UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF NEW YORK

Eduardo Altamiro Soares Camargo
A# [redacted]

Petitioner, pro se

v.

Officer in Charge, Wellesley Island Border Patrol Station; DAVID J. VENTURELLA Acting Director of U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary of the Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; and TODD BLANCHE, Attorney General of the United States,

Respondents.

Case No. 9:26-cv-2128 (BKS)

EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)

U.S. DISTRICT COURT – N.D. OF N.Y.
FILED
Oct 16 - 2026
John M. Domurad, Clerk

I. INTRODUCTION

1. I, the undersigned Petitioner, Eduardo Altamiro Soares Camargo (DOB: [redacted]), am a citizen of Brazil. I entered the United States in 2021 through the U.S.-Mexico border. I presented myself to immigration authorities and was released.

2. Since my entry in 2021, I have continuously resided in Pennsylvania. I have no criminal history and have always complied with every summons from the Immigration Court and ICE.

3. On October 4, 2026, ICE arrested me while I was on my way to work and placed me in detention at Customs and Border Patrol Station in Wellesley Island, New York.

4. I do not have a final order of removal. Though I received a removal order on February 21, 2025, it is not administratively final, and I cannot be removed under it as I filed an appeal on

March 17, 2025, which is still pending before the Board of Immigration Appeals.

5. ICE is detaining me under 8 U.S.C. § 1225(b), treating me as an "applicant for admission" subject to mandatory detention without bond. They are expected to rely on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). This is incorrect and contrary to the statute.

6. I am not an "applicant for admission" who is "seeking admission." I have lived openly in the interior of the United States for more than five years. My situation is governed by 8 U.S.C. § 1226(a), which requires an individualized bond hearing.

7. I respectfully request my immediate release or, in the alternative, a prompt bond hearing under § 1226(a) before a neutral decisionmaker, with the Government bearing the burden of proof.

8. My detention under Section 1225(b) is not authorized by statute and violates the due-process protections guaranteed by the Fifth Amendment. Therefore, I respectfully request my immediate release or, in the alternative, a prompt bond hearing under § 1226(a) before a neutral decisionmaker, with the Government bearing the burden of proof.

II. JURISDICTION AND VENUE

9. This Court has jurisdiction under 28 U.S.C. § 2241 for habeas review of detention conditions and transfer decisions, and under 28 U.S.C. § 1331 for federal question claims under the Constitution and INA. The All Writs Act, 28 U.S.C. § 1651, authorizes injunctive relief to preserve jurisdiction over pending proceedings.

10. Venue is proper in this district because I am currently detained in New York at Wellesley Island Customs and Border Patrol Station, 45764 Landon Rd, Wellesley Island, NY 13640.

III. PARTIES

11. I, Eduardo Altamiro Soares Camargo, am a citizen of Brazil currently detained at Wellesley Island Customs and Border Patrol Station, 45764 Landon Rd, Wellesley Island, NY 13640 under the custody of U.S. Immigration and Customs Enforcement.

12. Respondent David J. Venturella is the Acting Director of U.S. Immigration and Customs Enforcement. He exercises authority over the operations of ICE nationwide. Respondent Lyons is a legal custodian of mine.

13. Respondent Superintendent of the Wellesley Island Customs and Border Patrol is a legal custodian of mine.

14. Respondent Markwayne Mullin is the Secretary of the Department of Homeland Security ("DHS"), the federal agency charged with enforcing the immigration laws of the United States. DHS oversees ICE and is ultimately responsible for my detention. Respondent Mullin is a legal custodian of mine.

15. Respondent U.S. Department of Homeland Security is the federal agency responsible for implementing and enforcing the immigration laws of the United States, including the detention and removal of noncitizens.

16. Respondent Todd Blanche is the Attorney General of the United States and the head of the U.S. Department of Justice. The Attorney General has ultimate supervisory authority over the immigration courts and the Board of Immigration Appeals and is charged with ensuring compliance with federal law in immigration detention and removal matters.

17. All Respondents are being sued in their official capacity.

IV. FACTUAL BACKGROUND

18. I, Eduardo Altamiro Soares Camargo, entered the United States through the U.S.–Mexico border, presented myself to the immigration authorities, and they released me without

inspection on or about 2021.

19. Since my entry in 2021, I have continuously resided in the United States and have been a long-time resident of Pennsylvania. I have no criminal history and a demonstrated record of stability and compliance.

20. On or about October 4, 2026, ICE detained me while I was on my way to work.

21. In light of my longstanding residence and the absence of any contemporaneous inspection or expedited removal process, my custody is properly governed by 8 U.S.C. § 1226(a), which authorizes release on bond or other conditions while removal proceedings are pending.

22. I, however, have been treated as an "arriving alien" subject to the detention provisions of 8 U.S.C. § 1225(b). That statute governs the inspection and detention of certain noncitizens encountered at the border or ports of entry. The Board of Immigration Appeals, in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), discussed the circumstances under which § 1225(b) may be applied to persons who entered without inspection but were not apprehended until many years later.

23. Respondents' anticipated reliance on 8 U.S.C. § 1225(b) is misplaced, and if they fail to provide a custody hearing under 8 U.S.C. § 1226(a), I will be left detained without statutory authority and without due process of law, creating significant legal uncertainty—particularly given that my case is currently pending before an Immigration Judge and that I have no criminal convictions.

24. I do not have a final order of removal. I received a removal order on February 21, 2025, however it is not administratively final due to my pending appeal before the Board of Immigration Appeals. As BIA has yet to rule on the appeal of the removal order, I am not currently subject to a final removal order and cannot be removed under the February 21, 2025 order.

V. REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

25. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to Respondents "forthwith," unless I am not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

26. 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 illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963).

27. I am currently "in custody" for the purpose of § 2241 because I was arrested and detained by Respondents.

VI. CLAIMS FOR RELIEF

Count I – Violation of the Fifth Amendment Right to Due Process

(Procedural Due Process)

28. I repeat and reallege all prior paragraphs as if fully set forth herein.

29. My detention by Respondents, without an individualized custody determination, violates the Due Process Clause of the Fifth Amendment. The Supreme Court has long made clear that the protections of the Due Process Clause extend to all persons within the United States, including noncitizens present without lawful status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

30. I have yet to receive a constitutionally adequate bond hearing.

31. I am being detained without access to a bond hearing based on an administrative

interpretation that does not apply to my circumstances. By its anticipated invocation of *Matter of Yajure Hurtado*, the Government has subjected me to detention without bond while denying me access to 8 U.S.C. § 1226(a).

32. Respondents now purport to treat me as an "arriving alien" subject to mandatory detention under 8 U.S.C. § 1225(b), despite the fact that I have lived in the United States since 2019.

33. By effectively reclassifying me as an "applicant for admission" under § 1225(b), Respondents have denied me the statutory protections that attach once custody is governed by 8 U.S.C. § 1226(a), including the right to an individualized custody hearing, the right to counsel, and the right to administrative and judicial review.

34. The Second Circuit has held that due process requires an individualized custody determination for noncitizens detained under § 1226(a). *Barbosa da Cunha v. Freden*, No. 25-3141, 175 F.4th 61 (2d Cir. Apr. 28, 2026).

35. The Second Circuit has held that due process requires the Government to bear the burden of justifying continued detention by clear and convincing evidence. *Black v. Decker,* 103 F.4th 133 (2d Cir. 2024).

36. Accordingly, my detention violates my right to due process under the Fifth Amendment, and I am entitled to immediate release or, at minimum, an individualized custody hearing.

Count II – Detention Not Authorized by Statute (8 U.S.C. § 1225(b) vs. § 1226(a))

37. Respondents' asserted authority to detain me under 8 U.S.C. § 1225(b) is contrary to law. That provision applies to noncitizens who are "applicants for admission," including those

encountered at or near the border and, in limited circumstances, those who entered without inspection within the two-year period authorized for expedited removal. I fall into none of those categories. I entered the United States without inspection in 2021.

38. Nothing in § 1225(b) authorizes ICE to retroactively reclassify me as an "arriving alien" after more than five years of residence in the interior of the country.

39. Respondents rely on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). But *Hurtado* does not control here. I was not apprehended at or near the border; I have lived openly in Pennsylvania for more than five years and have not been placed in expedited-removal or inspection proceedings.

40. 8 U.S.C. § 1225(b)(2)(A) applies only to an "applicant for admission" who is "seeking admission." The present participle "seeking" requires active, ongoing conduct — typically at the border or a port of entry.

41. I entered in 2021, was released, and have lived openly in Pennsylvania for more than five years. I am not "seeking admission." Therefore, my detention is governed by 8 U.S.C. § 1226(a), not § 1225(b).

42. *Matter of Yajure Hurtado* does not control here. Multiple district judges in Pennsylvania have rejected its application to long-term interior residents. Reclassifying me as a new "arriving alien" after more than five years of residence exceeds the authority Congress gave in § 1225(b).

43. If Respondents have any custody authority at all, it lies under 8 U.S.C. § 1226(a), which requires an individualized custody determination before a neutral decisionmaker. Respondents' reliance on § 1225(b) to deny me such a hearing is unlawful.

44. Accordingly, my detention is not authorized by statute, and I am entitled to immediate

release or, at minimum, a prompt custody hearing under § 1226(a).

Count III – Violation of the Administrative Procedure Act

(Unlawful Agency Action, 5 U.S.C. § 706(2))

45. I repeat and reallege all prior paragraphs as if fully set forth herein.

46. The Administrative Procedure Act requires courts to "hold unlawful and set aside agency action" that is arbitrary, capricious, an abuse of discretion, contrary to constitutional right, or "in excess of statutory jurisdiction, authority, or limitations." 5 U.S.C. § 706(2).

47. Respondents' decision to detain me under 8 U.S.C. § 1225(b) constitutes unlawful agency action. Congress limited the scope of § 1225(b) to applicants for admission at or near the border or within the expedited-removal window. I do not fall into those categories.

48. By reclassifying me as an "arriving alien" after more than five years of residence in the interior, Respondents have exceeded their statutory authority. *Matter of Yajure Hurtado* cannot lawfully expand § 1225(b) to reach individuals like me. Such an interpretation is inconsistent with the statute, with Congress's framework in INA §§ 235 and 240, and with due process.

49. Accordingly, my detention under § 1225(b) is arbitrary, capricious, and in excess of statutory jurisdiction in violation of the APA, 5 U.S.C. § 706(2)(A) and (C), and must be set aside.

VII. PRAYER FOR RELIEF

WHEREFORE, I respectfully request that this Honorable Court grant the following:

1. Assume jurisdiction over this matter;

2. Issue an Order to Show Cause ordering Respondents to show cause as to why this Petition should not be granted within three days pursuant to 28 U.S.C. § 2243;

3. Declare that my detention under 8 U.S.C. § 1225(b) is unlawful and violates the Due Process Clause of the Fifth Amendment;

4. Issue a Writ of Habeas Corpus ordering my immediate release from detention;

5. In the alternative, if the Court does not order my immediate release, direct Respondents to provide me with a prompt bond hearing within seven (7) days before a neutral decisionmaker, at which the Government shall bear the burden of proving by clear and convincing evidence that my continued detention is justified;

6. Order that I shall not be transferred outside the Northern District of New York pending resolution of this Petition; and

7. Grant any such further relief as the Court deems just and proper.

Dated: October 14, 2026

Respectfully submitted,

/s/Eduardo Altamiro Soares Camargo
Eduardo Altamiro Soares Camargo
Pro Se Petitioner
A# [redacted]
WELLESLEY ISLAND CUSTOMS AND BORDER PATROL STATION
45764 LANDON RD
WELLESLEY ISLAND, NY 13640

UNITED STATES DISTRICT COURT

for the

Northern District of New York

Eduardo Altamiro Soares Camargo
Petitioner

v.

Officer in Charge, Wellesley Island Border Patrol Station, et. al.
Respondent
(name of warden or authorized person having custody of petitioner)

Case No. _____
(Supplied by Clerk of Court)

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: Eduardo Altamiro Soares Camargo
   (b) Other names you have used: N/A
2. Place of confinement:
   (a) Name of institution: Wellesley Island Border Patrol Station
   (b) Address: 45764 Landon Rd, Wellesley Island, NY 13640
   (c) Your identification number: A# [redacted]
3. Are you currently being held on orders by:
   ☐ Federal authorities ☐ State authorities ☒ Other - explain:
   Immigration authorities (ICE/DHS)
4. Are you currently:
   ☐ A pretrial detainee (waiting for trial on criminal charges)
   ☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime
   If you are currently serving a sentence, provide:
   (a) Name and location of court that sentenced you:
   (b) Docket number of criminal case:
   (c) Date of sentencing:
   ☒ Being held on an immigration charge
   ☐ Other *(explain)*:

Decision or Action You Are Challenging

5. What are you challenging in this petition:
   ☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

☐ Pretrial detention
☒ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other *(explain)*:

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: US Immigration and Customs Enforcement
45764 Landon Rd, Wellesley Island, NY 13640

(b) Docket number, case number, or opinion number:

(c) Decision or action you are challenging *(for disciplinary proceedings, specify the penalties imposed)*:
Detention without bond hearing under 8 U.S.C. § 1225(b) as an "applicant for admission," despite long-term residence in the United States.

(d) Date of the decision or action: October 4, 2026

Your Earlier Challenges of the Decision or Action

7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not appeal: ICE has not provided any bond hearing or administrative remedy, claiming lack of jurisdiction under Matter of Yajure Hurtado. This is a direct statutory and constitutional challenge to the classification of my detention.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a second appeal:

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court:

(2) Date of filing:

(3) Docket number, case number, or opinion number:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) If you answered "No," explain why you did not file a third appeal:

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes ☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes ☐ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court:

(2) Case number:

(3) Date of filing:

(4) Result:

(5) Date of result:

(6) Issues raised:

(c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence:

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes ☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: On or about October 4, 2026

(b) Date of the removal or reinstatement order: February 21, 2021

(c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes ☐ No

If "Yes," provide:

(1) Date of filing: March 17, 2025

(2) Case number: [redacted]

(3) Result: Pending

(4) Date of result:

(5) Issues raised: Law and factual errors made during the adjudication of my claim

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes ☒ No

If "Yes," provide:

(1) Name of court:

(2) Date of filing:

(3) Case number:

(4) Result:

(5) Date of result:

(6) Issues raised:

12. **Other appeals**

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☐ Yes ☒ No

If "Yes," provide:

(a) Kind of petition, motion, or application:

(b) Name of the authority, agency, or court:

(c) Date of filing:

(d) Docket number, case number, or opinion number:

(e) Result:

(f) Date of result:

(g) Issues raised:

Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

I entered the United States in 2021. I have lived continuously in Pennsylvania for over five years, I have no criminal history, and have always complied with every immigration summons. On October 4, 2026, ICE detained me and is holding me under 8 U.S.C. § 1225(b) without a bond hearing. I am not an "applicant for admission" who is "seeking admission." My custody is governed by 8 U.S.C. § 1226(a), which requires an individualized bond hearing.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes ☒ No

GROUND TWO:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

My continued detention without any individualized custody determination violates my rights under the Due Process Clause of the Fifth Amendment. I have been in custody for weeks and have never received a bond hearing.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes ☒ No

GROUND THREE:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes ☐ No

GROUND FOUR:

(a) Supporting facts *(Be brief. Do not cite cases or law.)*:

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes ☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not: ICE has denied me any bond hearing or administrative process, claiming lack of jurisdiction. This petition raises "now-or-never" claims that can only be reviewed in habeas.

Request for Relief

15. State exactly what you want the court to do: I request that the Court: (1) issue a Writ of Habeas Corpus ordering my immediate release; (2) in the alternative, order a prompt bond hearing within 7 days under 8 U.S.C. § 1226(a) with the Government bearing the burden of proof by clear and convincing evidence; (3) enjoin my transfer outside this District; and (4) grant any other relief the Court deems just and proper.

Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 10/14/2026

/s/ Eduardo Altamiro Soares Camargo

Signature of Petitioner

Signature of Attorney or other authorized person, if any