

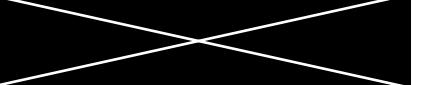
UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

Case No.

**LOPEZ, JUAN CARLOS,**  
Petitioner,

v.

**KRISTI NOEM**, Secretary of the United States Department of Homeland Security, in her official capacity; **U.S. Department of Homeland Security**; **TODD LYONS**, Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement, in his official capacity; **U.S. Immigration and Customs Enforcement**; **GARRETT RIPA**, Field Office Director for ICE's Enforcement and Removal Operation's ("ERO") Miami, Florida Field Office, in his official capacity; **SIRCE OWEN**, Acting Director of EOIR, in her official capacity; **Executive Office for Immigration Review**,  
Respondents.

Immigration Alien No. 

**PETITION FOR WRIT OF HABEAS CORPUS PURSUANT TO 28 U.S.C. § 2241**

## **INTRODUCTION**

This case challenges the unlawful civil immigration detention of Petitioner JUAN CARLOS LOPEZ, a longtime Florida resident and Mexican national who has lived in the United States since 2002, is married to a U.S. citizen, and is the father/step-father of five U.S.-based children (ages 18, 16, 14, 9, and 5). He has no criminal charges. On September 25, 2025, ICE arrested him during a worksite enforcement action at an on-site landscaping job and has detained him at the Krome Service Processing Center located at 18201 SW 12th Street, Miami, FL 33194 ever since.

Despite Petitioner's lengthy residence, family ties, and clean record, DHS is detaining him without bond on the theory that he is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). That theory is wrong as a matter of statute, contradicted by longstanding practice, and repeatedly rejected by federal courts when applied to interior arrests of noncitizens who have resided in the country for years. See, e.g., *Jennings v. Rodriguez*, 583 U.S. 122, 130–31 (2018) (confirming judicial review of detention challenges); *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299, at \*8 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, — F. Supp. 3d —, 2025 WL 2084238, at \*9 (D. Mass. July 24, 2025); *Lazaro Maldonado Bautista et al. v. Santacruz, Jr., et al.*, TRO (C.D. Cal. July 28, 2025); *Francisco T. v. Bondi, et al.*, PI (D. Minn. Aug. 29, 2025).

The plain text and structure of the INA confirm that § 1226(a)—not § 1225(b)—governs detention of noncitizens already in the country who are placed in § 240 proceedings, including those charged as inadmissible under § 212(a)(6)(A)(i) and § 212(a)(7)(A)(i)(I). See *Leng May Ma*

*v. Barber*, 357 U.S. 185, 187 (1958); *Jennings*, 583 U.S. at 287; *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010) (specific exceptions prove the rule); *\*Rodriguez Vazquez*, 2025 WL 1193850, at 12. Petitioner's detention without access to a bond redetermination violates Fifth Amendment due process and is ultra vires.

Petitioner respectfully seeks immediate release or, in the alternative, an order compelling Respondents to provide a prompt, individualized bond hearing consistent with due process.

### **JURISDICTION & CUSTODY**

1. Petitioner JUAN CARLOS LOPEZ is in the physical custody of Respondents and ICE, an agency within DHS.
2. Petitioner is currently detained at the Krome Service Processing Center in Miami-Dade County, Florida, under the direct control of Respondents and their agents.
3. This action arises under the Constitution and 8 U.S.C. § 1101 et seq.
4. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2, 28 U.S.C. § 1331, and common law. Relief may be granted under 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651.
5. Congress preserved judicial review of immigration detention challenges. *Jennings v. Rodriguez*, 583 U.S. 122, 130–31 (2018).
6. The Court must grant the writ or order Respondents to show cause “forthwith,” with a return due “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” 28 U.S.C. § 2243.
7. The Court has inherent power to release a petitioner pending review. *Martin v. Solem*, 801 F.2d 324, 329 (8th Cir. 1986).

**VENUE**

8. Venue lies in this District because Petitioner is detained within the Southern District of Florida. *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973).
9. Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are U.S. officers and agencies.

**PARTIES**

10. Petitioner JUAN CARLOS LOPEZ is a Mexican national who entered the United States in 2002 and has remained here continuously. He is detained at Krome Service Processing Center. He has no criminal charges. He is the father and step-father of minor children born in the U.S.
11. Respondent Kristi Noem is Secretary of DHS and a legal custodian of Petitioner, sued in her official capacity.
12. Respondent DHS is responsible for enforcing federal immigration laws and overseeing detention.
13. Respondent Todd M. Lyons is Acting Director and Senior Official Performing the Duties of the Director of ICE, responsible for detention policies and practices, sued in his official capacity.
14. Respondent ICE enforces immigration laws, including detention and removal.
15. Respondent Garrett Ripa is Field Office Director, ICE ERO Miami, a legal custodian of Petitioner, sued in his official capacity.
16. Respondent EOIR is a DOJ agency administering immigration courts and related adjudications.

17. Respondent Sirce Owen is Acting Director of EOIR, sued in her official capacity.

### **STATEMENT OF FACTS**

18. Petitioner is a Mexican national who entered the United States in 2002 and has never departed.

19. Petitioner has no criminal charges.

20. Petitioner is married (support letter attached) and is the father/step-father of U.S. citizen children.

21. On September 25, 2025, ICE arrested Petitioner during a worksite raid at an on-site landscaping job in East-Central, Florida (Brevard County).

22. DHS issued a Notice to Appear charging Petitioner as inadmissible under INA § 212(a)(6)(A)(i) and § 212(a)(7)(A)(i)(I).<sup>1</sup>

23. Petitioner is detained at Krome Service Processing Center in Miami-Dade County, Florida.

24. Upon information and belief, Respondents are treating Petitioner as an “applicant for admission” subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), thereby denying access to bond under § 1226(a).

25. Petitioner has substantial equities: over 23 years of residence, a U.S.-citizen spouse, minor U.S.-citizen children, and community support; there is no evidence he poses danger or is a flight risk.

---

<sup>1</sup> See, Exhibit 1 - Notice to Appear (NTA)

26. Petitioner's detention without bond separates him from his family and inflicts ongoing irreparable harm—financial, emotional, and developmental harm to his minor children—while his removal case proceeds under § 240.<sup>2</sup>

### **LEGAL FRAMEWORK**

27. "It is well established that the Fifth Amendment entitles noncitizens to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" protected in immigration cases. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

28. Due process requires "adequate procedural protections" to ensure the government's justification for confinement "outweighs the individual's constitutionally protected interest in avoiding restraint." *Zadvydas*, 533 U.S. at 690.

29. In civil immigration detention, the Supreme Court has recognized only two valid purposes: mitigating danger to the community and preventing flight. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528.

30. § 1226(a) is the default detention authority "pending a decision on whether the [noncitizen] is to be removed." Proceedings under § 1229a decide inadmissibility or deportability. Courts have repeatedly held § 1226(a)—not § 1225(b)—applies to interior arrests of people long residing in the United States. *Lazaro Maldonado Bautista et al. v Kristi Noem*,

---

<sup>2</sup> See, Exhibit 2 and 3 -Wife's letter and Petitioner's letter

*Secretary, Department of Homeland Security, et al.* U.S. District Court for the Central District of California, Eastern Division, Case No. 5:25-cv-01873-SSS-BFM;<sup>3</sup> *Francisco T. v. Bondi, et al.*, Case No. 0:25-cv-03219-JMB-DTS, [CM/ECF Doc. 17], U.S. District Court for the District of Minnesota;<sup>4</sup> *Gamez Lira v. Noem*, No. 25-cv-00855-WJ-KK, 2025 WL 2581710, at \*2-3 (D.N.M)<sup>5</sup>; *Hector Lopez-Melo v. Pamela Bondi, et. al.*, No. CV-25-03394-PHX-DJH (JZB)<sup>6</sup>; *Pizarro Reyes v. Raycraft*, No. 25-12546, (E.D. Mich.)<sup>7</sup>; *Guilherme Duarte Rocha v. Patricia Hyde, et. al.*, case No. 25-cv-12584-ADB<sup>8</sup>; *Jose Arnulfo Guerrero Orellana, on behalf of himself and others similarly situated, v. Antone Moniz, Superintendent, Plymouth County Correctional Facility; et. al.* (D.Mass. Case No. 25-cv-12664-PBS)<sup>9</sup>; *Romero v. Hyde, et al.*, Case No. 1:25-cv-11631-BEM [CM/ECF Doc. 32], U.S. District Court for the District of Massachusetts<sup>10</sup>; *Gil-Paulino, Jose Ramon v. Noem, et. al.*, Case No. 1:25-cv-24292-KMW [CM/ECF Doc. 41], U.S. District Court for

---

<sup>3</sup> See, Exhibit 8, copy of the Temporary Restraining Order entered 7/28/2025 in *Lazaro Maldonado Bautista et al. v. Santacruz, Jr., on behalf of themselves and others similarly situated, et al., Plaintiffs-Petitioners, v. Kristi Noem, Secretary, Department of Homeland Security, et al., Defendants-Respondents, U.S. District Court for the Central District of California, Eastern Division*, Case No. 5:25-cv-01873-SSS-BFM.

<sup>4</sup> See, Exhibit 9, copy of the Temporary Restraining Order entered 8/29/2025 in *Francisco T. v. Bondi, et al.*, Case No. 0:25-cv-03219-JMB-DTS, [CM/ECF Doc. 17], U.S. District Court for the District of Minnesota.

<sup>5</sup> See, Exhibit 4, copy of the Order granting TRO in *Gamez Lira v. Noem*, No. 25-cv-00855-WJ-KK, 2025 WL 2581710, at \*2-3 (D.N.M.).

<sup>6</sup> See, Exhibit 5, copy of the Order Granting Petition for Writ of Habeas Corpus in *Hector Lopez-Melo v. Pamela Bondi, et. al.*, No. CV-25-03394-PHX-DJH (JZB).

<sup>7</sup> See, Exhibit 6, copy of the Order Granting Petition for Writ of Habeas Corpus, *Pizarro Reyes v. Raycraft*, No. 25-12546, (E.D. Mich.).

<sup>8</sup> See, Exhibit 7, copy of Order Granting Petition for Writ of Habeas Corpus in *Guilherme Duarte Rocha v. Patricia Hyde, et. al.*, case No. 25-cv-12584-ADB.

<sup>9</sup> See, Exhibit 10, copy of the Preliminary Injunction Order entered 10/03/2025 in *Jose Arnulfo Guerrero Orellana, on behalf of himself and others similarly situated, v. Antone Moniz, Superintendent, Plymouth County Correctional Facility; et. al.*, (D.Mass. Case No. 25-cv-12664-PBS).

<sup>10</sup> See, Exhibit 11, copy of Order Granting Petition for Writ of Habeas Corpus entered 8/19/2025 in *Romero v. Hyde, et al.*, Case No. 1:25-cv-11631-BEM [CM/ECF Doc. 32], U.S. District Court for the District of Massachusetts.

the Southern District of Florida<sup>11</sup>; *Alejandro Garcia-Rosales v. Kristi Noem, et. al.*, Case No. CV-25-03391 – PHX – SHD (DMF)<sup>12</sup>.

31. § 1225(b) governs detention at the Nation’s borders and ports of entry, where the government determines admission. *Jennings*, 583 U.S. at 287; *Leng May Ma*, 357 U.S. at 187.
32. The statutory structure confirms the default rule by express exceptions Congress created; specific exceptions prove the rule that § 1226 otherwise applies. *Shady Grove*, 559 U.S. at 400.

### **CLAIMS FOR RELIEF**

#### **FIRST CLAIM FOR RELIEF**

##### **Fifth Amendment – Substantive Due Process**

33. Petitioner realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.
34. Petitioner’s continued civil detention without access to bond—despite his long residence, U.S.-citizen family, and lack of danger—is not justified by any permissible civil-detention purpose recognized by the Supreme Court. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528.
35. Treating Petitioner as an § 1225(b)(2)(A) “applicant for admission” based on a worksite interior arrest misreads the INA and improperly forecloses individualized release determinations available under § 1226(a). See Exhibits 4-13.

---

<sup>11</sup> See, Exhibit 12, copy of Order granting TRO entered 10/10/25 in *Gil-Paulino, Jose Ramon v. Noem, et. al.*, Case No. 1:25-cv-24292-KMW [CM/ECF Doc. 41], U.S. District Court for the Southern District of Florida.

<sup>12</sup> See, Exhibit 13, copy of the Order granting Petition for Writ of Habeas Corpus, entered 10/22/2025 in *Alejandro Garcia-Rosales v. Kristi Noem, et. al.*, Case No. CV-25-03391 – PHX – SHD (DMF).

36. The ongoing detention violates substantive due process because it lacks a sufficient, lawful purpose proportionate to Petitioner's liberty interest.

**SECOND CLAIM FOR RELIEF**  
Fifth Amendment – Procedural Due Process

37. Petitioner realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.
38. The Due Process Clause guarantees a fundamentally fair process before depriving liberty, including access to an individualized bond hearing when §1226(a) applies.  
*Demore*, 538 U.S. at 523; *Zadydas*, 533 U.S. at 690.
39. By misclassifying Petitioner under § 1225(b)(2)(A) after an interior arrest and long U.S. residence, Respondents have denied Petitioner the procedural protections of § 1226(a)—contrary to statutory text and judicial precedent. See *Rodriguez Vazquez*, 2025 WL 1193850; *Gomes*, 2025 WL 1869299; *Diaz Martinez*, 2025 WL 2084238; *Lazaro Maldonado Bautista*, TRO; *Francisco T.*, PI.
40. The resulting detention, without a path to bond redetermination, violates procedural due process.

**THIRD CLAIM FOR RELIEF**  
Ultra Vires Detention Authority

41. Petitioner realleges and incorporates herein the allegations contained in the preceding paragraphs of the petition as if fully set forth herein.
42. Congress vested detention and release authority for noncitizens “pending a decision on whether the alien is to be removed” in 8 U.S.C. § 1226(a). Respondents’ reliance on §

1225(b)(2)(A)—a border-inspection statute—to justify Petitioner’s interior detention is beyond statutory authority and contrary to the structure and purpose of the INA. See *Leng May Ma v. Barber*, 357 U.S. 185 (1958); *Jennings v. Rodriguez*, 583 U.S. 122 (2018); *Rodriguez Vazquez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 1193850 (W.D. Wash. Apr. 24, 2025); *Diaz Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025).

43. The BIA’s decision in *Matter of Yajure-Hurtado*, 29 I.&N. Dec. 216 (BIA 2025)<sup>13</sup>—which expansively interprets § 1225(b) to apply to long-term residents arrested inside the United States—cannot control this Court’s construction of federal law. Under *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024)\*, federal courts owe no Chevron deference to agency interpretations; rather, courts must adopt the “best reading” of the statute. The INA’s text, context, and history make clear that § 1226(a) governs detention in § 240 removal proceedings, while § 1225(b) applies only at the threshold of admission. *Yajure-Hurtado*’s contrary view rewrites congressional design and undermines constitutional constraints on civil confinement.

44. By continuing to detain Petitioner under the wrong statutory authority, Respondents act ultra vires, exceeding the limits Congress imposed and violating the Fifth Amendment’s guarantees of liberty and separation of powers. The detention must therefore be declared unlawful and enjoined.

#### **PRAYER FOR RELIEF**

---

<sup>13</sup> See, Exhibit 14, copy of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025)

Petitioner JUAN CARLOS LOPEZ respectfully requests that the Court:

1. Assume jurisdiction over this matter;
2. Order immediate release of Petitioner pending these proceedings pursuant to the Court's inherent authority;
3. In the alternative, issue the writ under 28 U.S.C. § 2241 and order Respondents to provide a prompt, individualized bond hearing consistent with § 1226(a) and due process and enjoin Respondents from denying Petitioner bond on the basis that he is detained pursuant to 8 U.S.C. § 1225(b)(2);
4. Enjoin Respondents from transferring Petitioner out of this District during the pendency of this action;
5. Declare that Petitioner's detention violates the Fifth Amendment and is ultra vires under the INA; and
6. Grant any further relief the Court deems just and proper.

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

We represent Petitioner JUAN CARLOS LOPEZ, and submit this verification on his behalf. We have discussed with Petitioner the events described in this Petition. On the basis of those discussions, we hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of our knowledge.

Dated: November 3, 2025

Respectfully submitted,

By: /s/ Sara J. Saba  
Sara J. Saba, Esq.  
Florida Bar No. 911011  
Attorney Email Address: [info@liha.legal](mailto:info@liha.legal)  
Libertad con Habeas Law Group, LLC  
2650 Biscayne Blvd.  
Miami, FL 33137  
Telephone: (786) 767-6494  
(Co-Counsel for Plaintiff Lopez, Juan Carlos)

By: /s/ Nera Shefer, Esq  
Nera Shefer, Esq.  
Florida Bar No. 0814121  
Attorney Email Address: [nera@shefer.legal](mailto:nera@shefer.legal)  
Libertad con Habeas Law Group, LLC and Shefer Law Firm, P.A.  
800 S.E. 4<sup>th</sup>. Avenue, Suite 803  
Hallandale Beach, Florida 33009  
Telephone: 786-295-9077  
(Co-Counsel for Plaintiff Lopez, Juan Carlos)

LIST OF EXHIBITS	
Exhibit 1	Notice to Appear (charging INA § 212(a)(6)(A)(i) and § 212(a)(7)(A)(i)(I)).
Exhibit 2	Letter from U.S.-Citizen Spouse
Exhibit 3	Petitioner's Personal Statement/Letter
Exhibit 4	9/24/25 Order granting TRO, <i>Gamez Lira v. Noem</i> , No. 25-cv-00855-WJ-KK, 2025 WL 2581710, at *2-3 (D.N.M.)
Exhibit 5	08/09/25 Order Granting Petition for Writ of Habeas Corpus in <i>Hector Lopez-Melo v. Pamela Bondi, et. al.</i> , No. CV-25-03394-PHX-DJH (JZB).
Exhibit 6	9/9/2025 Order Granting Petition for Writ of Habeas Corpus, <i>Pizarro Reyes v. Raycraft</i> , No. 25-12546, (E.D. Mich.)
Exhibit 7	10/02/2025 Order Granting Petition for Writ of Habeas Corpus in <i>Guilherme Duarte Rocha v. Patricia Hyde, et. al.</i> , case No. 25-cv-12584-ADB.
Exhibit 8	Temporary Restraining Order entered 7/28/2025 in <i>Lazaro Maldonado Bautista et al. v Kristi Noem, Secretary, Department of Homeland Security, et al.</i> , U.S. District Court for the Central District of California, Eastern Division, Case No. 5:25-cv-01873-SSS-BFM.
Exhibit 9	Restraining Order entered 8/29/2025 in <i>Francisco T. v. Bondi, et al.</i> , Case No. 0:25-cv-03219-JMB-DTS, [CM/ECF Doc. 17], U.S. District Court for the District of Minnesota.
Exhibit 10	Preliminary Injunction Order entered 10/03/2025 in <i>Jose Arnulfo Guerrero Orellana, on behalf of himself and others similarly situated, v. Antone Moniz, Superintendent, Plymouth County Correctional Facility; et. al.</i> , (D.Mass. Case No. 25-cv-12664-PBS).
Exhibit 11	Order Granting Petition for Writ of Habeas Corpus entered 8/19/2025 in <i>Romero v. Hyde, et al.</i> , Case No. 1:25-cv-11631-BEM [CM/ECF Doc. 32], U.S. District Court for the District of Massachusetts.
Exhibit 12	Order granting TRO entered 10/10/25 in <i>Gil-Paulino, Jose Ramon v. Noem, et. al.</i> , Case No. 1:25-cv-24292-KMW [CM/ECF Doc. 41], U.S. District Court for the Southern District of Florida.
Exhibit 13	Order granting Petition for Writ of Habeas Corpus, entered 10/22/2025 in <i>Alejandro Garcia-Rosales v. Kristi Noem, et. al.</i> , Case No. CV-25-03391 – PHX – SHD (DMF).
Exhibit 14	<i>Matter of Yajure Hurtado</i> , 29 I&N Dec. 216 (B.I.A. 2025)