

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

ISIDRO ACANDA CEBALLO)
Petitioner,) Case No. _____
v.) Agency File: 
CHARLES PARRA, in his official capacity as)
Assistant Field Office Director, Krome North)
Service Processing Center; 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; EXECUTIVE OFFICE FOR)
IMMIGRATION REVIEW.)
Respondents.)

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

INTRODUCTION

1. Petitioner, Isidro Acanda-Ceballo, has been in detention since October 21, 2025, and remains in custody currently at the Krome North Service Processing Center (“Krome”) located at 18201 SW 12th Street Miami, FL 33194.

2. Mr. Acanda-Ceballo was arrested and detained on October 21, 2025, when he appeared for his Immigration Customs & Enforcement (“ICE”) check-in appointment.

3. He now faces unlawful detention because the Department of Homeland Security (“DHS”) and the Executive Office of Immigration Review (“EOIR”) have concluded Petitioner is subject to mandatory detention.

4. Petitioner is charged in violation of 8 U.S.C. § 1182.

5. Based on this allegation in Petitioner’s removal proceedings, DHS denied Petitioner release from immigration custody, consistent with a new DHS policy issued on July 8, 2025, instructing all ICE employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those who entered the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

6. Similarly, on September 5, 2025, the Board of Immigration Appeals (“BIA” or “the Board”) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I & N Dec. § 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.

7. Petitioner’s detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who

previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond. That statute expressly applies to people who, like Petitioner, are charged as inadmissible for having entered the United States without inspection.

8. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.

9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

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

11. This Court may grant relief pursuant to 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.

VENUE

12. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the judicial district in which Petitioner currently is detained.

13. Venue is proper in this district pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1391 because Petitioner is detained at Krome located at 18201 SW 12th Street Miami, FL 33194, within the Southern District of Florida, and Petitioner's immediate physical custodian is in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

14. 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.

15. 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).

PARTIES

16. Petitioner, Isidro Acanda-Ceballo, is a citizen of Cuba who has been in immigration detention since approximately October 21, 2025. He is currently detained at Krome located at 18201 SW 12th Street Miami, FL 33194.

17. Respondent, Charles Parra, is named in his official capacity as the Assistant Field Officer of Krome North Service Processing Center. In this capacity, he is responsible for the immediate execution of detention over Petitioner and is the immediate custodian of Petitioner. Respondent Parra’s address is 18201 SW 12th Street Miami, FL 33194.

18. 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 Miami, 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.

19. 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 Petitioner and confine him pending removal. As such, he is a custodian of Mr. Acanda-Ceballo. His address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington, DC 20536-5900.

20. 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. Acanda-Ceballo. 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.

21. 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. Acanda-Ceballo. Respondent Bondi's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

22. Respondent Executive Office for Immigration Review ("EOIR") is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for

custody redeterminations in bond hearings. The address for Respondent is 5107 Leesburg Pike, Falls Church, VA 22041.

LEGAL FRAMEWORK

23. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

24. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).

25. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).

26. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

27. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

28. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (“IIRIRA”) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).

29. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained

under § 1225 and that they were instead detained under § 1226(a). *See Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

30. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See 8 U.S.C. § 1252(a) (1994); see also H.R. Rep. No. 104-469, pt. 1, at 229 (1996)* (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

31. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

32. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

33. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States

¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

34. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA's detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

35. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

36. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal.

Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

37. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

38. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”

39. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates

‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257 (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

40. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

41. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

42. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

STATEMENT OF FACTS

43. Petitioner is a native and citizen of Cuba, born on January 12, 1989.

44. Petitioner has no criminal history.

45. On or about December 24, 2022, Mr. Acanda-Ceballo entered the United States and was detained by Customs & Border Patrol (“CBP”). When initially detained, CBP noted that Mr. Acanda-Ceballo claimed he feared returning to Cuba.

46. On December 27, 2022, Mr. Acanda-Ceballo was processed pursuant to 8 U.S.C. § 1225.

47. However, DHS stated in the Alien Booking Record that Mr. Acanda-Ceballo was marked for removal proceedings, not expedited removal. Later that day Mr. Acanda-Ceballo was released, according to DHS, “due to lack of bed space”.

48. On April 3, 2023, Mr. Acanda-Ceballo filed an I-589, Application for Asylum, Withholding of Removal, and Convention Against Torture, with USCIS.

49. On or about October 24, 2025, Mr. Acanda-Ceballo appeared for an ICE check-in appointment where he was detained and first transferred to Florida Soft Side Detention Center and then Krome.

50. As a result, Petitioner remains in detention. Without relief from this court, he faces the prospect of months, or even years, in immigration custody, separated from his family and community.

CLAIMS FOR RELIEF

COUNT I **Violation of the INA**

51. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

52. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

53. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II
Violation of the Bond Regulations

54. Petitioner incorporates by reference the allegations of fact set forth in preceding paragraphs.

55. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Service issued an interim rule to interpret and apply IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of [Noncitizens],” the agencies explained that “[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. at 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

56. Nonetheless, pursuant to *Matter of Yajure Hurtado*, EOIR has a policy and practice of applying § 1225(b)(2) to individual like Petitioner.

57. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

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

58. The allegations in the above paragraph are realleged and incorporated herein.

59. 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.*

60. 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).

61. 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. Acanda-Ceballo’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.*

62. The risk of erroneous deprivation of Mr. Acanda-Ceballo’s liberty under the current procedures is extraordinarily high. Upon the Petitioner’s initial detention on or about December 27 2022, he was processed pursuant to §235(b)(1) expedited removal proceedings. At that time, he claimed a fear of returning to Cuba in the initial interview. DHS released Petitioner from custody on his own recognizance due to lack of bed availability; thereby employing their statutory powers under INA § 212(d)(5)(A) and paroling him into the United States.

63. The Supreme Court and the BIA have held that the exclusive legal means for the release of inadmissible applicants for admission is parole authority under INA § 212(d)(5)(A). *See Jennings v. Rodriguez*, 138 S.Ct. 830, 844 (2018); *see also Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019); *Matter of O-*, 16 I&N Dec. 344 (BIA 1977). In so holding, the Courts have found that the law controls the release of aliens from immigration detention, regardless of what the release paperwork states. *Id.* Thus, other than a parole under INA §212(d)(5)(A), “there are no other circumstances under which aliens detained under [INA §235(b)] may be released.” *Id.* at 844.

64. Although DHS originally placed Mr. Acanda-Ceballo in Expedited Removal Proceedings; it availed itself of its discretion and decided to subsequently transfer him to §240 Removal Proceedings. Therefore, Mr. Acanda-Ceballo has a statutory right to a bond hearing under § 240 proceedings.

65. By preventing Petitioner of his statutory right to a bond hearing under §240 proceedings, Respondents have effectively stripped Mr. Acanda-Ceballo of both procedural safeguards and a forum to adjudicate his detention. Given that it has been found by courts throughout the country that Respondents’ interpretation of the INA to expand the scope of 8 U.S.C. §1225 detention “directly contravenes the statute, disregards decades of settled precedent”, there is a substantial likelihood that Mr. Acanda-Ceballo’s liberty has been erroneously and unlawfully restricted. *Hernandez Alvarez v. Morris*, 25-24806 (S.D. Fla. Oct. 27, 2025), ECF 6 at 5; *Cerro Perez v. Parra*, 25-24820 (S.D. Fla. Oct 27, 2025), ECF 9 at 6, *Gil-Paulino v. Sec'y of the U.S. Dep't of Homeland Sec.*, 25-cv-24292 (S.D. Fla. Oct. 10, 2025), ECF 41 at 10; *see also Pizarro Reyes v. Raycraft*, No. 25-cv-12546, 2025 WL 2609425, at *7 (E.D. Mich. Sep. 9, 2025) (“Finally, the BIA’s decision to pivot from three decades of consistent statutory interpretation and call for Pizarro Reyes’ detention under § 1225(b)(2)(A) is at odds with every District Court that has been

confronted with the same question of statutory interpretation."); *see also Puga*, 2025 WL 2938369, at *3–6; *Merino v. Ripa*, No. 25-23845, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025); *Lopez v. Hardin*, No. 25-cv830, 2025 WL 2732717, at *2 (M.D. Fla. Sep. 25, 2025).

66. The Government's interest in Mr. Acanda-Ceballo'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 not subject to mandatory detention without bond. Mr. Acanda-Ceballo was previously released after his entry into the United States and complied fully with his reporting 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. Thus, the Government's interest in detaining Mr. Acanda-Ceballo, absent any operative legal process, is not only weak but constitutionally insufficient to justify depriving him of his liberty without adequate procedural protections.

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

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

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

69. 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.

70. 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).

71. Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *See id.* at 690 (citing *Jackson 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.

72. Preventing flight, which is meant to ensure compliance with court appearances, is not a legitimate concern in Mr. Acanda-Ceballo's case. He has never demonstrated any indication of being a flight risk, as shown by his consistent compliance with all ICE reporting requirements. In fact, Mr. Acanda-Ceballo was detained by ICE while he was attending his scheduled ICE check-in appointment, further demonstrating his full compliance and intent to follow the legal process. Mr. Acanda-Ceballo was actively pursuing legal avenues to regularize his immigration status when Respondents abruptly detained him. Under these circumstances, continued detention cannot be justified on the basis of flight prevention.

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

74. Mr. Acanda-Ceballo'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").

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

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

(1) Assume jurisdiction over this matter;

- (2) Order that Petitioner shall not be transferred outside the Southern District of Florida while this habeas petition is pending;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- (4) Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
- (5) Declare that Petitioner's detention is unlawful; and
- (6) Grant any other and further relief that this Court deems just and proper.

Respectfully submitted,

/s/ Kenia Garcia
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Dated: November 12, 2025