

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

ERNESTO ALFONSO PEREZ

Petitioner,

v.

MATTHEW MORDANT, in his official capacity
as Warden of the Florida Soft Side South,
"Alligator Alcatraz"; GARRET RIPA, in his official
capacity as Miami Field Office Director,
Immigration and Customs Enforcement's
Enforcement and Removal Operations; TODD
LYONS, in his official capacity as Acting Director
of Immigration and Customs Enforcement; KRISTI
NOEM, in her official capacity as Secretary of the
Department of Homeland Security; and PAMELA
BONDI, in her official capacity as Attorney
General.

Respondents.

Case No. _____

Agency File: 

**PETITION FOR WRIT OF HABEAS CORPUS AND
REQUEST FOR ORDER TO SHOW CAUSE**

INTRODUCTION

1. Petitioner, Ernesto Alfonso Perez, has been in detention since October 8, 2025, and remains in custody currently at the Florida Soft Side South Detention Facility known as “Alligator Alcatraz” located at 54575 Tamiami Trail E, Ochopee, FL 34141.

2. The Department of Homeland Security (“DHS”) moved to dismiss his INA § 240, 8 U.S.C. § 1229a removal proceedings with the goal of placing him in expedited removal proceedings pursuant to INA § 235, 8 U.S.C. § 1225.

3. Mr. Alfonso was arrested and detained on October 8, 2025, when he exited the courtroom following the dismissal of his case.

4. Absent an order from this Court, Petitioner will continue to suffer irreparable harm caused by his unlawful detention and violation of his constitutional rights.

5. To remedy this, Mr. Alfonso asks this Court to, under 28 U.S.C. § 2241, issue a writ of habeas corpus directing Respondents to release Mr. Alfonso because his continued confinement violates procedural due process, and substantive due process.

6. Mr. Alfonso requests this Court to order Respondents to show cause demonstrating why he should not be released within three days. 28 U.S.C. § 2243.

I. JURISDICTION

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

8. 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).

9. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201, and the All Writs Act, 28 U.S.C. § 1651.

10. 8 U.S.C. § 1252(g) does not bar jurisdiction given that this is a challenge of the Government's applied implementation of expedited removal under the INA, not the constitutionality of it. *See E.V., v. Raycraft*, No. 4:25-CV-2069, 2025 WL 2938594, at *6 (N.D. Ohio Oct. 16, 2025); *see Munoz Materano*, 2025 WL 2630826, at *10; *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493, 2025 WL 1953796, at *7 (W.D.N.Y. July 16, 2025) (holding that § 1252(e)(3) cannot bar jurisdiction when the petitioner argued the Government did not have the lawful authority to initiate the expedited removal process against him at that time, rather than arguing the constitutionality of expedited removal generally).

II. VENUE

11. Venue is proper in this district pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1391 because Mr. Alfonso is detained at the Florida Soft Side South Detention Center known as "Alligator Alcatraz", within the Middle District of Florida, and Petitioner's immediate physical custodian is in this District.

III. REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause to the Respondents "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause 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.*

13. 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).

V. PARTIES

14. Petitioner, Ernesto Alfonso Perez is currently detained at the Florida Soft Side South Detention Center known as “Alligator Alcatraz”. He has been in custody since October 8, 2025. Mr. Alfonso is in the custody and under the direct control of Respondents and their agents.

15. Respondent, Matthew Mordant, is named in his official capacity as the Warden of Florida Soft Side South Detention Center known as “Alligator Alcatraz”. In this capacity, he is responsible for the immediate execution of detention over Petitioner and is the immediate custodian of Petitioner. Respondent Mordant’s address is 54575 Tamiami Trl E, Ochopee, FL 34141.

16. Respondent, Garret Ripa, is named in his official capacity as Miami Field Office Director of the ICE Enforcement & Removal Operations (“ERO”). In this capacity, he is responsible for the administration of immigration laws and the execution of immigration confinement and the institution of removal proceedings in Florida, which is the jurisdiction where Petitioner is confined. As such, he is a custodian of Petitioner. Respondent Ripa’s address is 865 SW 78th Avenue, Suite 101, Plantation, FL 33324.

17. 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 of the United States and is legally responsible for pursuing any effort to remove Mr. Alfonso and confine him pending removal. As such, he is a custodian of Mr.


Alfonso. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

18. Respondent, Kristi Noem, is named in her official capacity as the Secretary of the Department of Homeland Security. 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 the Petitioner; and as such is a custodian of Mr. Alfonso.

Respondent Noem's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.

19. Respondent, Pamela Bondi, is named in her official capacity as 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 Mr. Alfonso. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

VI. STATEMENT OF FACTS

20. Petitioner is a native and citizen of Cuba, born on .

21. Petitioner has no criminal history.

22. On or about August 8, 2022, Mr. Alfonso entered the United States.

23. After being detained by immigration, Mr. Alfonso was released and was given a Notice to Appear ("NTA").

24. On November 11, 2022, Mr. Alfonso submitted his I-589, Application for Asylum, Withholding of Removal, and Convention Against Torture ("CAT") with U.S. Citizenship and Immigration Services ("USCIS"), which he later submitted to the Executive Office for Immigration Review ("EOIR") on November 29, 2022.

25. Mr. Alfonso attended his scheduled hearings with the EOIR.

26. On January 23, 2025, Acting Secretary of the Department of Homeland Security, Benjamine C. Huffman, issued a memorandum for ICE, Customs and Border Protection (“CBP”), and USCIS instructing officers to “take all steps necessary to review” cases of anyone “amendable to expedited removal but to whom expedited removal has not been applied”.

Benjamine C. Huffman, Acting DHS Secretary, *Guidance Regarding How to Exercise Enforcement Discretion*, (Jan. 23, 2025) (“Huffman Memo”). These necessary steps include “terminat[ing] any ongoing removal proceedings”. *Id.*

27. On January 24, 2025, DHS published a Notice that expanded the application of expedited removal. Office of the Secretary, Dep’t of Homeland Security, *Designating Aliens for Expedited Removal*, 15 Fed. Reg. 8139 (“January 2025 Designation”). The designation was “effective on” January 21, 2025.

28. On October 8, 2025, Mr. Alfonso attended his scheduled hearing before the Immigration Judge at the Miami Immigration Court located at 333 S. Miami Avenue, Suite 700, Miami, Florida 33130. However, instead of proceeding with Mr. Alfonso’s EOIR proceedings to adjudicate his I-589, the Department of Homeland Security (“DHS”) moved to dismiss the proceedings.

29. After exiting the courtroom, Petitioner was arrested by ICE agents. The ICE agents did not provide Petitioner with any process or access to counsel. The ICE agents did not offer him any opportunity to be heard prior to arresting and detaining him. Petitioner was taken to Florida Soft Side South Detention Facility known as “Alligator Alcatraz” located at 54575 Tamiami Trail E, Ochopee, FL 34141.

30. There are no future hearings for Mr. Alfonso's case, and Mr. Alfonso is still within the timeframe to file his appeal with the Board of Immigration Appeals ("BIA"), which provides an automatic stay of removal. *See* 8 CFR §1003.6.

VII. LEGAL FRAMEWORK

31. When a noncitizen is deemed inadmissible under 8 U.S.C. § 1182(a)(7), the immigration officer must order the noncitizen's removal, unless the noncitizen indicates an intention to apply for asylum or fear of persecution. *See* 8 U.S.C. § 1225(b)(1)(A)(i). The noncitizen may be placed in "expedited removal" proceedings, which contain a condensed asylum process and require that the noncitizen remain detained throughout the process. *See* 8 U.S.C. § 1225(b)(1).

32. The noncitizen also may be placed in 8 U.S.C. § 1229a removal proceedings, which have more robust due process protections. Section 1182, however, has a subsection, which allows noncitizens, even those in mandatory detention, to be "paroled" into the United States. 8 U.S.C. § 1182(d)(5)(A). A noncitizen detained at the border may be formally paroled into the United States only "for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

33. Noncitizens are eligible for expedited removal if they are: (1) "arriving in the United States," that is, appearing at a port of entry; or (2) have "not been admitted or paroled into the United States" and they cannot affirmatively show that they have been "physically present in the United States continuously for the 2-year period immediately prior to the date of the determination of inadmissibility." *Espinoza v. Kaiser*, No. 25-cv-01101, 2025 WL 2675785, at *5 (E.D. Cal. Sept. 18, 2025) (citing *Coalition For Humane Immigrant Rights, v. Noem*, No. 25-CV-872 (JMC), 2025 WL 2192986, at *5 (D.D.C. Aug. 1, 2025)); *see also* *Pedro Yimi Cardin*

Alvarez v. David Rivas, No. CV 25-02943-PHX GMS, 2025 WL 2898389, at * 12 (D. Ariz. Oct. 7, 2025); *see also E.V. v. Kevin Raycraft*, No. 4:25-cv-2069, 2025 WL 2938594, at * 2 (N.D. Ohio Oct. 16, 2025)

34. “[U]nder 8 U.S.C. § 1225(b)(1)(A)(iii)(II), a person who has been paroled without first having been placed in expedited removal cannot be designated for expedited removal.” *Espinoza v. Kaiser*, 2025 WL 2675785, at *5 (E.D. Cal. Sept. 18, 2025) (emphasis in original; citing *Coalition*, 2025 WL 2192986, at *3 (D.D.C. Aug. 1, 2025)); *see also Munoz Materano v. Arteta*, No. 25-cv-6137, 2025 WL 2630826, at *11 (S.D.N.Y. Sept. 12, 2025) (adopting the holding in *Coalition*); *see also Pedro Yimi Cardin Alvarez*, WL 2898389, at * 13 (D. Ariz. Oct. 7, 2025).

VIII. CLAIMS FOR RELIEF

COUNT ONE

Violation of the Procedural Due Process Clause of the Fifth Amendment to the U.S. Constitution.

35. The allegations in the above paragraphs are realleged and incorporated herein.

36. In expedited removal, individuals receive no meaningful opportunity to challenge key issues such as admissibility, parole, or continuous physical presence. *See* 8 U.S.C. § 1225(b)(1)(A); 8 C.F.R. § 235.3. The burden rests entirely on the noncitizen to prove these facts to the satisfaction of an immigration officer, without guaranteed time to prepare, access to counsel, or ability to gather or present evidence. *Id.* Unlike in § 240 removal proceedings, there are no procedural safeguards such as judicial review, evidentiary hearings, or neutral adjudication. Instead, a low-level DHS officer acts as both prosecutor and decision-maker. *Id.*

37. When the Government interferes with a liberty interest, “the procedures attendant upon that deprivation [must be] constitutionally sufficient.” *Ky. Dep’t of Corr. v. Thompson*, 490

U.S. 454, 460 (1989). The constitutional sufficiency of procedures is determined by weighing three factors: (1) the private interest that will be affected by the official action, (2) the risk of erroneous deprivation of that interest through the available procedures, and (3) the Government's interest. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

38. Freedom from imprisonment, including government detention, is central to the liberty protected by the Fifth Amendment. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Mr. Alfonso's has a substantial personal interest given that his interest is his freedom from arbitrary government detention, the liberty that "lies at the heart of the [Due Process] Clause protects". See *id.*

39. The risk of an erroneous deprivation of Mr. Alfonso's liberty under the current procedures is extraordinarily high. At the time DHS sought dismissal of his §240 removal proceedings, Mr. Alfonso was actively pursuing claims for asylum, withholding of removal, and protection under the CAT, which are claims that implicate serious statutory and constitutional protections. By pursuing the dismissal of § 240 proceedings, and expressing an intent to pursue expedited removal, Respondents have effectively stripped Mr. Alfonso of both procedural safeguards and a forum to adjudicate his claims. The absence of any meaningful review mechanism, combined with the limited avenues for judicial oversight under the expedited removal framework, significantly increases the likelihood that Mr. Alfonso's liberty has been erroneously and unlawfully restricted. Outside of this Petition for Writ of Habeas Corpus, Mr. Alfonso has no access to a court with jurisdiction to review the legality of his detention.

40. The Government's interest in Mr. Alfonso's continued detention is minimal under the current circumstances. While the Government generally has a legitimate interest in enforcing immigration laws and effectuating removal for individuals with final orders, that interest does

not extend to detaining individuals indefinitely without any active proceedings or legal basis. Mr. Alfonso was previously released after his entry into the United States and complied fully with all reporting and court appearance obligations during the pendency of his §240 removal proceedings. He also affirmatively sought immigration relief in the form of asylum, withholding of removal, and CAT protection.

41. Additionally, Petitioner is within the timeframe to file his appeal of the Immigration Judge's decision with the BIA, which grants an automatic stay of removal. *See* § C.F.R. § 1003.6. This means that Respondents cannot even attempt to remove Mr. Alfonso from the U.S. Once Mr. Alfonso files his Notice of Appeal with the BIA, he is then granted another automatic stay during the pendency of the adjudication of his appeal. *Id*

42. Thus, Petitioner's detention violates procedural due process.

COUNT TWO
Violation of the Substantive Due Process Clause of the Fifth Amendment to the U.S. Constitution

43. The allegations in the above paragraphs are realleged and incorporated herein.

44. The Due Process Clause of the Fifth Amendment forbids the government from depriving any "person" of liberty "without due process of law." U.S. Const. amend. V.

45. The Constitution establishes due process rights for "all 'persons' within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693 (2001).

46. Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *See id.* at 690 (citing *ackson v. Indiana*, 406 U.S. 715, 738 (1972)). With respect to immigration confinement, the Supreme Court has recognized two special justifications: (1) preventing flight and (2) preventing danger to the community. *See id.* at 690.

47. Preventing flight, which is meant to ensure compliance with court appearances, is not a legitimate concern in Mr. Alfonso's case. He has never demonstrated any indication of being a flight risk, as shown by his consistent compliance with all reporting requirements and court appearances throughout the duration of his § 240 removal proceedings. In fact, Mr. Alfonso was detained by ICE while he was attending his scheduled immigration court hearing, further demonstrating his full compliance and intent to follow the legal process. Mr. Alfonso was actively pursuing legal avenues to regularize his immigration status when Respondents abruptly terminated his removal proceedings, disrupting a lawful process in which he was fully engaged. Under these circumstances, continued detention cannot be justified on the basis of flight prevention.

48. Petitioner is no danger to society, as evidenced by the fact that he has had NO contacts with law enforcement.

49. Mr. Alfonso's detention appears to be purely punitive as it bears no "reasonable relation" to any legitimate government purpose. *See Zadvydas*, 533 U.S. at 690. (finding immigration detention is civil and thus assumed to be "nonpunitive in purpose and effect"); *see also Padilla v. U.S. Immigr. Customs Enf't*, 704 F. Supp. 3d 1163, 1172 (W.D. Wash. 2023) ("The Supreme Court has consistently held that non-punitive detention violates the Constitution unless it is strictly limited, and, typically, accompanied by a prompt individualized hearing before a neutral decisionmaker to ensure that the imprisonment serves the government's legitimate goals.").

50. Thus, Petitioner's detention violates substantive due process.

COUNT THREE
Violation of the Administrative Procedure Act

51. The allegations in the above paragraphs are realleged and incorporated herein.

52. Under the APA, a court shall “hold unlawful and set aside agency action” that is arbitrary, capricious, abuse of discretion or otherwise not in accordance with law. 5 U.S.C. § 706(2)(A).

53. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view of the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. Of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Assn. of United States, Inc. v. State Farm Mut. Automobile Ins. Co.*, 463 U.S. 29, 43 (1983)).

54. To withstand an APA challenge, an agency must provide a satisfactory explanation for its decision, demonstrating a rational link between the facts it identified and the action it took. *See Dep’t of Commerce v. New York*, 588 U.S. 752, 773 (2019).

55. By categorically revoking Petitioner’s release/parole, without considering his individualized facts and circumstances, Respondents have violated the APA.

56. Respondents have already evaluated Petitioner’s individual facts and circumstances and concluded that he does not pose a flight risk or a danger to the community. There have been no changes in those circumstances that would justify revoking his release on his own recognizance. The prior decision by Respondents to grant him release under the same conditions demonstrates that, based on an individualized assessment, they do not view him as a threat or likely to flee. Additionally, Petitioner complied with the requirement to appear at his immigration court hearing, which cannot reasonably be used to claim he is a flight risk.

IX. PRAYER FOR RELIEF

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

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, directing Respondents to show cause why the petition for a writ of habeas corpus filed by Mr. Alfonso pursuant to 28 U.S.C. § 2241 should not be granted within three days;
- (3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately;
- (4) In the alternative, grant a writ of habeas corpus ordering Respondents to immediately release Petitioner from custody under reasonable conditions of supervision;
- (5) Declare that Petitioner's detention violates the Procedural Due Process Clause of the Fifth Amendment;
- (6) Declare that Petitioner's detention violates the Substantial Due Process Clause of the Fifth Amendment;
- (7) Issue an Order prohibiting the Respondents from transferring Petitioner from the State of Florida without the court's approval and
- (8) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Kenia Garcia

Kenia Garcia, Esq.

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Dated: October 20, 2025

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON NEXT PAGE OF THIS FORM.)

I. (a) PLAINTIFFS ERNESTO ALFONSO PEREZ (b) County of Residence of First Listed Plaintiff (c) Attorneys Garcia & Qayum Law Group, P.A. DEFENDANTS MATTHEW MORDANT, et al. County of Residence of First Listed Defendant NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE TRACT OF LAND INVOLVED. Attorneys (If Known) Unknown

II. BASIS OF JURISDICTION (Place an "X" in One Box Only) III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant) 1 U.S. Government Plaintiff 2 U.S. Government Defendant 3 Federal Question 4 Diversity PTF DEF Citizen of This State Citizen of Another State Citizen or Subject of a Foreign Country

IV. NATURE OF SUIT (Place an "X" in One Box Only) Click here for: Nature of Suit Code Descriptions. CONTRACT TORTS FORFEITURE/PENALTY LABOR IMMIGRATION BANKRUPTCY INTELLECTUAL PROPERTY RIGHTS SOCIAL SECURITY FEDERAL TAX SUITS OTHER STATUTES

V. ORIGIN (Place an "X" in One Box Only) 1 Original Proceeding 2 Removed from State Court 3 Remanded from Appellate Court 4 Reinstated or Reopened 5 Transferred from Another District (specify) 6 Multidistrict Litigation - Transfer 8 Multidistrict Litigation - Direct File

VI. CAUSE OF ACTION Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity): 28 U.S.C. sec. 2241 Brief description of cause: Petition for writ of habeas corpus for unlawful detention and application to show cause; U.S. Constitution Amendment V due process violation

VII. REQUESTED IN COMPLAINT: CHECK IF THIS IS A CLASS ACTION UNDER RULE 23, F.R.Cv.P. DEMAND \$ CHECK YES only if demanded in complaint. JURY DEMAND: Yes No

VIII. RELATED CASE(S) IF ANY (See instructions): JUDGE DOCKET NUMBER

DATE 10/20/2025 SIGNATURE OF ATTORNEY OF RECORD /s/ Kenia Garcia

FOR OFFICE USE ONLY RECEIPT # AMOUNT APPLYING IFP JUDGE MAG. JUDGE