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

Jared Josafat ROMERO LOPEZ Petitioner, v. Warden, STEWART DETENTION CENTER, et al., Respondent.	Case No. 4:26-cv-1035 **PETITION FOR WRIT OF HABEAS CORPUS**

INTRODUCTION

1. Petitioner Jared Josafat ROMERO LOPEZ (A# [redacted]) is in the physical custody of Respondents at the Stewart Detention Center. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.

2. The supplied records show that, when Petitioner was seventeen, DHS placed him in ordinary removal proceedings under INA § 240 by issuing a Form I-862. The NTA alleges arrival at or near Hidalgo, Texas, lists the charge under 8 U.S.C. § 1182(a)(6)(A)(i), checks the box for a person present without admission or parole, and does not designate him an arriving alien. Ex. 1. He was then held as an unaccompanied child by ORR and reunified with his father in Georgia. Ex. 2.

3. Years later, ICE re-detained Petitioner in the interior of the United States and he is now held at Stewart Detention Center. The record supplied to counsel does not show that

Petitioner ever received immigration parole under 8 U.S.C. § 1182(d)(5)(A); Petitioner affirmatively denies receiving such parole.

4. The Eleventh Circuit has since held that § 1225(b)(2)(A) does not impose no-bond detention on a person merely present in the country; § 1226 supplies the detention rule for a person ICE seeks to remove from the interior. *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, 175 F.4th 1258, 1262, 1276, 1285 (11th Cir. 2026). This petition applies that binding rule to the present detention, not to the historical fact that Petitioner, as a minor, was first encountered at the border.

5. The closest post-*Hernandez* decisions confirm the point. One court rejected the Government's argument that an initial border encounter, parole, and later interior re-detention keeps a person in § 1225 custody. *Neri v. Warden*, No. 2:26-cv-938-ACA-SGC, Doc. 7, at 3-5 (N.D. Ala. June 12, 2026). Another applied *Hernandez* to a former unaccompanied child released to a sponsor and re-detained years later. *Mendez Roblero v. Warden, Florida Baker Correctional Institution*, No. 3:26-cv-897-MMH-LLL, Order at 2-4 (M.D. Fla. May 7, 2026).

6. Petitioner is not presently being detained at the border or port of entry following an initial inspection process. Although Petitioner was initially apprehended while attempting to enter the United States, DHS later released him from custody and placed him in standard § 1229a removal proceedings. Petitioner is not currently detained pursuant to a final order of removal under § 1231, and DHS has not established that he is subject to mandatory detention under § 1226(c). Under *J.A.M. v. Streeval*, No. 4:25-CV-342 (CDL), 2025 WL 3050094 (M.D. Ga. Nov. 1, 2025); *P.R.S. v. Streeval*, No. 4:25-CV-330-CDL, 2025 WL 3269947 (M.D. Ga. Nov. 24, 2025); Petitioner's present detention should be analyzed under § 1226(a), not § 1225(b)(2), because he is now detained pending standard removal proceedings after having been released

from DHS custody Therefore the Court should order Respondents to provide a § 1??6(a)(?) bond hearing within seven days, with DHS bearing the burden.

JURISDICTION

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

8. 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)

9. 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

10. 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.

11. 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

12. 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.*

13. In addition to the Court's authority under 28 U.S.C. § 2243, the Court may apply Rule 4 of the Rules Governing § 2254 Cases to this § 2241 action. Rule 4 authorizes the Court, after preliminary review, to order Respondents to file a response "or to take other action the judge may order." Because the same legal issue has already been resolved in this District in *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094, at *5–8 (M.D. Ga. Nov. 1, 2025)*J.A.M.*, and *P.R.S.*, Petitioner respectfully requests that the Court order immediate relief under Rule 4 and require Respondents to provide a § 1226(a) bond hearing within seven days.

PARTIES

14. Petitioner Jared Josafat ROMERO LOPEZ is a citizen of Honduras who has been in immigration detention at Stewart Detention Center in Lumpkin, GA, since June 23, 2026.

15. Respondent Warden of the Stewart Detention Center, where Petitioner is detained. As Warden, he is responsible for the operations of the Stewart Detention Center, including oversight of the individuals in ICE custody at the facility, and is therefore the immediate custodian of the Petitioner. Respondent Warden's business address is 146 CCA Rd, Lumpkin, Georgia 31815. He is sued in his official capacity.

LEGAL FRAMEWORK

16. Section 1226(a) authorizes detention pending a removal decision and allows release on bond or conditional parole, except where § 1226(c) applies. A detainee classified under § 1226 generally may obtain review of custody before an Immigration Judge. 8 C.F.R. §§ 1003.19(a), 1236.1(d)(1); Hernandez Alvarez, 175 F.4th at 1262.

17. By contrast, § 1225(b)(2)(A) provides for detention when an examining immigration officer determines that an applicant for admission who is seeking admission is not clearly and beyond a doubt entitled to be admitted. In Hernandez Alvarez, the Eleventh Circuit held that both the statutory text and structure preserve the border-interior distinction: § 1225 governs arriving people seeking entry at the border, while § 1226 governs those unlawfully in the interior. Id. at 1276, 1285.

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

19. The detention provisions at § 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(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No.119-1, 139 Stat. 3 (2025).

20. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *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).

21. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a)

(1994); *see also* H R Rep No 104-469, pt 1, at ??9 (1996) (noting that § 1??6(a) simply "restates" the detention authority previously found at § 1252(a)).

22. 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.

23. The new policy, entitled "Interim Guidance Regarding Detention Authority for Applicants for Admission,"[1] claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1??5(b)(?)(A) The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

24. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

25. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

26. Recently, in *U.C.V. v. Warden, Irwin County Detention Center*, No. 7:26-cv-136-LAG-AGH, the court also applied *J.A.M.* and *P.R.S.* to materially similar facts and ordered Respondents to provide a § 1226(a) bond hearing within seven days. The Court recognized that where a noncitizen is "found in the country unlawfully and arrested" without having been inspected by an examining immigration officer, an immigration officer or immigration judge has

[1] *Available at* https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission

discretion under § 1226(a) to grant release on bond unless a statutory exception applies under §1226(c), and mandatory detention under § 1225(b)(2) is not authorized.

27. Subsequently, court after court—including all three federal districts in Georgia—has adopted the same reading of the INA's detention provisions and rejected ICE and EOIR's new interpretation. In *J.A.M. v. Streeval*, the Middle District of Georgia held that §1225(b)(2)(A) does not apply to a long-term resident arrested inside the United States who is not 'seeking admission,' concluded that § 1226(a) governs such detention, and ordered DHS to provide a bond hearing under § 1226(a)(2). *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 WL 3050094, at *5–8 (M.D. Ga. Nov. 1, 2025). Likewise, in *Aguirre Villa v. Normand*, the Southern District of Georgia rejected DHS's reliance on *Matter of Yajure Hurtado*, held that applying § 1225(b)(2)(A) to noncitizens arrested after years of residence 'renders § 1226 largely superfluous,' and granted habeas relief ordering bond hearings under § 1226(a). *Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969, at *8–10 (S.D. Ga. Nov. 4, 2025).

28. Courts have uniformly rejected DHS's and EOIR's new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

29. 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 "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

30. 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, "[w]hen Congress

creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez*, 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. District courts within Georgia and the Eleventh Circuit have adopted this same reasoning, holding that Congress's decision to add a new mandatory detention category for certain inadmissible noncitizens in § 1226(c)(1)(E) confirms that such individuals were not already subject to mandatory detention under § 1225(b)(2)(A). See *Aguirre Villa*, 2025 WL 3095969, at *8–9; Patel v. Parra*, No. 2:25 cv 00870 JES NPM, 2025 WL 3____, at *9–11 (M.D. Fla. Dec. 1, 2025).*

31. 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.

32. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute's entire framework is premised on inspections at the border of people who are "seeking admission" to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible." *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Consistent with this framework, *J.A.M.* held that § 1225(b)(2)(A) requires that an individual be both an 'applicant for admission' and an 'alien seeking admission,' and therefore does not encompass a noncitizen like Petitioner who was arrested after years of residence in the interior of the United States; in such circumstances, § 1226(a) governs and permits a bond hearing. *J.A.M.*, 2025 WL 3050094, at *6–8.*

33. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended

FACTS

34. Petitioner was born in 2003. He was seventeen years old in [redacted]. Exs. 1 2.

35. After Petitioner reaching the border, he presented himself to immigration authorities. The Form I-862 alleges that he arrived at or near Hidalgo, Texas, on or about March 23, 2021. Ex. 1.

36. On March 28, 2021, DHS issued the Form I-862 and placed Petitioner in proceedings under INA § 240. Ex. A. The NTA alleges that Petitioner was a person present in the United States who had not been admitted or paroled, charges § 1182(a)(6)(A)(i), and does not check the arriving-alien box. *Id.*

37. The supplied NTA page also does not show a completed credible-fear process or vacatur of an expedited-removal order: the associated checkboxes are unmarked. Ex. 1. No Form I-860, I-867, I-868, M-444, or other expedited-removal material has been supplied to counsel.

38. ORR designated Petitioner as an unaccompanied child on March 30, 2021. Its records describe his status as under removal proceedings and approve reunification with his father/sponsor in Georgia. Ex. 2. ORR's discharge record identifies the release as "Reunified (Individual Sponsor)." *Id.*

39. Petitioner was not granted parole under 8 U.S.C. § 1182(d)(5)(A). His release from ORR to his father was a sponsor reunification, not an immigration-parole grant. After reunification, Petitioner lived in the community in Georgia while his removal case remained pending.

40. On June 23, 2026 ICE arrested Petitioner while he was on his way to work, in the interior of the United States, and transferred him to Stewart Detention Center.

41. Subsequently after Petitioner's detention, he was placed in removal proceedings before the Immigration Court in Lumpkin, GA, pursuant to 8 U.S.C. § 1229a. ICE has charged Petitioner with, *inter alia*, being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i) as someone who entered the United States without inspection.

42. Following Petitioner's arrest and transfer to Stewart Immigration Court, ICE issued a custody determination to continue Petitioner's detention without an opportunity to post bond or be released on other conditions.

43. Pursuant to *Matter of Yajure Hurtado*, the immigration judge is unable to consider Petitioner's bond request.

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

CLAIMS FOR RELIEF

COUNT I

PROMPT RULE 4 RELIEF IS APPROPRIATE.

45. This Court's Standing Order No. 2026-01 establishes an expedited Rule 4 screening process for § 2241 detention petitions from Stewart Detention Center and identifies the same local statutory issue addressed in *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). Petitioner respectfully requests prompt screening under that

procedure, while recognizing that the Court must decide the statute's application to these particular facts.

COUNT II
Violation of the INA

46. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

47. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

48. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT III
Violation of the Bond Regulations

49. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

50. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred

to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

51. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

52. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

COUNT IV
Violation of Due Process

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

54. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

55. Petitioner has a fundamental interest in liberty and being free from official restraint.

56. The government's detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Order that Petitioner shall not be transferred outside the Middle District of Georgia while this habeas petition is pending;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days, with ordering DHS to bear the burden of why Petitioner is a flight risk or danger to the community.

e. Declare that Petitioner's detention is unlawful;

f. 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

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

DATED: July 23, 2026

Respectfully submitted,

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