Duver Murillo Utima
Country of Birth: Colombia
A-Number: A[redacted]
Current Detention Facility: STEWART DETENTION CENTER
146 CCA ROAD LUMPKIN, GA 31815
Pro Se

UNITED STATES DISTRICT
COURT MIDDLE DISTRICT OF GEORGIA COLUMBUS DIVISION

Duver Murillo Utima
A-Number: A[redacted]
Proceeding Pro Se,
Petitioner,
v.
_____, Warden, Stewart Detention Center;
, Field Office Director, U.S. Immigration and Customs Enforcement, Atlanta Field Office, DAVID J. VENTURELLA, Acting Director, United States Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, Department of Homeland Security; TODD BLANCHE, Acting Attorney General, United States,
Respondents.

Civil Action No.:

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Duver Murillo Utima, a Colombian national, husband, father, and longtime resident of Gainesville, Georgia, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241. Petitioner is currently unlawfully detained at the Stewart Detention Center in Lumpkin, Georgia.
2. Petitioner's detention is unlawful because Respondents are detaining him under the wrong statutory authority. Petitioner was released from initial border custody approximately two years ago and lived in the interior of the United States under ISAP supervision. He was redetained on July 6, 2026, during a routine, voluntary ISAP check-in in Norcross, Georgia—hundreds of miles from any international border. His redetention occurred

without notice, without a hearing, and without any individualized determination that confinement is necessary.

3. As a matter of statutory interpretation and constitutional law, Petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b). The Eleventh Circuit's published decision in *Hernandez Alvarez v. Warden*, 175 F.4th 1258 (11th Cir. 2026), rejected the expansive application of § 1225(b)(2)(A) to noncitizens arrested in the interior and confirmed that § 1226(a) governs detention of persons found in the interior, absent a § 1226(c) exception. Furthermore, Petitioner's removal order is not administratively final because his appeal to the Board of Immigration Appeals remains pending, rendering 8 U.S.C. § 1231 inapplicable.
4. Petitioner asks this Court to issue the writ, reject Respondents' asserted mandatory-detention authority, and order his immediate release under reasonable conditions, restoring the supervised liberty he enjoyed for approximately two years. Only if the Court declines to order immediate release should it require a prompt, constitutionally adequate bond hearing before a neutral adjudicator authorized to release him, consistent with Standing Order No. 2026-01 of this Court.

JURISDICTION

1. This Court has jurisdiction over this petition under 28 U.S.C. § 2241(a) and (c)(3), which grants federal district courts the authority to issue writs of habeas corpus on behalf of persons in custody in violation of the Constitution or laws of the United States.
2. Jurisdiction is also proper under 28 U.S.C. § 1331 (federal question).

VENUE

1. Venue is proper in the Middle District of Georgia, Columbus Division, under 28 U.S.C. § 2241(d) because Petitioner is detained at the Stewart Detention Center, located at 146 CCA Road, Lumpkin, Georgia 31815, which is located in Stewart County within the Columbus Division of this judicial district. *See Giron-Villatoro v. Washburn*, No. 5:20-cv-00342 (M.D. Ga. Dec. 1, 2020) (transferring case to Columbus Division because Stewart County is located in the Columbus Division of the Middle District of Georgia).

PARTIES

1. Petitioner Duver Murillo Utima (A-Number: [redacted]) is a native and citizen of Colombia, born on [redacted] in Tuluá, Valle del Cauca, Colombia. He is currently detained in Respondents' custody at the Stewart Detention Center.
2. Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security ("DHS") and is responsible for the administration and enforcement of federal immigration laws. He is sued in his official capacity.
3. Respondent David J. Venturella is the Acting Director of U.S. Immigration and Customs Enforcement ("ICE"), the DHS agency responsible for Petitioner's detention. He is sued in his official capacity.
4. Respondent LaDeon Francis is the Field Office Director of ICE Enforcement and Removal Operations, Atlanta Field Office, and is responsible for detention operations within his jurisdiction, including Petitioner's detention. He is sued in his official capacity.
5. Respondent Terrence Dickerson is the Warden of the Stewart Detention Center and is Petitioner's immediate custodian, responsible for his physical confinement. He is sued in

his official capacity.

6. Respondent Todd Blanche is the Acting Attorney General of the United States and is responsible for the Executive Office for Immigration Review ("EOIR") and the actions of Immigration Judges. He is sued in his official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

1. Petitioner has not had an opportunity to pursue administrative custody remedies because no bond hearing or custody redetermination has been conducted since his redetention on July 6, 2026. Respondents have not provided Petitioner with any custody determination, notice of bond hearing, or written explanation for his detention.
2. To the extent further administrative exhaustion is considered applicable, it should be excused as futile and inadequate. The Board of Immigration Appeals has held in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), that noncitizens who entered without admission are subject to § 1225(b)(2)(A) and that Immigration Judges lack authority to grant bond. The BIA reaffirmed this position in June 2026 in *Matter of N-A-G-C-*. The BIA is bound by its own precedent and cannot provide a remedy for the legal and constitutional errors challenged herein.
3. Prudential exhaustion should be excused because this petition raises pure questions of statutory interpretation and constitutional law, which are matters for this Court to decide. Requiring further administrative review would subject Petitioner to continued unlawful detention, causing irreparable harm.

STATEMENT OF FACTS

1. Petitioner is a citizen of Colombia, born on [redacted] in Tuluá, Valle del Cauca, Colombia. His A-Number is A[redacted].
2. On or about May 26, 2024, Petitioner arrived near Brownsville, Texas, and was encountered by U.S. immigration authorities. DHS issued a Notice to Appear ("NTA") on May 26, 2024, charging him as removable under INA § 212(a)(6)(A)(i) for being present without admission or parole. The NTA does not classify Petitioner as an "arriving alien."
3. On or about May 27, 2024, Petitioner was released from initial custody and enrolled in the Intensive Supervision Appearance Program ("ISAP"). He was subject to office visits every eight weeks, home visits every eight weeks, and weekly reporting via SmartLINK.
4. From May 2024 until July 6, 2026, Petitioner resided in the interior of the United States, primarily in Gainesville, Georgia. He complied with all ISAP reporting requirements, attended all scheduled appointments, and never missed a check-in or attempted to evade ICE.
5. On September 17, 2025, Petitioner married Sandy Inés Macias Burgos in Hall County, Georgia. His wife resides at [redacted] Gainesville, Georgia 30507.
6. Petitioner is the father of A[redacted], born on [redacted] 2021, in General Villamil, Guayas, Ecuador. His daughter is five years old and resides with Petitioner's wife in Gainesville, Georgia. Since Petitioner's detention, his daughter cries daily, sleeps poorly, and does not understand why her father has not returned home.
7. Petitioner was employed delivering and installing appliances for a subcontractor providing services to Best Buy. His employer, Michael Steven Flores Quirumbay, confirms that Petitioner worked for approximately two years without any customer complaints and

describes him as reliable and hardworking.

8. Petitioner holds a valid Employment Authorization Document ("EAD") under category C08, valid from March 18, 2026, to September 17, 2027. He also holds a Georgia driver's license issued in April 2026.

9. Petitioner applied for asylum, withholding of removal, and protection under the Convention Against Torture ("CAT") through a Form I 589. His asylum claim is based on a well-founded fear of persecution in Colombia and Ecuador, [redacted]

10. On February 6, 2026, an Immigration Judge at the Atlanta Immigration Court ordered Petitioner removed. Petitioner timely appealed to the Board of Immigration Appeals. The BIA received the appeal on March 9, 2026, and the Record of Proceeding was transmitted to the BIA on March 19, 2026. As of July 23, 2026, the appeal remains pending. No briefing schedule has been issued, and no future hearings are scheduled.

11. On July 6, 2026, Petitioner voluntarily appeared for a scheduled ISAP appointment at the BI ISAP office in Norcross, Georgia. He completed his check-in as required. Upon concluding the appointment, ICE officers informed Petitioner that his ISAP calendar had ended and that he was being detained. Petitioner's ISAP application allegedly showed appointments scheduled through December 2026.

12. ICE did not provide Petitioner with any written notice of the termination of his ISAP supervision, any warrant for his arrest, any custody determination, any explanation of changed circumstances, or any opportunity to be heard before a neutral adjudicator.

13. Following his detention, Petitioner was briefly held at an unidentified location in Atlanta and then transferred to Stewart Detention Center in Lumpkin, Georgia.

14. As of July 23, 2026, Petitioner has been in custody for seventeen (17) days. He has never been provided with a bond hearing, custody redetermination, or any individualized assessment of whether his continued detention is necessary.

15. Petitioner has no criminal record. No arrest, charge, conviction, or pending criminal matter appears in the documents reviewed. The questionnaire completed by Petitioner and the letters from his wife and employer confirm that he has no criminal history.

16. Petitioner has a sponsor, Michael Steven Flores Quirumbay, who has offered to provide housing at [redacted] Gainesville, Georgia 30506, and to ensure Petitioner's appearance at all future proceedings.

17. Since his detention, Petitioner has experienced significant emotional distress, including depression and stress due to confinement and separation from his family. His wife reports that she works nights and that Petitioner cared for their daughter during those hours; his absence has created significant hardship for the family.

18. Petitioner's mother, Luz Miriam Utima Londoño, is an elderly adult in Colombia who depends on Petitioner for financial assistance with her medications. His detention has cut off the support he was providing to her.

LEGAL CLAIMS

CLAIM I: RESPONDENTS LACK LAWFUL AUTHORITY TO DETAIN PETITIONER UNDER § 1225(b); DETENTION IS GOVERNED BY § 1226(a)

1. Petitioner's detention is unlawful because Respondents are detaining him under the

incorrect statutory provision. DHS appears to be relying on 8 U.S.C. § 1225(b)(2)(A), which governs the detention of certain noncitizens who have not been admitted. However, the correct statute governing the detention of a noncitizen found and arrested in the interior of the country after years of supervised liberty is 8 U.S.C. § 1226(a), which permits release on bond or conditional parole.

2. Section 1225(b) governs the inspection, processing, and detention of noncitizens who are "applicants for admission" at a port of entry or encountered at the border. In contrast, § 1226(a) is the default statutory provision governing the arrest and detention of noncitizens already present inside the United States pending removal proceedings. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018).

3. Petitioner was not an arriving alien when he was detained on July 6, 2026. He had been living in the interior of the United States for approximately two years, subject to ISAP supervision, and was arrested during a voluntary check-in at an ISAP office in Norcross, Georgia—hundreds of miles from any international border. He was not seeking admission at a port of entry.

4. The Eleventh Circuit's published decision in *Hernandez Alvarez v. Warden*, 175 F.4th 1258 (11th Cir. 2026), rejected the expansive application of § 1225(b)(2)(A) to persons not admitted who are detained in the interior. The decision preserved the distinction between border detention and interior arrest and confirmed that § 1226(a) is the general regime for detention pending a removal decision, absent a § 1226(c) exception. This decision is controlling within the Middle District of Georgia.

5. Respondents' interpretation—that any person who once entered without inspection is perpetually an "applicant for admission" subject to mandatory detention—would render §

1226(a) a nullity. Such a reading violates the canon of statutory construction that statutes must be interpreted to give every provision meaning and effect.

6. The BIA's decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and its reaffirmation in *Matter of N-A-G-C-* (BIA June 2026), cannot override the plain text and structure of the federal statute. An administrative agency's interpretation cannot control over controlling circuit precedent. The Eleventh Circuit's decision in *Hernandez Alvarez* is binding within this jurisdiction.
7. Because Respondents are detaining Petitioner under the wrong statute, his detention is unlawful. Under the correct statute, § 1226(a), he is eligible for release on bond or conditional parole. *See* 8 U.S.C. § 1226(a)(2).

CLAIM II: PETITIONER'S REMOVAL ORDER IS NOT ADMINISTRATIVELY FINAL; § 1231 IS INAPPLICABLE

1. Petitioner's removal order, issued by the Immigration Judge on February 6, 2026, is not administratively final because Petitioner timely appealed to the Board of Immigration Appeals, and the appeal remains pending as of July 23, 2026.
2. Under 8 C.F.R. § 1241.1, an order of removal made by an immigration judge becomes final upon dismissal of an appeal by the BIA, upon waiver of appeal, or upon expiration of the time allotted for appeal if no appeal is filed. Because Petitioner filed a timely appeal, the order will not become final until the BIA issues its decision.
3. Under 8 C.F.R. § 1003.6(a), the decision in any proceeding from which an appeal may be taken "shall not be executed" while an appeal is pending. This regulatory stay precludes enforcement of the removal order while the BIA appeal remains unresolved.

4. Because the removal order is not administratively final, 8 U.S.C. § 1231—the post-order detention statute—is inapplicable. Petitioner's detention must be governed by the pre-order framework of § 1226(a), absent a § 1226(c) exception.
5. No exception to the automatic stay under § 1003.6 has been demonstrated in this case. No evidence suggests that Petitioner's case falls within any of the regulatory exceptions that would permit execution of the order during the pendency of the appeal.

CLAIM III: NO MANDATORY DETENTION UNDER § 1226(c)

1. Section 1226(c) mandates detention without bond for certain noncitizens with qualifying criminal convictions. Petitioner has no criminal record. No arrest, charge, conviction, or pending criminal matter has been identified in any document reviewed.
2. Without a qualifying criminal offense, § 1226(c) is inapplicable. Petitioner is therefore subject to the discretionary detention framework of § 1226(a), which permits release on bond or conditional parole.
3. Respondents have not identified any criminal basis for mandatory detention. The absence of any criminal record means that the general provisions of § 1226(a) govern, and Petitioner is eligible for individualized consideration of release.

CLAIM IV: REDETENTION WITHOUT NOTICE, HEARING, OR INDIVIDUALIZED DETERMINATION VIOLATES DUE PROCESS

1. The Fifth Amendment to the U.S. Constitution provides that no "person" shall be "deprived of life, liberty, or property, without due process of law." This protection extends to all persons physically present within the United States, regardless of their immigration

status. *See Demore v. Kim*, 538 U.S. 510, 523 (2003); *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004).

2. Freedom from physical restraint is a fundamental liberty interest and lies at the core of the protections guaranteed by the Due Process Clause. Immigration detention, being civil in nature, cannot be punitive. It must be reasonably related to a legitimate, non-punitive governmental purpose, such as preventing flight risk or danger to the community.

3. Petitioner was redetained on July 6, 2026, during a voluntary ISAP check-in, without any prior notice, hearing, or individualized determination. ICE officers simply informed him that his ISAP calendar had ended. No written decision, warrant, custody determination, or explanation of changed circumstances was provided.

4. No neutral adjudicator has determined, after considering Petitioner's individual circumstances, that he is a danger to the community or a flight risk. No tribunal has evaluated whether less restrictive alternatives—such as continued ISAP supervision, electronic monitoring, or bond—could ensure his appearance and protect the community.

5. By redetaining Petitioner without any individualized assessment of his circumstances, Respondents have deprived him of his liberty without due process. The *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), balancing test demonstrates that Petitioner's continued detention without individualized justification violates due process and supports immediate release: a. The Private Interest: Petitioner's interest in his physical liberty is profound. He had been at liberty under supervision for approximately two years. His redetention also separates him from his wife and five-year-old daughter, causing emotional and economic hardship to his family, and preventing him from participating in the care and upbringing of his child. b. The Risk of Erroneous Deprivation: The risk of erroneous deprivation is

exceptionally high. Respondents redetained Petitioner without any individualized assessment, without notice, and without a hearing. A proceeding before an adjudicator authorized to consider bond would have immense value in mitigating this risk. c. The Government's Interest: The government's administrative burden in providing a bond hearing or restoring supervised release is minimal. EOIR routinely conducts bond hearings, and Petitioner was already successfully supervised under ISAP for approximately two years. The government's interest in ensuring appearance and protecting the community can be met through an individualized assessment and, if necessary, the imposition of bond or other conditions.

IMMEDIATE RELEASE IS THE APPROPRIATE HABEAS REMEDY

1. Release from unlawful physical custody is the traditional remedy available through habeas corpus. Petitioner does not merely challenge the procedures available in a future hearing; he challenges Respondents' present authority to keep him confined after approximately two years of supervised liberty.
2. The proper status quo to be restored is Petitioner's supervised liberty under ISAP, which existed from May 2024 until July 6, 2026. Petitioner was complying with all conditions of his supervision when he was redetained during a voluntary check-in.
3. No tribunal has found Petitioner dangerous, a flight risk, or unsuitable for release under reasonable conditions. Respondents have not identified any material change in circumstances that would justify the transition from supervised liberty to incarceration.
4. Petitioner has a verified residence, an employer-sponsor willing to provide housing and ensure his appearance, a wife and five-year-old daughter in Georgia, employment

authorization, a Georgia driver's license, a pending BIA appeal, and no criminal record. Reasonable conditions—including residence with his sponsor, continued ICE reporting, attendance at all hearings, and surrender of his passport—are sufficient to address any legitimate governmental concern.

5. In the alternative, if the Court declines to order immediate release, this Court's Standing Order No. 2026 01, entered January 29, 2026, by Judge Clay D. Land, establishes the procedural framework for bond hearings at Stewart Detention Center. Under that Order, the Court has directed that detainees whose cases fall within its parameters receive a bond hearing under § 1226(a). Petitioner respectfully requests that, in the alternative, the Court order Respondents to provide a constitutionally adequate bond hearing within seven (7) days before a neutral adjudicator authorized to release him, at which the Government bears the burden of proving by clear and convincing evidence that continued detention is necessary.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Issue a writ of habeas corpus directing Respondents to produce Petitioner before this Court;

B. Enter a judgment declaring that Petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b) or 8 U.S.C. § 1231;

C. Order Petitioner's immediate release forthwith under reasonable conditions, including residence with his sponsor Michael Steven Flores Quirumbay at [redacted] Gainesville, Georgia 30506, or with his wife at [redacted] Gainesville, Georgia 30507, compliance with all immigration hearings and ICE reporting requirements, surrender of his passport if requested, and

any other reasonable conditions the Court deems appropriate;

D. Only in the alternative, if the Court declines to order immediate release, require Respondents within seven (7) days to provide a constitutionally adequate bond hearing before a neutral adjudicator authorized to order release, at which the Government bears the burden of proving by clear and convincing evidence that continued detention is necessary, consistent with Standing Order No. 2026-01;

E. Require consideration of less restrictive alternatives, Petitioner's financial circumstances, family ties, sponsor, employment history, pending BIA appeal, compliance with ISAP supervision, and absence of any criminal record;

F. Order that any future redetention of Petitioner may occur only after Respondents provide (a) seven days' written notice, (b) a pre-deprivation hearing before a neutral adjudicator, and (c) proof of material changed circumstances justifying custody;

G. Enjoin Respondents from transferring Petitioner to another facility or removing him from the United States while this Petition is pending;

H. Retain jurisdiction over this matter to ensure compliance with the Court's orders; and

I. Grant such other and further relief as the Court deems just and proper.

VERIFICATION

I, Duver Murillo Utima, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge and belief.

Executed on July 23, 2026.

Duver Murillo Utima.

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