



undersigned counsel, hereby file this amended petition for a writ of habeas corpus to order the government provide them with a bond hearing before an Immigration Judge (“IJ”).<sup>1</sup>

## INTRODUCTION

1. Dr. Azcuy Ruiz is a 56-year-old medical doctor who entered the United States roughly three years ago with his 52-year-old wife, Ms. Rivero Rodriguez, who possesses a master’s degree in education, and their 20-year-old autistic son, Mr. Azcuy Rivero. All three are Cuban nationals and active members of  who fled Cuba after facing persecution based on their political and religious beliefs. None of the family members has any criminal record in the U.S. or any other country.

2. On or about September 2022, the family entered the United States without inspection at San Luis, Arizona, and turned themselves over to Customs and Border Protection (“CBP”). CBP paroled them pursuant to an Order of Release on Recognizance, Form I-220A. The family complied with all ICE check-in and reporting requirements. On or about October 2022, Dr. Azcuy Ruiz filed for asylum, withholding, and protection under the Convention Against Torture (“CAT”) with Ms. Rivero Rodriguez and Mr. Azcuy Rivero as derivatives.

3. On October 7, 2025, the family was arrested at an ICE check-in and

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<sup>1</sup> On October 9, 2025, Philip Armstrong filed a petition for a writ of habeas corpus with this Court as next friend of Petitioners. The same day, this Court issued an order notifying Petitioners that they must file an amended, signed petition if they wished to pursue habeas relief. *See Order, Armstrong v. Warden, et al., No. 25-cv-203-H (W.D. Tex. Oct. 9, 2025) (ECF No. 4).*

transported to Bluebonnet Detention Facility in Anson, Texas. The family has subsequently been separated, with Dr. Azcuy Ruiz transferred out of this district and Mr. Azcuy Rivero transferred to Prairieland Detention Facility in Alvarado, Texas.

4. Respondents are now detaining Dr. Azcuy Ruiz, Mr. Azcuy Rivero and Ms. Rivero Rodriguez without a bond hearing. Respondents claim that because the family was previously paroled into the country, they are “applicants for admission” who are subject to mandatory detention under 8 U.S.C. § 1252(b)(2)(A).

5. Detaining Petitioners without bond violates their Fifth Amendment right to substantive due process. The family’s substantial connections to the United States make them “persons” to whom the Fifth Amendment applies. *United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990) (non-citizens “receive constitutional protections when they have come within the territory of the U.S. and developed substantial connections with the country”). Each family member has a liberty interest in freedom from detention. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects”) (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Indefinite detention without bond of non-citizens with no criminal record, over 3 years of residency, and substantial connections to the country serves no valid purpose and violates the Due Process Clause.

6. Civil detention that lacks a “sufficiently strong special justification” violates the Fifth Amendment. *Zadvydas*, 533 U.S. at 690. In *Demore v. Kim*, 538 U.S. 510 (2003), the Court upheld 8 U.S.C. § 1226(c)’s mandatory detention without

bond as applied to “deportable criminal [non-citizens]” because it serves to prevent criminals from “skipping their hearings and remaining at large” where they may recidivate. *Id.* at 528. There is no justification for detaining the family indefinitely without affording them the opportunity to show they are not a danger to the community or a flight risk.

7. The fact that the family members are statutorily considered “applicants for admission” does not—*cannot*—mean they can be detained indefinitely without access to a bond hearing. The Due Process Clause applies to non-citizens with substantial connections to the U.S. regardless of any “entry fiction” which purports to treat applicants for admission as the equivalent of extraterritorial non-citizens. As the Court held in *Zadvydas*, “[O]nce a [non-citizen] enters the country, his legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” 533 U.S. at 693.

8. This Circuit and courts across the country have agreed with this basic constitutional principle. See *Martinez-Aguero v. Gonzalez*, 459 F.3d 618, 623 (5th Cir. 2006) (holding that the entry fiction does not bar a non-citizen resident of Mexico from challenging six hour detention by CBP under the Due Process Clause); *Lynch v. Cannatella*, 810 F.2d 1363, 1373 (5th Cir. 1987) (“The ‘entry fiction’ that excludable [non-citizens] are to be treated as if detained at the border despite their physical presence in the United States determines the [non-citizen’s] rights with regard to immigration and deportation proceedings. It does not limit the right of

excludable [non-citizens] detained within United States territory to humane treatment”); *Rosales-Garcia v. Holland*, 322 F.3d 386, 410 (6th Cir. 2003) (“If excludable [non-citizens] were not protected by even the substantive component of constitutional due process, as the government appears to argue, we do not see why the United States government could not torture or summarily execute them”), *cert. denied*, 539 U.S. 941 (2003); *Am.-Arab Anti-Discrimination Comm. v. Ashcroft*, 272 F. Supp. 650, 668 (E.D. Mich. 2003) (“While we respect the historical tradition of the ‘entry fiction,’ we do not believe it applies to deprive [non-citizens] living in the United States of their status as ‘persons’ for the purposes of constitutional due process”); *Cancino-Castellar v. McAleenan*, 388 F. Supp. 3d 1218, 1246 (S.D. Cal. 2019) (“Although the entry fiction warrants dismissal of Gonzalez’s procedural due process claim, the fiction does not similarly foreclose Gonzalez’s substantive due process claim.”).

9. Dr. Azcuy Ruiz, Ms. Rivero Rodriguez and Mr. Azcuy Rivero possess Fifth Amendment substantive due process rights to be free from unjustified detention. They do not, through the instant petition, ask this Court to release them; they ask merely for the opportunity to present evidence to an IJ showing they are neither flight risks nor dangers to the community. In recognition of Mr. Azcuy Rivero’s disability, Respondents also request this Court exercise its authority under the All Writs Act, 28 U.S.C. § 1651, to order Respondents to return Dr. Azcuy Ruiz to Prairieland Detention Center to be reunited with his son.

## JURISDICTION & VENUE

10. This action arises under 28 U.S.C. § 2241, U.S. Const., Art. I, § 9, Cl. 2 (the Suspension Clause), and the Fifth Amendment to the United States Constitution.

11. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Art. 1, § 9, Cl. 2 of the United States Constitution (the Suspension Clause). This Court retains subject matter jurisdiction over Dr. Azcuy Ruiz's claims despite Respondents' decision to move Dr. Azcuy Ruiz out of the district because Dr. Azcuy Ruiz was present in this District at the time the original habeas corpus petition was filed. *See Order, Armstrong v. Warden, et al.*, No. 25-cv-203-H (W.D. Tex. Oct. 9, 2025) (ECF No. 4).

12. This Court has additional remedial authority under the All Writs Act, 28 U.S.C. § 1651, and the Declaratory Judgment Act, 28 U.S.C. § 2201.

13. Venue is proper in this District pursuant to 28 U.S.C. § 1391 and because two of the Petitioners are detained at Bluebonnet Detention Facility in Anson, Texas and Prairieland Detention Facility in Alvarado, Texas, within the Northern District of Texas.

14. Nothing in the Immigration and Nationality Act ("INA") deprives this Court of jurisdiction, including 8 U.S.C. §§ 1252(b)(9), 1252(f)(1), or 1226(e).

15. Congress has preserved judicial review of challenges to prolonged immigration detention. *See Jennings v. Rodriguez*, 583 U.S. 281, 292-96 (2018) (holding that 8 U.S.C. §§ 1226(e) and 1252(b)(9) do not bar review of challenges to

prolonged immigration detention). Section 1252(f)(1) does not repeal this Court's authority to grant the relief Petitioners seek because § 1252(f) "does not extend to individual cases." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). If any of those provisions did bar the relief Petitioners seek, they would violate the Suspension Clause.

16. Petitioners have exhausted all administrative remedies to the extent feasible. "[T]his court has concluded that when a petitioner's due process claim does not assert a procedural error correctable by the BIA, it is not subject to an exhaustion requirement." *Lopez de Jesus v. INS*, 312 F.3d 155, 162 n.47 (5th Cir. 2002). Exhaustion is also excused when delay means hardship, *Shalala v. Illinois Council*, 529 U.S. 1, 13 (2000), and here delay means months of unlawful detention.<sup>2</sup>

#### PARTIES

17. **Petitioner Dr. Miguel Azcuy Ruiz** is a 56-year-old medical doctor and citizen of Cuba who has been physically present in the U.S. since September 2022. He has an asylum application pending based on persecution he faced by the government of Cuba on account of his political views and religious beliefs. At the time of his arrest by ICE, he was residing with his wife and son in their family home in Richardson, Texas.

18. **Petitioner Damaris Rivero Rodriguez** is a 52-year-old citizen of

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<sup>2</sup> This petition does not challenge the Notice to Appear. In any event, bond appeals before the BIA, on average, take six months to complete. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025). Exhaustion would not effectively afford Petitioners the relief they seek, given that a removal determination would likely come before the BIA's determination of whether they are entitled to a bond hearing.

Cuba. She possesses a master's degree in education and resided with her husband and son in Richardson, Texas, before her arrest by ICE. She has no criminal record in the US or any other country and is a derivative of her husband's asylum application.

19. **Petitioner Marcos Azcuy Rivero** is a 20-year-old Cuban national who has been diagnosed with autism and requires assistance from his parents, with whom he resided in Richardson, Texas, before his arrest by ICE. He is a derivative of his father's asylum application.

20. **Respondent Kristi Noem** is named in her official capacity as the Secretary of the Department of Homeland Security ("DHS"). In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(a); is legally responsible for pursuing any effort to confine and remove Petitioner; and as such is a custodian of Dr. Azcuy Ruiz, Ms. Rivero Rodriguez and Mr. Azcuy Rivero.

21. **Respondent Pamela Bondi** is named in her official capacity as the Attorney General of the United States. In this capacity, she is responsible for the administration of the immigration laws pursuant to 8 U.S.C. § 1103(g), and as such is a custodian of Dr. Azcuy Ruiz, Ms. Rivero Rodriguez and Mr. Azcuy Rivero.

22. **Respondent Todd Lyons** is named in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement ("ICE"). As the senior official performing the duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws and is legally responsible for pursuing any

effort to remove Dr. Azcuy Ruiz, Ms. Rivero Rodriguez and Mr. Azcuy Rivero and to confine them pending removal. As such, he is a custodian of Dr. Azcuy Ruiz, Ms. Rivero Rodriguez and Mr. Azcuy Rivero.

23. **Respondent John Johnson** is named in his official capacity as Acting Director of the ICE Dallas Field Office in Dallas, Texas. In this capacity, he is responsible for the execution of immigration confinement and the institution of removal proceedings within North Texas, in which Ms. Rivero Rodriguez and Mr. Azcuy Rivero are confined and where Dr. Azcuy Ruiz was confined at the time the original petition for a writ of habeas corpus was filed. As such, he is a custodian of Dr. Azcuy Ruiz, Ms. Rivero Rodriguez and Mr. Azcuy Rivero.

24. **Respondent Marcello Villegas** is named in his official capacity as the Warden of Bluebonnet Detention Facility. In this capacity, he oversees the daily administration of the detention center in which Ms. Rivero Rodriguez is in custody. As such, he is the immediate custodian of Ms. Rivero Rodriguez.

25. **Respondent Thomas Bergami** is named in his official capacity as the Warden of Prairieland Detention Facility. In this capacity, he oversees the daily administration of the detention center in which Mr. Azcuy Rivero is in custody and in which Dr. Azcuy Ruiz was in custody at the time the original petition for a writ of habeas corpus was filed. As such, he is the immediate custodian of Mr. Azcuy Rivero and Dr. Azcuy Ruiz.

## FACTUAL ALLEGATIONS

### I. The Statutory Framework for Immigration Detention

26. Detention authority for those who have not yet been issued final removal orders is divided between two sections of the INA, 8 U.S.C. §§ 1225 and 1226. The Supreme Court recently analyzed the interplay between §§ 1225 and 1226 in *Jennings v. Rodriguez*. The first sentence of the Court’s decision distinguishes between decisions made at the border and those made internally:

Every day, immigration officials must determine whether to admit or remove the many [non-citizens] who have arrived at an official “port of entry” (e.g., an international airport or border crossing) or who have been apprehended trying to enter the country at an unauthorized location. Immigration officials must also determine on a daily basis whether there are grounds for removing any of the [non-citizens] who are already present inside the country.

583 U.S. at 285.

27. The Court subsequently explained, “In sum, U.S. immigration law authorizes the Government to detain certain [non-citizens] seeking admission into the country under §§ 1225(b)(1) and (b)(2). It *also* authorizes the Government to detain certain [non-citizens] *already in the country* pending the outcome of removal proceedings under §§ 1226(a) and (c).” *Id.* at 289. (emphasis added). The Court noted that § 1225(b), the provision at issue in the instant habeas petition, “applies primarily to [non-citizens] seeking entry into the United States.” *Id.* at 297.

28. The Court also explained that § 1226 “applies to [non-citizens] already present in the United States” and “creates a default rule for those [non-citizens] by permitting – but not requiring – the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those [non-citizens] on bond, ‘except as

provided in subsection (c) of this section.” *Id.* at 303. “Federal regulations provide that [non-citizens] detained under § 1226(a) receive bond hearings at the outset of detention.” *Id.* at 306.

29. Section 1225(a)(1), *inter alia*, defines “applicants for admission” as non-citizens “present in the United States who ha[ve] not been admitted[.]” Relevant here, § 1225(b)(2)(A) states that “in the case of a[ non-citizen] who is an applicant for admission, if the examining immigration officer determines that a[ non-citizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the [non-citizen] shall be detained for a proceeding under section 1229a of this title.” Section 1229a enumerates the procedures for standard, non-expedited removal proceedings.

## **II. Petitioners’ substantial connections to the United States**

30. Dr. Azcuy Ruiz, Ms. Rivero Rodriguez and Mr. Azcuy Rivero have developed substantial connections to their adopted home country such that they are a part of “the people” to whom the protections of the Constitution apply. They have resided in the United States for three years, during which time they have developed close professional and personal connections to their adopted home country.

31. Dr. Azcuy Ruiz is a deacon at Believers Chapel in Dallas and leads bible studies groups for dozens of Texas residents and U.S. citizens. He contributes funds to assist the poor both in Texas and Cuba and regularly collects and leads community drives to provide clothes, food and other essentials to Texans in need of assistance. He has embedded himself in his adopted home community in the Dallas area and has become a beloved local religious figure. Ms. Rivero Rodriguez is also a

prominent member of the Believers Chapel in Dallas, where she teaches the Old Testament (a subject on which she gained expertise while teaching at a bible institute in Cuba).

32. After arriving in Texas, Ms. Rivero Rodriguez worked a teacher at RISD Academy in Dallas. At the time of her arrest, she served as a teacher's assistant at the same school and has used her bilingual language abilities to teach citizen-children who are native speakers of both English and Spanish. Her primary responsibility at RISD Academy is to improve the English-language skills of native Spanish speaking-children.

33. Mr. Azcuy Rivero is an aspiring computer engineer and student at Dallas College. In particular, he has taken several classes aimed at becoming proficient at using AutoCAD, a computer-aided design software tool used by engineers and graphic designers. He participates in swimming and tennis events in the Richardson community as well. Each member of the family has substantial connections to the United States.

## CAUSES OF ACTION

### **Count I: Fifth Amendment Substantive Due Process**

*28 U.S. § 2241; U.S. Const. Art. I, § 9, cl. 2; amend. V*

34. Petitioners reallege and incorporate by reference each and every allegation contained above.

35. The Due Process Clause of the Fifth Amendment provides that no person shall be deprived of liberty without due process of law. U.S. Const. amend. V.

36. Substantive due process “forbids the government to infringe certain

‘fundamental’ liberty interests at all, no matter what process is provided, unless the infringement is narrowly tailored to serve a compelling state interest.” *Reno v. Flores*, 507 U.S. 292, 301–02 (1993). “Substantive due process analysis must begin with a careful description of the asserted right.” *Id.* at 302.

37. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (quoting *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992)). Detention for non-criminal purposes is only allowed “in narrow nonpunitive circumstances, where a special justification . . . outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Id.* (internal quotations and citations omitted). With respect to immigration detention, the Supreme Court has recognized two special justifications: preventing flight risk and preventing danger to the community. *See id.*

38. The substantive component of the Due Process Clause applies to Petitioners because they have developed substantial connections with the United States. *United States v. Verdugo-Urquidez*, 494 U.S. 259, 271 (1990) (non-citizens “receive constitutional protections when they have come within the territory of the U.S. and developed substantial connections with the country”).

39. In *Verdugo-Urquidez*, the Supreme Court stressed two factors to test whether a non-citizen has established “substantial connections” sufficient to be considered part of “the people” to whom the protections of the Bill of Rights apply: (1) whether the non-citizen is in the U.S. voluntarily, and whether he or she has

“accepted some societal obligations.” 494 U.S. at 260.

40. In applying this test, various circuit and district courts have determined that individuals with more tenuous connections to the United States than Petitioners have “substantial connections” sufficient to trigger constitutional protections. *See Martinez-Aguero*, 459 F.3d at 625 (non-citizen and resident of Mexico who entered U.S. only to visit relative and procure social security check satisfied test for Fourth Amendment purposes, relying on *Verdugo-Urquidez* language requiring that non-citizen had “accepted some societal obligations”); *United States v. Meza-Rodriguez*, 798 F.3d 664, 670-71 (7th Cir. 2015) (holding that non-citizen *unlawfully* in the U.S. satisfied test because of long residence, sporadic work experience, and relationships with U.S. family and friends); *Ibrahim v. Dep’t of Homeland Sec.*, 669 F.3d 983, 996-97 (9th Cir. 2012) (holding that non-citizen pursuing her Ph.D. in the United States for four years had established significant voluntary connection with the United States such that she could invoke the First and Fifth Amendments); *Haitian Ctrs. Council*, 823 F. Supp. 1028, 1042 (E.D.N.Y. 1993) (holding that two-year confinement at U.S. facility in Guantánamo Bay, Cuba, established substantial connection to the United States to give rise to due process rights).

41. Here, Petitioners have accepted a significant level of societal obligation, including through Dr. Azcuy Ruiz and Ms. Rivero Rodriguez’s religious and charitable work, their careers and Mr. Azcuy Rivero’s academic and community sporting activities.

42. The Fifth Circuit has held that even a non-resident non-citizen can

- iii. Expedite consideration of this action pursuant to 28 U.S.C. § 1657 because it is an action brought under chapter 153 (habeas corpus) of Title 28;
- iv. Grant a writ of habeas corpus ordering Respondents to immediately conduct a bonding hearing for Petitioners;
- v. Declare that Petitioners' detention without bond violates the Fifth Amendment;
- vi. Order Respondents to return Dr. Azcuy Ruiz to Prairieland Detention Center to provide care and comfort to his disabled son;
- vii. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- viii. Grant such further relief as this Court deems just and proper.

Dated: October 29, 2025

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Respectfully Submitted,

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**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of Petitioners because I am one of Petitioners' attorneys. I have discussed with the Petitioners the events described in this Petition. Based on those discussions, I hereby verify that the factual statements in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Executed on this 29th day of October 2025.

*/s/ Eric Lee*  
Eric Lee  
Attorney for Petitioners