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UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

JOSE PEDRO RAMIREZ RAMIREZ Petitioner, v. PAMELA BONDI, U.S. Attorney General KRISTI NOEM, U.S. Secretary of Homeland Security ("DHS"), TODD LYONS, Acting Director U.S. Immigration and Customs Enforcement, JUAN AGUDELO, Acting Miami Field Office Director, DAVID HARDIN, Sheriff and Warden of Glades County Detention Center, IN THEIR OFFICIAL CAPACITIES Respondents.	Case No.: 0:25-cv-62009-XXXX PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. In 2008, Congress passed the William Wilberforce Trafficking Victims Protection Reauthorization Act ("TVPRA") creating special procedures for processing the immigration cases of unaccompanied children ("UACs") in recognition of their vulnerability in migrating alone to the United States due to human trafficking and other forms of exploitation. 8 U.S.C. § 1232(a)(1). One of the protections included in the TVPRA provides that an asylum officer shall have initial jurisdiction over any asylum application filed by a UAC. INA § 208(b)(3)(C); 8 U.S.C. 1158(b)(3)(C). These protections extend until the age of twenty-one (21) subject to certain conditions. *See J.O.P. v. DHS*, No. 8:19-CV-01944-SAG (D. Md.).

2. However, certain protections and privileges for UACs, such as the right to a bond hearing, were not codified in the TVPRA causing this vulnerable class of immigrants to suffer prolonged detention in inhumane conditions. ("Plaintiffs submit evidence showing that, in practice, ORR currently detains unaccompanied minors for months, and even years, without providing them with any opportunity to be heard before a neutral person with authority to review the basis for the detention. *Flores v. Sessions*, 862 F.3d 863, 872 (9th Cir. 2017).

3. Over the years, the courts have stepped in to ensure that this uniquely vulnerable class of immigrants receives the protections to which they are entitled as a matter law, due process, and fundamental notions of fairness. *See id*; *see also, Zadvydas v. Davis*, 533 U.S. 678, 121 S. Ct. 2491 (2001)[1]. The case at bar is an opportunity for this Honorable Court to step in once again in the interest of justice to allow this innocent young man to be released to in accordance with the law.

JURISDICTION

4. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.

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[1] Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

5. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

6. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

7. Venue is proper in this District under 28 U.S.C. § 1391(e) and 28 U.S.C. § 2241 because a substantial part of the events giving rise to these claims occurred in this district. Petitioner's removal and detention proceedings originated at 18201 S.W. 12th St. Miami, Florida 33194 within the jurisdiction of the Southern District of Florida, and all of his removal and bond proceedings were held by the Honorable Judge Stuart A. Siegel, who presides over the Broward Transitional Center at 3900 N. Powerline Rd., Pompano Beach, FL 33073. In the event of jurisdictional error, the district court wherein such an application is filed in the exercise of its discretion and in furtherance of justice may transfer the application to the other district court for hearing and determination.

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

8. The Court must grant the petition for writ of habeas corpus "forthwith" unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.

9. 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).

10. Petitioner is "in custody" within the meaning of 28 U.S.C. § 2241 because he is arrested and detained by Respondents at the Glades County Detention Center in Moore Haven,

Florida, pursuant to immigration detention authority. Petitioner challenges that custody as unlawful under the Constitution, federal law, and applicable treaties.

PARTIES

11. Petitioner is JOSE PEDRO RAMIREZ RAMIREZ, a citizen and national of Guatemala who entered the United States as an Unaccompanied Alien Child on or about April 27, 2021.

12. Respondent, DAVID HARDIN, in their official capacity as Warden, Glades County Detention Center, has immediate custody over Petitioner and is responsible for his detention.

13. Respondent, JUAN AGUDELO, in their official capacity as the Miami Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, is responsible for the custody, detention, and removal of noncitizens within this jurisdiction.

14. TODD LYONS, in their official capacity as Acting Director of the U.S. Department of Homeland Security Immigration and Customs Enforcement at Broward Transitional Center, 3900 N. Powerline Rd., Pompano Beach, FL 33073.

15. Respondent, KRISTI NOEM, in their official capacity as Secretary of the U.S. Department of Homeland Security, is the head of DHS, Broward Transitional Center, 3900 N. Powerline Rd., Pompano Beach, FL 33073, which oversees ICE and is ultimately responsible for the unlawful detention of Petitioner.

16. Respondent, PAM BONDI, in their official capacity as Attorney General of the United States, is charged with the administration and enforcement of the immigration laws and is a proper respondent under 28 U.S.C. § 2243.

STATEMENT OF FACTS

17. In May 2021, fifteen (15) year old Jose Ramirez Ramirez fled Guatemala alone to escape his alcoholic, physically abusive father and seek the protection of the United States. *See* **Exhibit A**, I-589 Application filed before majority age.

18. After a month's travel, Jose entered the custody of the United States Department of Homeland Security (hereinafter "Respondents") between ports of entry as an unaccompanied child on April 27, 2021.

19. Respondents processed Jose as an alien present without admission or parole and issued a warrant of arrest through which he was detained for two months until he was released as an unaccompanied minor. ***See*** **Exhibit B**, Form I-213, Record of Inadmissible Alien, and **Exhibit C**, Verification of Release (Protected Status).

20. Respondents did not issue a charging document against Jose until two years later when he was issued his first Notice to Appear, marking the beginning of his removal proceedings in the Memphis, Tennessee immigration court. *See* **Exhibit D**, January 5, 2023, Notice to Appear.

21. On May 18, 2023, at the age of seventeen (17), Jose filed an application for asylum, not with the immigration court, but with the agency for which initial jurisdiction of asylum applications resides for unaccompanied minors: The United States Citizenship and Immigration Service ("USCIS"). 8 U.S.C. 1158(b)(3)(C); INA § 208(b)(3)(C). *See* **Exhibit E**, Asylum Application Receipt.

22. By filing his asylum application when he did, Jose became entitled to certain rights as a member of a certified nationwide class member under then-ongoing litigation entitled, *J.O.P. v. DHS*, No. 8:19-CV-01944-SAG (D. Md.).

23. On November 25, 2024, the Maryland District Court granted final approval of the settlement agreement in *J.O.P. v. DHS*, No. 19-1944, thereby creating certain binding obligations, as well as guidance, for Respondents in their treatment of unaccompanied

minors who applied for asylum, such as Jose. The critical rights here being that USCIS will exercise initial jurisdiction over class members' asylum applications, and that ICE will refrain from executing a final order of removal until USCIS issues a decision on asylum. *See* **Exhibit F**, J.O.P. Settlement Agreement.

24. Jose properly obtained his work authorization and social security card in accordance with his pending application for asylum, which remains pending with USCIS to this day.

25. In late April 2025, Jose was stopped for failure to stop at a stop sign, and the Immigration and Customs Enforcement ("ICE") detained Jose with no accompanying criminal or additional traffic charges and placed him in the Krome Detention Center in Miami, Florida.

26. Over a month later, Jose's removal proceedings were transferred from to the non-detained Memphis, Tennessee docket to the detained docket at the Krome Immigration Court. **NOTWITHSTANDING BEING PHYSICALLY HELD AT THE GLADES COUNTY DETENTION CENTER IN MOORE HAVEN, FLORIDA, JOSE'S PROCEEDINGS WERE HELD BY THE HONORABLE JUDGE SIEGEL AT THE BROWARD TRANSITIONAL CENTER FORUM IN POMPANO BEACH, FLORIDA.**

27. On the same day, June 24, 2025, Jose filed evidence to support a request for custody redetermination hearing including his birth certificate, verification of release that confirmed he entered the United States as an unaccompanied minor child, a number of character reference letters, a copy of his filed Asylum application, and a letter from his U.S. Citizen uncle who was willing to sponsor Mr. Ramirez and post bond on his behalf. *See* **Exhibit G,** Motion for Custody Redetermination.

28. Without reaching the merits of whether Jose was a flight risk or a danger to the community, the Immigration Judge denied his request for bond because "[Jose] is an applicant for admission as described in sec. 235(a)(1) of the INA and is subject to mandatory detention pursuant to sec. 235(b)(2)(A) of the INA." *See* **Exhibit H**, Order Denying Bond.

29. With bond denied, Jose remained incarcerated pending his open removal proceedings. However, on August 31, 2025, the immigration judge granted Jose's motion to terminate his removal proceedings finding that USCIS, not the immigration court, has initial jurisdiction to adjudicate his application for asylum. *See* **Exhibit I**, Order Granting Motion to Terminate.

30. With bond denied and no removal proceedings pending against him, Jose faced an indeterminate period of custody and should have been released to await his asylum process outside of custody with the agency responsible for providing a non-adversarial interview for this vulnerable class of immigrants.

31. Respondents, however, filed a second Notice to Appear thereby reinitiating removal proceedings against Jose while he remained detained.

32. Jose filed a second motion to terminate with the *same immigration judge*, Stuart Siegel, who changed his original decision and this time denied the motion to terminate stating only that, "DHS will ensure that I-589 is adjudicated in an expedited basis." *See* **Exhibit J**, Order Denying Second Motion to Terminate.

33. As of the filing of the instant petition, Jose has been detained for over five (5) months with no indication whatsoever that USCIS will timely administer his interview. In what the Honorable Judge Reinhardt described as a "bureaucratic limbo," Jose has been "left to rely upon the agency's alleged benevolence and opaque decision making." *Flores v. Sessions*, 862 F.3d 863, 868 (9th Cir. 2017).

EXHAUSTION

34. Petitioner remains detained without any opportunity for release on bond. Exhaustion under 28 U.S.C. § 2241 is prudential, not jurisdictional, and other courts have repeatedly excused it where administrative review is inadequate, futile, or would cause irreparable harm. *F.-G. v. Noem, No. 25-CV-0243-CVE-MTS*, 2025 U.S. Dist. LEXIS 111539 (N.D. Okla. June 12, 2025) (declining to require exhaustion where immigration detainee was "trapped in prolonged detention without a meaningful opportunity for bond"); *Quintana Casillas v.*

Sessions, No. 17-cv-01395, slip op. at 9–11 (D. Colo. 2018) (explaining that when "the question presented is purely legal and has been repeatedly mishandled administratively, exhaustion serves no useful purpose."). Here, the appellate body is the Board of Immigration Appeals, the same body that issued the decision stripping immigration judges of their jurisdiction to hear bonds.

35. Other districts have held that habeas corpus relief was available despite a pending BIA appeal, because "[e]ach additional day of detention without a bond hearing constitutes irreparable harm that cannot be remedied after the fact" *LG v. Choate*, No. 23-cv00611, slip op. at 14 (D.N.M. 2024)

36. The BIA appeal process here exemplifies why exhaustion is unnecessary. As *Rodriguez v. Bostock* explained, while the BIA has occasionally remanded bond denials where immigration judges misapplied § 1225(b), it has declined to issue a precedential ruling. 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025).

37. Consequently, many immigration judges continue to deny bond altogether, and appeals typically take six months or more, during which noncitizens remain detained unlawfully, with severe consequences for their health, families, and ability to defend against removal. *Id.*

38. Because Petitioner's injury is the very fact of unlawful detention without a bond hearing, administrative remedies are neither timely nor effective. Habeas corpus is the only adequate remedy.

LEGAL FRAMEWORK

The History Unaccompanied Minors and Current J.O.P. Settlement Agreement

39. "The *Flores Settlement* arose out of a lawsuit first filed by plaintiffs in the Central District of California in 1985, challenging the policies of the Immigration and Naturalization Service (INS) regarding the release of detained minors. In 1997, the district court approved the current Settlement, which defines a 'minor' as 'any person under the age of eighteen (18) years who is detained in the legal custody of the INS,' *Flores Settlement* at ¶ 4,4 and

the certified class as '[a]ll minors who are detained in the legal custody of the INS,' id. at ¶ 10. The Settlement favors family reunification, and states the order of preference for persons into whose custody detained minors are to be released, provided that detention is not required to secure their appearance before immigration authorities or to ensure [**10] the safety of themselves or others. Id. at ¶ 14. The Settlement also addresses the appropriate care of those minors who cannot be immediately released, and who therefore remain in federal custody. *Id.* at ¶ 12A, 19-24. This includes providing such minors with the bond hearing that is the subject of this dispute.

Paragraph 24A of the *Flores Settlement* provides that:

> **A minor in deportation proceedings shall be afforded a bond redetermination hearing before an immigration judge in every case, unless the minor indicates on the Notice of Custody Determination form that he or she refuses such a hearing.**

Id. at ¶ 24 . . .

> The *Flores Settlement* was intended as a temporary measure, but in 2001 the parties stipulated that it would remain in effect until '45 days following defendants' publication of final regulation' governing the treatment of detained, minors. It has now been twenty years since the Settlement first went into effect, and the government has not published any such rules or regulations. Thus, pursuant to the 2001 agreement, the Settlement continues to govern those agencies that now carry out the functions [**11] of the former INS." *Flores v. Sessions*, 862 F.3d 863, 869 (9th Cir. 2017)(emphasis added).

40. Since then, the TVPRA was enacted to guarantee protections to unaccompanied minors including: 1) the right to removal proceedings under 8 U.S.C. §1229a; 2) access to counsel; 3) safe repatriation; and 4) exclusive Office of Refugee Resettlement ("ORR") custody. *See, e.g.*, 8 U.S.C. § 1232(a)(3)(5) (directing HHS to "ensure, to the greatest extent practicable" that unaccompanied minors "has counsel to represent them in legal proceedings or matters and protect them from mistreatment, exploitation, and trafficking"); *id.* § 1232(a)(5)(6) (authorizing HHS "to appoint independent child advocates for trafficking victims and other vulnerable unaccompanied alien children"); *id.* § 1232(d)(8) (stating that "[a]pplications for asylum and other forms of relief from removal in which an

unaccompanied alien child is the principal applicant shall be governed by regulations which take into account the specialized needs of unaccompanied alien children and which address both procedural and substantive aspects of handling unaccompanied alien children's cases."); id. § 1232(e) (requiring DOS, DHS, HHS, and DOJ to "provide specialized training to all Federal personnel, and upon request, state and local personnel, who have substantive contact with unaccompanied alien children."). *LGML v. Noem*, Case No. 1:25-cv-02942 at 14* (D.D.C. 2025).

41. The District Court of D.C. in *LGML v. Noem*, (D.D.C. 2025) reinforced the binding effect of the *Flores* settlement on Respondents, which in addition to requiring bond proceedings for all unaccompanied minors also required the legacy INS to "treat all minors in its custody with dignity, respect, and special concern for their particular vulnerability as minors" and to "place each detained minor in the least restrictive setting appropriate to the minor's age and special needs." The *Flores* settlement was codified at Pub. L. No. 107-296, § 462, 116 Stat. 2143 (2002) extending all the key protections of the *Flores* Settlement Agreement.

42. In 2019, *J.O.P. v. DHS, No. 19-1944*, was a nationwide class action filed in the U.S. District Court for the District of Maryland that challenged a 2019 policy that limited the ability to seek asylum for certain children who arrived in the country alone.

43. On November, 25, 2024, the U.S. District Court for the District of Maryland granted final approval of the settlement agreement reached by the parties in *J.O.P. v. DHS*, No. 8:19-CV-01944-SAG (D. Md.).

44. A J.O.P. class member is defined as individuals who before February 24, 2025: 1) were determined to be a UAC; and 2) who filed an asylum application that was pending with USCIS; and 3) on the date they filed their asylum application with USCIS, were 18 years of age or older, or had a parent or legal guardian in the United States able to provide care and physical custody; and 4) for whom USCIS had not adjudicated the individual's asylum application on the merits. *See id*.

45. Pursuant to the settlement agreement, if CBP or ICE determined that the applicant was a UAC, and, as of the date of initial filing of the asylum application, that UAC status determination was still in place, USCIS will take initial jurisdiction over the asylum application, even if there appears to be evidence that the applicant may have turned 18 years of age or may have reunited with a parent or legal guardian since the CBP or ICE determination.

46. For any Class Member with a final removal order, the settlement agreement provides that ICE will refrain from executing the Class Member's final removal order until USCIS issues a final determination on the asylum application.

Mandatory Detention Scheme

47. Congress established two separate detention regimes. Section 1225 governs "applicants for admission" encountered at the border or its functional equivalent, while § 1226 governs individuals "already in the country." *Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018). These provisions are mutually exclusive: "[A] noncitizen cannot be subject to both mandatory detention under § 1225 and discretionary detention under § 1226." *Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *8 (D. Mass. July 24, 2025).

48. Section 1225(b)(2)(A) provides that "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a."

49. Detention under § 1225(b) is therefore mandatory and individuals detained following examination under section 1225 can only be paroled into the United States "for urgent humanitarian reasons or significant public benefit." *Jennings*, 583 U.S. at 300, 138 S.Ct. 830 (quoting 8 U.S.C. § 1182(d)(5)(A)). This parole "into the United States" allows physical entry but reserves the Government's ability to treat the person as if "stopped at the border." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020).

50. Crucially, courts and the BIA have recognized that the phrase "seeking admission" carries an active, temporal component: it refers to individuals "coming or attempting to come into the United States," 8 C.F.R. § 1.2, i.e., those apprehended at or near the border and in the process of initial entry. *Martinez*, 2025 WL 2084238, at *6–7.

51. By contrast, § 1226 governs detention of noncitizens already present in the United States and apprehended on a warrant issued by the Attorney General. 8 U.S.C. § 1226(a). Unlike § 1225's mandatory scheme, § 1226(a) creates a discretionary framework, under which the Attorney General "may continue to detain," or "may release" a noncitizen on bond or conditional parole. *Id.*

52. Individuals detained under § 1226 are entitled to an individualized custody determination and may appeal that determination to an immigration judge. 8 C.F.R. § 1236.1(d)(1); *see Matter of Siniauskas*, 27 I. & N. Dec. 207, 207 (BIA 2018).

53. Some narrow mandatory detention categories exist under § 1226(c) for certain criminal or security grounds, but those are not implicated here.

54. A contrary reading renders superfluous recent amendments in the *Laken Riley Act*, Pub. L. No. 119-1, 139 Stat. 3 (2025), which added INA § 236(c)(1)(E) mandating detention for noncitizens inadmissible under § 212(a)(6)(A)(present without admission) who are implicated in enumerated crimes. If all such noncitizens were already mandatorily detained under § 235(b)(2)(A), Congress's addition would be meaningless. *See Corley v. United States*, 556 U.S. 303, 314 (2009) (statutes must be construed to give effect to all provisions).

55. Multiple recent decisions confirm that § 1225 does not apply to long-resident noncitizens apprehended in the interior. *See Carlos Javier Lopez Benitez v. Francis*, No. 25- cv-11517, 2025 WL 1869299, at *5–8 (D. Mass. July 7, 2025)(holding that § 1225(b)(2)(A) did not apply to a petitioner who had been residing in the United States for over two years; emphasizing that "seeking admission" requires an active, ongoing effort to enter, not mere presence in the country, and concluding that detention was governed by § 1226(a) with access to bond); *see also Rodriguez v. Bostock*, F. Supp. 3d, 2025 WL

1193850, at *12–16 (W.D. Wash. Apr. 24, 2025) (finding that a non-citizen apprehended from within the United States and charged with inadmissibility was necessarily detained under section 1226, rather than section 1225); *Gomes*, 2025 WL 1869299 at *5–8 (same); *Lepe v. Andrews*, No. 1:25-cv-01163-KES-SKO (HC), 2025 U.S. Dist. LEXIS 187233, at *13 (E.D. Cal. Sep. 23, 2025).

56. As those courts recognized, interpreting § 1225 to cover all noncitizens who were never formally "admitted" would collapse the statutory distinction, render § 1226 superfluous, and contradict longstanding DHS practice. *See Martinez*, 2025 WL 2084238, at *8 ("This tension between sections 1225 and 1226 motivates the conclusion that they apply to different classes of aliens"); *Gomes v. Hyde*, 2025 WL 1869299, at *5–8 (D. Mass. July 7, 2025); *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386, 133 S.Ct. 1166, 185 L.Ed.2d 242 (2013).

57. Courts have distilled two central principles:

    a. Geographic/temporal limits: § 1225 applies only to noncitizens apprehended at or near the border and in the act of entry (*see Thuraissigiam*, 591 U.S. 103, 114, 139 (2020)), not to those apprehended years later in the interior.

    b. Statutory structure: Reading § 1225 as covering all noncitizens who were never lawfully "admitted" would render § 1226 largely meaningless, contrary to the rule against surplusage. *See Martinez*, 2025 WL 2084238, at *7; *Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *6–8 (D. Mass. July 7, 2025).

58. As set forth below, applying this framework compels the conclusion that Petitioner's detention cannot fall under § 1225. Having resided in the United States for four years before detention within the interior, he falls squarely within the discretionary scheme of § 1226. Respondents' reliance on § 1225 is therefore legally untenable.

59. Finally, *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) is a landmark decision overruling *Chevron* deference thereby permitting this Honorable Court to come to its own conclusion on the interpretation of the relevant statutes without relying on Board precedent in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), which was wrongly decided.

CLAIMS FOR RELIEF

COUNT ONE
UNACCOMPANIED MINORS ARE A PROTECTED CLASS EXEMPT FROM MANDATORY DETENTION

60. Petitioner re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

61. Under 8 U.S.C. § 1232(a)(5)(D)(i), "any unaccompanied alien child" who is determined to be inadmissible "shall be placed in removal proceedings under section 1229a of this title," that is, regular removal proceedings, "rather than proceedings under section 1225(b)(1)." This is a mandatory and categorical exemption from the statutory provision that requires detention. *See also Flores v. Sessions*, 862 F.3d 863, 879 (9th Cir. 2017) (outlining the rights of unaccompanied minors in bond proceedings"). Therefore, unaccompanied minors are a protected ground under the Immigration and Nationality Act.

62. Because § 1225(b) governs the detention of individuals placed in expedited removal proceedings, and Respondent is an unaccompanied minor exempt from this statutory provision, Respondent may not be detained under § 1225(b). Custody must instead proceed under § 1226(a), and the Immigration Judge should have retained jurisdiction over the bond proceeding.

COUNT TWO
Violation of Fifth Amendment Right to Due Process (Substantive Due Process)

63. Petitioner re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

64. On information and belief, Petitioner is currently being arrested and detained by federal agents without cause and in violation of his constitutional rights to due process of law.

65. The Fifth Amendment's Due Process Clause applies to "all 'persons' within the United States," regardless of immigration status. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). It prohibits the federal government from depriving any person of liberty without due process of law.

66. Even in the immigration context, due process requires that when detention is discretionary, the individual is entitled to an individualized custody determination before a neutral decision-maker, supported by reliable evidence, and applying the correct legal standards. See *Matter of Siniauskas*, 27 I. & N. Dec. 207, 207 (B.I.A. 2018) (citing *Matter of Fatahi*, 26 I. & N. Dec. 791, 793–94 (B.I.A. 2016); *Matter of Adeniji*, 22 I. & N. Dec. 1102, 1112–13 (B.I.A. 1999), modified on other grounds, *Matter of Garcia Arreola*, 25 I. & N. Dec. 267 (B.I.A. 2010)).

67. Here, Respondents have made no finding that Jose is a danger to the community as an individual with no criminal history whatsoever. In fact, he has had no opportunity whatsoever to present the equities of his case because the judge declined to hear his custody redetermination request.

68. Respondents have made no finding that Petitioner is a flight risk as an unaccompanied minor with a sworn affidavit from a U.S. citizen sponsor willing to pay his bond, provide his housing, and ensure he attends all of his immigration proceedings.

69. With no indication of a time-frame for release to await his asylum interview, and no recourse with the court which does not retain jurisdiction of his asylum application, the Petitioner is subject to indefinite detention depriving him of liberty despite the immigration judge's original decision to terminate his removal proceedings.

COUNT THREE
Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); 5 U.S.C. §§ 702, 706

70. Petitioner re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.

71. The Due Process Clause of the Fifth Amendment protects all "person[s]" from deprivation of liberty "without due process of law."

72. The government upon Petitioner's original entry into the United States, made the reasoned decision to allow him to enter the United States while he pursued his asylum claim in the United States. The Due Process Clause entitles Petitioner to meaningful process assessing whether his current detention is justified. The arrest and detention of Petitioner without an opportunity for him to contest his detention in front of a neutral decision-maker after he had been living and working in the United States for over four years provide insufficient due process and violates the Due Process Clause of the Fifth Amendment of the Constitution.

73. There have been no changes to the facts that justify this change in custody requiring Jose to await an unknown date when he will be scheduled for an asylum interview.

COUNT 4

UNLAWFUL DETENTION UNDER 8 U.S.C. § 1225; CUSTODY PROPERLY GOVERNED BY 8 U.S.C. § 1226
(Misapplication of Mandatory Detention Statute)

1. Petitioner is currently being detained without the possibility of bond under 8 U.S.C. § 1225(b)(2)(A), based on DHS's argument that she is "an Applicant seeking Admission under the provisions of Sec. 235(b)(2)(A) of the Immigration and Nationality Act ('INA')."

2. This argument is legally erroneous. Section 1225 applies to noncitizens actively "seeking admission" at the border or its immediate functional equivalent. By contrast, § 1226 governs the arrest and detention of those "already in the country" pursuant to a warrant issued by the Attorney General. The two provisions are mutually exclusive. See Jennings v. Rodriguez, 583 U.S. 281, 288–89 (2018); Matter of M-S-, 27 I. & N. Dec. 509, 516 (A.G. 2019).

3. Petitioner plainly falls within § 1226. He has resided in the United States for over a four years, with deep community ties, employment, and no criminal record. He was stopped by the Palm Beach County Highway patrol on April 25, 2025 for running a stop sign -- hundreds of miles from any border or port of entry—detained by ICE and transferred to

the Krome Detention Center, where DHS proceeded on the original paperwork issued to the Petitioner in 2021 - a Warrant of Arrest, and the 2023 Notice to Appear.

4. The charging document itself expressly alleges that Petitioner is "present in the United States without admission or parole," language that presumes residence in the interior and confirms that he was not in the process of seeking admission. Taken together, these contradictions underscore the arbitrariness of Petitioner's detention and the government's mischaracterization of his case.

5. To hold otherwise would effectively erase the statutory line between §§ 1225 and 1226, converting virtually all noncitizens present without admission into mandatory detainees and rendering § 1226(a) a dead letter. Courts have consistently rejected this outcome. See Martinez, 2025 WL 2084238, at *7 (rejecting interpretation that would "nullify" Congress's amendment to § 1226(c)); Gomes v. Hyde, No. 25-cv-11571, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025) (noting that §§ 1225 and 1226 "apply to different classes" of noncitizens).

6. In sum, Petitioner was not "seeking admission" within the meaning of § 1225(b) but was "already in the country" within the meaning of Jennings, 583 U.S. at 288–89. Her custody is governed by § 1226(a), under which detention is discretionary and subject to individualized bond hearings. DHS's argument is contrary to law, unsupported by the record, and must be set aside.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter;

(2) Order that Petitioner shall not be transferred outside the Southern District of Florida;

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

(4) Declare that the Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

(5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.

(6) Grant any further relief this Court deems just and proper.

Jan Peter Weiss

Jan Peter Weiss, Esquire
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JOSE PEDRO RAMIREZ RAMIREZ)
)
Petitioner,)
v.) Case No.: 0:25-cv-62009-XXXX
)
PAMELA BONDI, U.S. Attorney General, et al.)

INDEX OF SUPPORTING DOCUMENTS

Attachment No.	Document Title
1	Civil Cover Sheet
2	Evidentiary Exhibits A – J
3	Summons to the Attorney General of the United States
4	Summons to the U.S. Department of Homeland Security
5	Summons to the Glades County Detention Center
6	Summons to the U.S. Immigration and Customs Enforcement
7	Summons to the ICE Miami Field Office
8	Summons to the U.S. Attorney's Office
9	Motion to Show Cause and Proposed Order