted the Immigration and Nationality Act to Categorically Deny Petitioner an Individualized Bond Hearing**

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

37. Respondents have concluded that Petitioner is categorically ineligible for an individualized bond hearing solely because they classify him as an applicant for admission under the Immigration and Nationality Act.

38. In support of that conclusion, Respondents relied upon *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), and asserted that the Immigration Judge lacked jurisdiction to conduct any custody redetermination proceedings.

39. As a result of Respondents' interpretation, Petitioner has been denied any opportunity to seek an individualized determination regarding whether his continued detention is necessary to ensure his appearance at future proceedings or to protect the community.

40. The Immigration and Nationality Act does not expressly provide that every noncitizen classified as an applicant for admission is categorically ineligible for an individualized bond hearing. Nor does it clearly provide that such classification permanently deprives an Immigration Judge of jurisdiction to conduct an individualized custody determination.

41. By interpreting the INA to categorically foreclose bond hearings based solely upon Petitioner's classification as an applicant for admission, Respondents have exceeded the authority granted to them by Congress.

42. Petitioner is therefore unlawfully detained without access to the individualized custody determination required by the Immigration and Nationality Act.

43. This Court possesses authority under 28 U.S.C. § 2241 to determine whether Respondents' detention of Petitioner is authorized by statute and to order appropriate habeas relief where detention exceeds the authority granted by Congress.

44. By denying Petitioner a bond hearing under § 1226(a) and asserting that they are subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA and their constitutional rights as found in the previously mentioned cases.

45. Because Respondents have denied Petitioner any opportunity to obtain an individualized bond hearing based solely upon their interpretation of the INA, the writ should issue directing Respondents to provide Petitioner with a custody redetermination hearing before an Immigration Judge.

**PRAYER FOR RELIEF**

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

a. Assume jurisdiction over this matter;

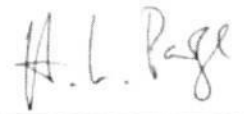
b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;

c. Alternatively, issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;

d. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and

e. Grant any other and further relief that this Court deems just and proper.

DATED this 16th of July 2026.



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