UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

CASE NO. 0:25-cv-61845-RS

MARIO RODRIGUEZ IZQUIERDO,

Petitioner,

v.

GARRETT RIPA *in his official capacity as Field Office Director of the Immigration and Customs Enforcement, Enforcement and Removal Operations Miami Field Office,* KRISTI NOEM, *in her official capacity as Secretary of the Department of Homeland Security, and* PAM BONDI, *in her official capacity as Attorney General for the United States,*

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

PETITIONER'S AMENDED[1] PETITION FOR HABEAS CORPUS

INTRODUCTION

1. Petitioner Mario Rodriguez Izquierdo (hereinafter "Petitioner") is a Cuban asylum seeker who entered the United States without inspection in March 2022 near San Luis, Arizona.
2. Petitioner was detained after masked ICE agents arrested him when he dutifully appeared for a hearing at the Miami Immigration Court on June 5, 2025.
3. On July 18, 2025, an immigration judge awarded Petitioner's release on bond for $10,000. However, on July 21, 2025, ICE filed an EOIR-43 notice with the immigration court to continue holding him in detention without bond, thus automatically staying the effect of the IJ's order.

[1] Petitioner previously filed a form habeas on September 16, 2025 to preserve venue and jurisdiction. [ECF No. 1].

4. As a result of ICE's unilateral actions, Petitioner – a 27-year-old doctor with no criminal convictions – remains detained at Broward Transitional Center in Florida ("BTC.") He files this habeas petition seeking his immediate release.

5. First, ICE's invocation of the automatic stay regulation against Petitioner is unlawful. The regulation – which allows ICE to unilaterally abrogate a neutral arbiter's release order – violates his due process rights. *See Güinaydin v. Trump*, no. 25-cv-1151, 2025 WL 1459154 (D. Minn. May 21, 2025). Similarly, the automatic stay regulation is *ultra vires* because it is inconsistent with the Immigration and Nationality Act (INA), which calls for an individualized assessment of the necessity of each non-citizen's detention and gives IJs the authority to release certain non-citizens based on such an assessment. *See Garcia Jimenez v. Kramer*, No. 4:25-cv-3162, 2025 WL 2374223 (D. Neb. Aug. 14, 2025).

JURISDICTION AND VENUE

6. This Court has subject matter jurisdiction under Art. I § 9, cl. 2 of the U.S. Constitution ("the Suspension Clause"), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

7. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

8. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is currently detained in this district and division, and events or omissions giving rise to this action occurred in this district and division.

PARTIES

9. Petitioner Mario Rodriguez Izquierdo is a native and citizen of Cuba who is currently detained at Broward Transitional Center (BTC).

10. Respondent Garrett Ripa is the Field Office Director for the ICE Miami Field Office. In that capacity, he is charged with overseeing Broward, which is owned by ICE and operated by a contractor, and has the authority to make custody determinations regarding the individuals detained there. Therefore, Respondent Ripa is the immediate custodian of Petitioner. He is sued in his official capacity.

11. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). She supervises ICE, an agency within DHS that is responsible for the administration and enforcement of immigration laws, and she has supervisory responsibility and authority over the detention and removal of non-citizens throughout the United States. Secretary Noem is the ultimate legal custodian of Petitioner. Respondent Noem is sued in her official capacity.

12. Respondent Pam Bondi is the Attorney General of the United States. As the Attorney General, she oversees the Executive Office for Immigration Review (EOIR), including all IJs and the BIA. Respondent Bondi is sued in her official capacity.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. No exhaustion is statutorily required for the petitioner's habeas claims because "Section 2241 itself does not impose an exhaustion requirement," *Santiago-Lugo v. Warden*, 785 F. 3d 467, 474 (CA11 2015).

14. Regardless, "[w]here Congress does not say there is a jurisdictional bar, there is none." *Santiago-Lugo v. Warden*, 785 F.3d 467, 473 (11th Cir. 2015). The fact that it did not limit

courts' subject matter jurisdiction to decide unexhausted § 2241 claims compels the conclusion that any failure of [the respondent] to exhaust administrative remedies is not a jurisdictional defect." *Id.* at 474.

15. In the absence of a statutorily mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision that rests soundly within the broad discretion. of district courts. *See J.N.C.G. v. Warden, Stewart Detention Ctr.*, No. 4:20-CV-62-MSH, 2020 WL 5046870, at *3 (M.D. Ga. Aug. 26, 2020) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); *see also Richardson v. Reno*, 162 F.3d 1338, 1374 (11th Cir. 1998); *Yahweh v. U.S.Parole Comm'n*, 158 F. Supp. 2d 1332, 1341 (S.D. Fla. 2001).

16. Here, there is no reason to require exhaustion of administrative remedies, as Petitioner has no meaningful alternative to habeas relief. *Boz v. United States*, 248 F.3d1299, 1300 (11th Cir. 2001) ("[A] petitioner need not exhaust their administrative remedies where the administrative remedy will not provide relief commensurate with the claim.").

17. Accordingly, Petitioner urgently seeks and is entitled to habeas relief because he has no meaningful opportunity to challenge the constitutionality of his detention through any available administrative process. *See Boumediene*, 553 U.S. 723, 783 (2008).

STATEMENT OF FACTS

18. Petitioner is a native and citizen of Cuba who has been residing in the United States since 2022. See Exh. "A," Petitioner's Notice to Appear.

19. Prior to his life in the United States, he was a licensed medical doctor in Cuba. See Ex. B, Petitioner's Medical Degree. Upon moving to the United States, Petitioner entered the workforce as a manual laborer for a roofing company. See Exh. "C," Letter of Support

from Monica Perez. He excelled as a contractor and eventually opened his own business. *Id.*

20. Petitioner is a law-abiding individual with no criminal history. He has never been arrested (other than by immigration authorities) or charged with any criminal offense, demonstrating that he poses no danger to the community. See Ex. D, Petitioner's Arrest Records Search.

21. Petitioner is a property owner in the United States, which underscores the stability of his ties to this country and his lack of intent to flee. See Exh. E, Property Data.

22. Petitioner is an exemplary community member and was instrumental in leading clean-up efforts for Upper Captiva Island in the aftermath of Hurricanes Milton and Helene. See Ex. F, Letter of Support from Duncan Rosen.

23. He has demonstrated compliance with the immigration authorities. Petitioner has appeared for his immigration court hearings and has not evaded supervision or failed to comply with his legal obligations. Immigration officials apprehended him and issued a Notice to Appear (NTA) in immigration court. He was released on an I-220A Order of Release on Recognizance on or around March 19, 2022.

24. On June 5, 2025, Petitioner's immigration court proceedings had just been dismissed[2] upon the motion of the Department of Homeland Security (DHS) counsel, when – moments after his hearing – DHS agents arrested him in the halls of the Miami Immigration Court.

25. After his arrest, DHS agents then belatedly and illegally attempted to initiate expedited removal proceedings against him. Expedited removal is a fast-track deportation process typically employed against noncitizens encountered at or near the border, at sea, or at ports-

[2] The dismissal of removal proceedings is currently on appeal before the Board of Immigration Appeals.

of-entry. He challenged the expedited removal procedure applied to him in habeas corpus proceedings soon after his detention, but on June 30, 2025, a federal district court issued a written order denying habeas relief. *See Rodriguez Izquierdo v. Warden of Broward Transitional Center*, 25-cv-61231-DSL (S.D. Fla June 30, 2025) (D.E. 12-13)[3]

26. Since his detention in June, new material facts have emerged. On July 18, 2025, an immigration judge awarded Petitioner's release on bond for $10,000. See Exh. "G," IJ Bond Order. However, on July 21, 2025, ICE filed a notice with the immigration court to continue holding him in detention without bond, thus automatically staying the IJ's prior order during ICE's appeal. See Exh. "H," Notice of Appeal with ICE's Form EOIR-43 (Automatic Stay Invocation).

27. Petitioner has been detained by respondents in civil immigration custody since June 5, 2025. More than two (2) months have elapsed since an immigration judge awarded his release on bond and more than three (3) months have passed since his courthouse arrest.

ARGUMENT

A. Respondents' Unilateral, Automatic Stay of Rodriguez Izquierdo's Bond Grant is Unlawful

a. The Automatic Stay Violates Petitioner's Due Process Rights

28. Respondents' unilateral imposition of an automatic stay to prevent Petitioner's release on a court-ordered bond is unlawful. It violates his substantive due process rights insofar as his continued civil detention after being granted bond is no longer reasonably related to a legitimate governmental purpose. Moreover, it violates his procedural due process rights because his strong liberty interest—and the serious risk of erroneous deprivation of that

[3] That decision is currently on appeal before the Eleventh Circuit Court of Appeals.

liberty caused by the automatic stay—overwhelmingly outweighs any governmental interest in continuing to detain him after he was already granted bond. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). In any case, the automatic stay regulation is *ultra vires* because it allows ICE to override the IJ's individual assessment of each non-citizen's circumstances and the appropriateness of their release, for which the INA gives IJs clear authority.

29. Civil immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). The Sudpreme Court has made clear that there are only two plausible purposes for immigration detention: ensuring a non-citizen's appearance at his removal proceedings and/or preventing danger to the community. Zadvydas v, 533 U.S. at 690. Indeed, where civil detention "is of potentially indefinite duration," courts have "also demanded that the dangerousness rationale be accompanied by some other special circumstance." *Id.* If immigration detention is not reasonably related to one of those purposes, it is essentially punitive and therefore violative of the Due Process Clause. See *id.*

30. Here, an IJ – who routinely hears bond cases and has significant experience evaluating the appropriateness of immigration detention – has already found that Petitioner is not a danger to the community or a flight risk. Indeed, because non-citizens bear the burden of proof at immigration court hearings, the IJ necessarily found that Petitioner proved that he was not a danger or flight risk. *See Matter of R-A-V-P*, 27 I&N Dec. 803, 804 (BIA 2020) ("[W]e have clearly held that section 236(a) places the burden of proof on the [non-citizen] to show that he merits release on bond").

31. Where the IJ has already made this determination regarding Petitioner's individual circumstances, continuing his detention is evidently unreasonable. *See Garcia Jimenez*, 2025 WL 2374223, at *4 ("The governmental interest in the continued detention of these least-dangerous individuals, in contravention of the order of a neutral fact-finder, does not outweigh the liberty interest at stake."). ICE does not contest the IJ's no-danger finding in its notice of appeal, let alone can they show that "any special justification exists which outweighs Petitioner's constitutional liberties so as to justify his continued detention without bail." *Ashley*, 288 F. Supp. 2d at 669.

32. Therefore, this Court should join many that came before it in finding that "Respondents' invocation of the automatic stay provision to detain Petitioner has violated [his] substantive due process rights." *Garcia Jimenez*, 2025 WL 2374223 at *4; see also *Zavala v. Ridge*, 310 F. Supp.2d at 1071, 1079 (N.D. Cal. 2004); *Bezmen v. Ashcroft*, 245 F.Supp.2d 446, 451 (D. Conn. 2003).

33. The invocation of the automatic stay also violates Petitioner's procedural due process rights under *Mathews v. Eldridge*, 424 U.S. 319 (1976). The *Mathews* test "directs the court to weigh the private interests at stake and the risk of erroneous deprivation of those interests against Respondents' interests in persisting with the regulation, including the fiscal and administrative burdens of an additional or substitute procedural requirement." *Günaydin*, 2025 WL 1459154, at *9.

34. First, Petitioner's liberty interest is undoubtedly substantial. Freedom from physical constraint is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004).

35. Since being detained, Petitioner's has been "experiencing all the deprivations of incarceration, including loss of contact with friends and family, loss of income earning, interruptions to his education, lack of privacy, and, most fundamentally, the lack of freedom of movement." *Günaydin*, 2025 WL 1459154, at *7. This should have ended on July 18, 2025 when he was granted bond by the IJ, but Respondents prevented his release through an unlawful procedure.

36. Second, the automatic stay provision poses an extremely high risk of erroneous deprivation of his and other noncitizens' liberty. The regulation, 8 C.F.R. § 1003.19(i)(2), creates a fundamentally unfair power imbalance between ICE and the non-citizen. *See Günaydin*, 2025 WL 1459154, at *8 ("The regulation only confers an agency official the right to invoke an automatic stay and, presumably, agency officials would not act to stay favorable decisions") (emphasis added.) And it allows for an "agency official who is also a participant in the adversarial process to unilaterally override the immigration judge's decisions." *Id.* Such a process through which an ICE attorney effectively serves as the prosecutor, jailer, and judge is entirely "anomalous in our legal system." *Id.*

37. Moreover, the regulation does not require the "agency official invoking it [to] consider any individualized or particularized facts," nor does it provide "any standards for the agency to apply." *Id.* at 8-9. This is particularly evident in Petitioner's case, which obviously does not involve unique circumstances warranting a bond stay. Petitioner is 27 years old and has no criminal convictions. He is far from the alleged terrorist for which this regulation was originally created. *See Brustin*, *supra* pg. 7, at 197. Rather, his case is just one of many in which ICE indiscriminately invokes the automatic stay to vindictively advance its baseless jurisdictional arguments. *See e.g. Leal-Hernandez*, No. 1:25-cv-2428, Dkt No. 20

at 7 (agreeing with petitioner that "the Government has contorted the automatic stay from its many years' long (and intended) use as the exception to the rule such that it is now the rule – to be applied reflexively in every circumstances in which DHS disagrees with an IJ on custody.").

38. With regard to the third *Mathews* factor, R Respondents have little to no legitimate interest in detaining someone like Petitioner who an IJ has already found is not a danger or flight risk. And even if they did, merely seeking a discretionary stay from the BIA as described above could accomplish that interest. *See Günaydin*, 2025 WL 1459154, at *10 ("The Court identifies little, if any, additional burden that Respondents face if they were unable to invoke the automatic stay regulation which, as noted in its implementing regulations, is a rare and somewhat exceptional action in the first place.").

b. The Automatic Stay Regulation is *Ultra Vires*

39. In addition to violating Petitioner's due process rights as-applied here, the automatic stay regulation is ultra vires insofar as it is plainly inconsistent with the statutory scheme. A federal regulation is ultra vires when it exceeds the authority delegated by Congress to the agency implementing it. *See City of Arlington v. F.C.C.*, 569 U.S. 290, 297 (2013) ("Both [agencies'] power to act and how they are to act is authoritatively prescribed by Congress, so that when they act improperly . . . what they do is ultra vires").[4]

40. Here, the relevant congressional statute is 8 U.S.C. § 1226(a)(2), which says that "the Attorney General . . . may release the [non-citizen] on . . . bond of at least $1,500." Functionally, ICE makes an initial determination on whether to release the non-citizen,

[4] Following *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024), federal agencies are no longer owed any deference in matters of statutory interpretation. With *Chevron* overruled, this Court need not determine whether the relevant statute is ambiguous; it need only ask whether DOJ exceeded or contradicted its statutory authority in implementing 8 C.F.R. § 1003.19(i)(2).

which "may be reviewed by an Immigration Judge" through what is typically called a "bond redetermination." 8 C.F.R. § 1003.19(a)-(b).

41. Yet the automatic stay regulation purports to give ICE the authority to override the IJ's redetermination of its initial custody decision and continue the detention of a non-citizen whom the IJ deems worthy of release. This is non-sensical. "By permitting DHS to unilaterally extend the detention of an individual, in contravention of the findings of [an IJ] properly delegated the authority to make such a determination, [the automatic stay regulation] exceeds the statutory authority Congress gave to the Attorney General." *Garcia Jimenez*, 2025 WL 2374223,at *5; *see also Zavala*, 310 F.Supp.2d at 1079 ("Because this back-ended approach effectively transforms a discretionary decision by the immigration judge to a mandatory detention imposed by [DHS], it flouts the express intent of Congress and is ultra vires to the statute.").

42. Indeed, even the former general counsel of ICE (then INS) has argued that the automatic stay has exceeded its original intent and should be repealed. *See* David A. Martin, *Preventive Detention: Immigration Law Lessons for the Enemy Combatant Debate, Testimony Before the National Commission on Terrorist Attacks Upon the United States*, December 8 2003, 18 Geo. Immigr. L.J. 305, 313 (2004) ("I say this because there are indications that the automatic stay mechanism is now being used routinely and without careful calculation by the enforcement agencies of the individual merits that led the IJ to reduce the bond in the first place.").

43. Today, ICE is using the automatic stay even more indiscriminately than ever before. *See, e.g., Aguilar Maldonado*, 2025 WL 2374411, at *2 (describing a case in which ICE invoked automatic stay against 25-year-old woman with two young children and no criminal

history). The same agency jailing non-citizens is effectively making the final decision as to whether they should remain jailed, even where a different agency grants bond within its specifically delegated authority. Not even DOJ, when it promulgated the 2006 final rule, seems to have intended such widespread use of the automatic stay. *See* 71 Fed. Reg. at 57882 (stating that "DHS does not invoke the automatic stay in every case" and that "DHS will inevitably be obligated to consider such competing priorities and limited resources in each case in deciding whether or not to pursue an appeal . . ."). And it certainly cannot be what Congress intended when it passed 8 U.S.C. § 1226(a).

B. Petitioner is Not Otherwise Subject to Mandatory Detention

44. After IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, --- F. Supp. 3d --- 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *see also Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025) (granting habeas petition based on same conclusion). DHS's and DOJ's interpretation defies the INA.

45. As the *Rodriguez Vazquez* court explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner. 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]." 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*, 2025 WL 1193850, at *12 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)). 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. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States.

46. 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).

47. Petitioner entered the United States without inspection is not otherwise subject to mandatory detention, and the only legal impediment to his release is Respondents' unilateral stay of an IJ's duly issued bond order.

CLAIMS FOR RELIEF

COUNT 1

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
Substantive Due Process

48. The Supreme Court has found that the "Due Process Clause applies to all persons within the United States including [non-citizens], whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 682.

49. Immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527.

COUNT II

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
Procedural Due Process

50. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals' due process rights.

51. The automatic stay regulation, as applied to Izquierdo's case, violates his due process rights under Mathews because his liberty interest, and the risk of erroneous deprivation of his liberty posed by the automatic stay procedure, outweigh the government's interest in utilizing the stay instead of non-burdensome alternatives.

COUNT III

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a)
Stay Provision *Ultra Vires*

52. An agency regulation is ultra vires when it exceeds congressionally delegated authority. *See City of Arlington*, 569 U.S. at 297.

53. 8 C.F.R. § 1003.19(i)(2) is ultra vires because it allows DHS to effectively nullify the IJ's decision to release a non-citizen on bond, for which the IJ is delegated the authority under 8 U.S.C. § 1226(a).

COUNT IV

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a)
Petitioner is Subject to 1226a

54. 8 U.S.C. § 1226(a) authorizes immigration during pending removal proceedings.

55. Given the pendency of his removal proceedings with the Board of Immigration Appeals, and his arrest in the country more than three years after his entry, this Court should find that he is subject to §1226(a).

PRAYER FOR RELIEF:

Wherefore, petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Order under the All Writs Act, 28 U.S.C. §1651, that Respondents not transfer Petitioner outside of the jurisdiction of the U.S. District Court for the Southern District of Florida during the pendency of this petition;

c. Declare that Respondents' actions or omissions violate the Due Process Clause of the Fifth Amendment of the U.S. Constitution and/or the Immigration and Nationality Act;

d. Award Petitioner reasonable fees under the Equal Access to Justice Act, 5 U.S. Code § 504;

e. Order Petitioner's immediate release from Respondents' custody;

f. Grant any further relief this Court deems just and proper.

Dated: September 23, 2025

Respectfully submitted,

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