UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JUAN JOSE MENJIVAR CRUZ, A#[redacted], Petitioner, v. **JASON STREEVAL**, Warden of Stewart Detention Center, **KRISTEN SULLIVAN**, Field Office Director of Enforcement and Removal Operations, Atlanta Field Office; **DAVID J. VENTURELLA**, Acting director of Immigration and Customs Enforcement; **MARKWAYNE MULLIN**, Secretary, U.S. Department of Homeland Security; and **TODD BLANCHE**, Acting U.S. Attorney General. Respondents.	Civile Action No.:

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION

1. Petitioner JUAN JOSE MENJIVAR CRUZ("Petitioner") brings this petition for a writ of habeas corpus. He is a non-citizen who has been residing in the United States since 2019. He entered the United States undetected in 2019 and has resided continuously within the borders of the United States since then. Petitioner was apprehended by immigration officials in the interior on or about July 2026 during an immigration enforcement operation and removal proceedings were initiated. **(Exhibit A, Notice to Appear)**. Petitioner has not engaged in any disqualifying criminal activity.

2. Under the Immigration and Nationality Act ("INA"), individuals arrested in the interior and placed in § 240 removal proceedings are detained, if at all, under 8 U.S.C. § 1226(a), with a right to a custody redetermination by an Immigration Judge ("IJ").

3. DHS never placed Petitioner into expedited removal under INA § 235(b)(1), 8 U.S.C. § 1225(b)(1), never processed him for inspection and admission under 8 U.S.C. § 1225(b)(2), and never granted or revoked parole pursuant to INA § 212(d)(5), 8 U.S.C § 1182(d)(5),

4. DHS and the BIA assert that because Petitioner was never formally admitted, he is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) and ineligible for bond. A judge of this Court rejected the same theory recently in ordering a § 1226(a) bond hearing for another Stewart Detention Center detainee. *J.A.M. v. Streeval et al,* No. 4:25-cv-342 (M.D. Ga. Nov. 1, 2025).

5. DHS' position is also inconsistent with the statutory text, structure, and history of the Immigration and Nationality Act, with DHS's own original processing decisions in this case, and with binding Eleventh Circuit authority. On May 6, 2026, the United States Court of Appeals for the Eleventh Circuit flatly rejected the Government's § 1225(b)(2)(A) detention theory in

Hernandez Alvarez v. Warden, Fed. Det. Ctr. Mia., No. 25-14065, 2026 U.S. App. LEXIS 13180 (11th Cir. May 6, 2026), affirming habeas relief for interior detainees held under the identical legal theory. That decision controls this case. Courts at every level—including this Court and now the Eleventh Circuit itself—have rejected the Government's effort to re-label long-present noncitizens in § 240 proceedings as § 235(b) detainees to strip them of bond rights.

6. Petitioner seeks a writ of habeas corpus directing Respondents to provide Petitioner a prompt, individualized bond hearing before a neutral adjudicator under § 1226(a) (within 7 days), at which the Government bears the burden to show by clear and convincing evidence that he is a danger or flight risk, or, in the alternative, an order for his immediate release under reasonable conditions. He also seeks an order prohibiting transfer outside this District during the pendency of these proceedings.

II. JURISDICTION

7. 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).

8. 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.

III. VENUE

9. 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.

10. 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. . **(Exhibit B, ICE Detainee Locator)**

IV. REQUIREMENTS OF 28 U.S.C. § 2243

11. The Court should grant the petition for writ of habeas corpus "forthwith," as the legal issues have already been resolved by this Court in *J.A.M. v. Streeval et al,* No. 4:25-cv-342 (M.D. Ga. Nov. 1, 2025).

12. 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. 2019) (citation omitted).

V. PARTIES

13. Petitioner JUAN JOSE MENJIVAR CRUZ is a citizen of El Salvador who entered the United States undetected in 2019 and was arrested in the interior on or about July 2026. He has been detained at the Stewart Detention Center since July 2026. After Petitioner was arrested, ICE did not set bond. Petitioner has resided in the United States since at least 2019. To date, Petitioner, remains detained at the Stewart Detention Center.

14. Respondent JASON STREEVAL is employed by The GEO Group, Inc. as Warden of the Stewart Detention Center, where Petitioner is detained. Respondent JASON STREEVAL has immediate physical custody of Petitioner. Respondent JASON STREEVAL is sued in his official capacity.

15. 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. Kristen Sullivan is named in her official capacity.

16. Respondent DAVID J. VENTURELLA is sued in his official capacity as Acting Director of ICE. As the Acting Director of ICE, Respondent Lyons is a legal custodian of Petitioner.

17. Respondent MARKWAYNE MULLIN is sued in her official capacity as Secretary of Homeland Security. As the head of the Department of Homeland Security ("DHS"), the agency tasked with enforcing immigration laws, Secretary Noem is Petitioner's ultimate legal custodian.

18. Respondent TODD BLANCHE is sued in his official capacity as Acting Attorney General of the United States. As Acting Attorney General, Respondent Todd Blanche oversees the immigration court system, including the immigration judges who conduct removal proceedings and bond hearings as her designees, and is responsible for the administration of immigration laws pursuant to 8 U.S.C. § 1103(g). Respondent Todd Blanche is legally responsible for administering Petitioner's removal and bond proceedings, and as such, Todd Blanche is a legal custodian of Petitioner.

VI. EXHAUSTION AND FUTILITY

19. No statute imposes an exhaustion requirement for habeas petitions under 28 U.S.C. § 2241 in this context. Any prudential exhaustion is excused because Immigration Judges are bound by *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and have been declining bond jurisdiction for entrants without inspection, rendering any motion futile.

20. On 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*." **(Exhibit C, January**

13, 2026 Email from Chief Immigration Judge Teresa Riley). In the January 13, 2026 email, Immigration judges are instructed to follow the BIA's decision in *Matter of Yajure Hurtado* as binding precedent. Accordingly, guidance from the Chief Immigration Judge states that the *Maldonado Bautista v. Santacruz* "declaratory judgment" is not binding and does not have the authority to compel specific action.

21. On March 6, 2026, the Ninth Circuit Court of Appeals issued an Emergency Stay, holding that the *Maldonado Bautista v. Santacruz* holding is stayed. **(Exhibit D, Emergency Stay Order 3/6/2026).**

22. The question presented is purely legal and urgent, and Petitioner faces ongoing deprivation of physical liberty absent judicial intervention. It is Petitioner's position that *Maldonado Bautista v. Santacruz* is binding and that futility is further underscored. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20 & 25, 2025). *Maldonado Bautista v. Santacruz* has already required § 236(a) bond access for similarly situated interior arrestees nationwide, reinforcing that the Government's § 1225(b)(2) position is unlawful and is currently being ignored by DHS counsel and immigration judges. *Id.*

VII. STATEMENT OF FACTS

23. Petitioner is a El Salvadoran national. Petitioner entered the United States undetected on or about 2019 and has resided continuously in the interior of the United States since 2019.

24. Petitioner is father to of two U.S. Citizen children. All of the U.S. Citizen children are minors. Petitioner's wife does not work because she is the full-time caretaker of the U.S. Citizen children. Without Petitioner, the U.S. Citizen children remain in an untenable position.

25. Prior to Petitioner's detention, Petitioner resided in Decatur, GA and has had stable employment working in the construction sector.

26. Petitioner has no disqualifying criminal convictions and is not a danger to the community. Petitioner has never been arrested.

27. On or about July 2026, DHS placed petitioner in removal proceedings under 8 U.S.C. § 1228 (INA § 240) by filing a Notice to Appear (NTA), but no charges were brought against the Petitioner. (**Exhibit A, Notice to Appear)**

28. Petitioner is not a flight risk, given his many long-standing community ties.

29. On July 2026, ICE apprehended Petitioner during an immigration enforcement action. ICE transported Petitioner to the Stewart Detention Center and has kept Petitioner detained without a bond hearing at the Stewart Detention Center.

30. DHS has never processed Petitioner for § 235 admission or expedited removal under § 235(b)(1).

31. Petitioner has not requested a custody redetermination, because DHS and the BIA have taken the position that he is categorically ineligible for bond because he is an "applicant for admission" under § 235(b)(2)(A). Requesting a custody redetermination would be futile. Upon information and belief, if an IJ hearing occurred, the IJ would invoke *Yajure* and ignore *Maldonado Bautista.*

VIII. LEGAL FRAMEWORK

32. Section 236(a) of the INA, 8 U.S.C. § 1226(a), governs discretionary civil immigration detention for "any alien" arrested and detained pending a decision on removal, unless § 236(c) applies. It authorizes release on bond and gives Immigration Judges custody redetermination authority by regulation. See 8 C.F.R. §§ 1236.1(d)(1), 1003.19(a).

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34. Section 235(b)(2) of the INA, 8 U.S.C. § 1225(b)(2), governs detention in the inspection context and the classes designated for expedited removal—settings that occur at or near the border and, by regulation, only for individuals described in published Federal Register notices. *See* 8 C.F.R. § 235.3(b)(1)–(2). Interior expedited removal is limited to certain encounters and, at most, to those who cannot show two years' continuous presence. 84 Fed. Reg. 35,409 (July 23, 2019). Individuals—like Petitioner—who were arrested in the interior long after entry and placed in § 240 proceedings are detained, if at all, under § 1226(a).

35. In *J.A.M. v. Streeval et al,* No. 4:25-cv-342 (M.D. Ga. Nov. 1, 2025), the court rejected the government's *Yajure* theory and held that § 1226(a) governs interior arrests charged into § 240, not § 1225(b)(2). The court concluded that "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" subject to exceptions for mandatory detainees delineated in 8 U.S.C. § 1226(c). *Id.* at 10. The court found *Matter of Yajure Hurtado* "unpersuasive," aligned with the already large and still growing district-court consensus, and concluded the petitioner is entitled to discretionary bond under § 1226(a).

36. The same statutory reading has now been adopted in class-wide relief. In *Maldonado Bautista v. Santacruz*, the court held that detention for interior arrests charged into § 240 is governed by § 1226(a) and not § 1225(b)(2), and it directed that class members be afforded individualized bond hearings before an immigration judge under § 236(a) on a prompt

timeline. No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 20, 2025) (partial summary judgment); *id.* (Nov. 25, 2025) (class certification). That class relief confirms the statute's two-track structure: § 235 governs the inspection/expedited-removal track; § 236(a) governs detention during § 240 removal proceedings for long-present interior arrestees.

37. On March 6, 2026, the Ninth Circuit Court of Appeals issued an Emergency Stay, preventing *Maldonado Bautista* class members from seeking bond hearings from immigration judges.

38. *Hernandez Alvarez*, 2026 U.S. App. LEXIS 13180, controls the threshold statutory question in this Court: whether § 1225(b)(2)(A) applies to Petitioner. Under the Eleventh Circuit's textual analysis, it does not. In *Hernandez Alvarez*, the court held that § 1225(b)(2)(A) imposes two independent conditions for mandatory detention: the alien must be (1) an applicant for admission, and (2) actively "seeking admission"—meaning pursuing lawful entry after inspection and authorization by an immigration officer. The second condition is not satisfied by mere presence in the interior. An alien arrested in the interior of the United States, not at a port of entry and not taking any affirmative step toward

IX. CAUSES OF ACTION

COUNT ONE
STATUTORY CLAIM (Detention Governed by INA § 236(a))

39. Petitioner incorporates paragraphs 1 through 38 as if fully set out herein.

40. Section 235(b)(2)(A) does not govern Petitioner's detention because he was not encountered during inspection and is not within any class designated for expedited removal by published notice. Reading § 1225(b)(2)(A) to govern all never admitted noncitizens regardless of when and where they were arrested would nullify Congress's express two-

year limit on interior expedited removal and collapse the statute's two-track scheme. Under § 1226(a) and its implementing regulations, Petitioner is entitled to a prompt bond hearing before a neutral adjudicator.

41. The Eleventh Circuit has definitively rejected the Government's detention theory for this Court. *Hernandez Alvarez*, 2026 U.S. App. LEXIS 13180. Section 1225(b)(2)(A) imposes two independent conditions: the alien must be an applicant for admission and must be "seeking admission"—actively pursuing lawful entry after inspection by an immigration officer. *Hernandez Alvarez*, 2026 U.S. App. LEXIS 13180, at *22. Petitioner was not seeking lawful entry when ICE arrested him at a routine check-in appointment. He was, at most, present in the United States. Presence is not pursuit. *Id.* at *23. Reading § 1225(b)(2)(A) to govern Petitioner's detention would collapse the statute's two-track structure by allowing DHS to treat any never-admitted noncitizen in § 240 proceedings as a perpetual "applicant for admission," regardless of how they were actually processed. That interpretation would render § 1226(a) a dead letter for a large category of noncitizens, contrary to the structure recognized in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), and in the recent Laken Riley Act amendments to § 1226(c).

42. The phrase "is an alien … who is seeking admission" in § 1225(b)(2)(A) is in the present tense and belongs in the inspection context. It does not extend to noncitizens like Petitioner who were never processed under § 235, were affirmatively placed into § 240 proceedings, and have lived in the interior for years while complying with ICE reporting and litigating their cases in Immigration Court.

43. Under INA § 236(a) and its implementing regulations, Petitioner is entitled to release pursuant to the 2023 Order of Release on Recognizance, or a prompt bond hearing before a neutral adjudicator, at which the Government bears the burden to justify continued detention. By refusing to treat his detention as governed by § 1226(a) and by denying him release or access to bond review, Respondents are acting in excess of their statutory authority.

COUNT TWO
PROCEDURAL DUE PROCESS (U.S. Const. amend. V)

44. Petitioner incorporates paragraphs 1 through 38 as if fully set out herein.

45. Prolonged civil detention without a neutral bond hearing violates procedural due process. If Respondents' position categorically forecloses any IJ bond review for interior arrestees like Petitioner, it denies a meaningful opportunity to be heard and invites arbitrary confinement. At minimum, due process requires a prompt bond hearing at which the Government bears the burden to justify detention by clear and convincing evidence.

COUNT THREE
SUBSTANTIVE DUE PROCESS (U.S. Const. amend. V)

46. Petitioner incorporates paragraphs 1 through 38 as if fully set out herein.

47. Civil detention must remain reasonably related to its purposes of ensuring appearance and protecting the community. Detaining Petitioner without any individualized assessment, solely on a categorical theory rejected by this Court days ago, bears no reasonable relation to any legitimate aim and is excessive in relation to its purposes.

PRAYER FOR RELIEF

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

1) Assume jurisdiction over this matter;

2) Issue a writ of habeas corpus directing Respondents to release Petitioner or, in the alternative, provide Petitioner a bond hearing under 8 U.S.C. § 1226(a) before an Immigration Judge within 7 days of the Court's order, with the Government bearing the burden to establish by clear and convincing evidence that Petitioner is a danger to the community or a flight risk, and to consider alternatives to detention;
3) Enjoin Respondents from transferring Petitioner outside the jurisdiction of this Court during the pendency of these proceedings;
4) Order Respondents to answer the petition within 3 business days;
5) Grant such other relief as the Court deems just and proper.

Respectfully submitted this 20th day of July, 2026.

//Eszter Bardi//

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28 U.S.C. § 2242 VERIFICATION STATEMENT

I am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney. I have discussed with Petitioner's family members and have reviewed various documents for Petitioner. On the basis of those discussions, I hereby verify that I have reviewed the foregoing Petition and that the facts and statements made in this Petition and Complaint are true and correct to the best of my knowledge or belief pursuant to 28 USC § 2242.

Respectfully submitted this 20th day of July, 2026.

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CERTIFICATE OF COMPLIANCE

I hereby certify that the document to which this certificate is attached has been prepared with one of the font and point selections approved by the Court in Local Rule 5.1 for documents prepared by computer.

Respectfully submitted this 20th day of July, 2026.

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