UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

FERNANDO JOSUE ARDON-QUIROZ,

Petitioner,

v.

ASSISTANT FIELD OFFICE DIRECTOR, Krome North Service Processing Center, U.S. Immigration and Customs Enforcement,

FIELD OFFICE DIRECTOR, Miami Field Office, U.S. Immigration and Customs Enforcement,

Respondents.

Case No: _____

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner, Fernando Josue Ardon Quiroz (A#[redacted]) ("Petitioner" or "Mr. Ardon Quiroz"), is a native and citizen of Honduras who entered the United States for the first and only time on July 27, 2022, and has been residing in the United States continuously since that date.

2. When the U.S. Department of Homeland Security ("DHS") inspected Petitioner at the border, it correctly identified him as an "Undocumented [Noncitizen] Child" ("UC"), as defined in the Homeland Security Act of 2002 ("HSA") and the Trafficking Victims Protection Reauthorization Act of 2008 ("TVPRA"). *See* 6 U.S.C. § 279(g)(2)); 8 U.S.C. § 1232(g)).

3. Pursuant to the HSA and TVPRA, the DHS transferred custody of Petitioner to the Department of Health and Human Services ("HHS"), Office of Refugee Resettlement ("ORR"), to whom Congress has authorized custody determinations over UCs. *See* 6 U.S.C. §§ 279(b)(1), (1)(C); 8 U.S.C. § 1232(b)(3).

4. After considering the "[g]eneral principles that apply to the care and placement of" Petitioner, which includes whether he was a danger to the community or a flight risk, the ORR released him to the care of his mother. *See* 8 U.S.C. § 1232(c)(2)(a); 45 CFR § 410.1003(f).

5. There has been no change in Petitioner's circumstances, such as accruing a criminal history in the United States, that disturb the ORR's determination.

6. On April 28, 2025, the Immigration and Customs Enforcement ("ICE"), commenced removal proceedings against Petitioner by lodging a Notice to Appear with the immigration court in Orlando, Florida. A preliminary hearing for Petitioner's removal proceedings was scheduled for March 30, 2026.

7. On August 25, 2025, the Second Judicial Circuit Court of Gadsden County, Florida determined that Petitioner's father had neglected and abandoned Petitioner, and that it was not in Petitioner's best interest to return to Honduras. The Florida court then ordered the Petitioner placed in the sole custody of his mother.

8. Pursuant to the Second Judicial Circuit Court of Gadsden County's ruling, Petitioner was qualified for and sought Special Immigrant Juvenile Status ("SIJS") by filing Form I-360 (Petition for Special Immigrant Juvenile Status), with the U.S. Citizenship and Immigration Services ("USCIS"). *See* 8 U.S.C. § 1101(a)(27)(J); 8 C.F.R. § 204.11.

9. Petitioner's Form I-360 remains pending before USCIS.

10. Once USCIS grants Petitioner's Form I-360 and a visa becomes available, he may acquire lawful permanent residence. *See* 8 U.S.C. §§ 1255(h), 1153(b)(4)), 101(a)(27)(J).

11. On Petitioner's eighteenth birthday, September 11, 2025, ICE arrested him and detained him at Alligator Alcatraz for one month before transferring him to the Krome Service Processing Center. Petitioner remains at Krome to this day.

12. On November 3, 2025, Petitioner moved the immigration court at Krome Service Processing Center in Miami, Florida, to hold a bond hearing in his case. The immigration court heard arguments regarding this motion on that date and again on November 6 and November 10.

13. During these hearings, the DHS argued that the immigration court lacked jurisdiction to hold a bond hearing because Petitioner was allegedly subject to mandatory detention under 8 U.S.C. § 1225(b).

14. Petitioner argued, through counsel, that the ORR's custody determination was binding absent any change in Petitioner's circumstances. Alternatively, Petitioner argued that as a noncitizen already in the country, his custody was governed by 8 U.S.C. § 1226(a), which provides for discretionary detention and bond eligibility.

15. The immigration judge acknowledged that she is bound by the Board of Immigration Appeals' ("BIA") decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which categorically denies bond eligibility to individuals like Petitioner, based solely on manner of entry.

16. The DHS emphasized at the November 10 hearing that if the immigration judge granted Petitioner's motion for a bond hearing, it would appeal the decision, and Petitioner would remain detained pending that appeal.

17. On November 12, 2025, the immigration judge denied Petitioner's motion for a custody redetermination hearing because he is "subject to mandatory detention."

18. Appealing a bond determination does not stay removal proceedings. *See* 8 C.F.R. §§ 1003.19(d), 1236.1(d)(4). Because removal proceedings will continue in Petitioner's case regardless of the status of his bond motion, the immigration judge scheduled Petitioner's next master calendar hearing on December 3, 2025.

19. This petition for a writ of habeas corpus challenges the legal basis for Respondents continuing to hold Petitioner without affording him an individualized custody determination on the theory that he is subject to mandatory detention under 8 U.S.C. § 1225(b).

20. That theory is incorrect. Petitioner is in removal proceedings, and as a noncitizen already in the country, his custody is governed by 8 U.S.C. § 1226(a), which provides for discretionary detention and bond eligibility. Treating him as mandatorily detained under § 1225 conflicts with the statutory text, structure, and long-standing practice.

21. The government's recent policy shift—culminating in agency guidance and the BIA's decision in *Yajure Hurtado*, 29 I. & N. Dec. 216—categorically denies bond eligibility to individuals like Petitioner based solely on manner of entry. Applied here, that approach forecloses a neutral, individualized assessment despite Petitioner's ability to show that he continues to pose no danger to the community and no flight risk.

22. This Court has rejected the BIA's reasoning in *Matter of Yajure Hurtado* and declined to follow it in granting habeas relief to petitioners in the Southern District of Florida. *See, e.g.*, *Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *5 (S.D. Fla. Oct. 15, 2025) ("This Court likewise declines to follow *Matter of Yajure Hurtado*, whose interpretation of § 1225 is at odds with the text of § 1225 and § 1226, is inconsistent with earlier BIA decisions, and renders superfluous the recent Laken Riley Act amendments to § 1226(c)."); *Puga v. Ass't Field Office Dir.*, No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369, at *5 (S.D. Fla. Oct. 15, 2025) ("[T]he Court finds that section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A). Petitioner is entitled to an individualized bond hearing as a detainee under section 1226(a).").

23. Petitioner therefore seeks habeas relief to hold that § 1226(a) governs his custody and to order Respondents to release Petitioner or at least provide him the individualized custody redetermination hearing before an immigration judge to which he is statutorily and constitutionally entitled.

JURISDICTION AND VENUE

24. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241 (habeas corpus); 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. § 1331 (federal question); and 28 U.S.C. § 2201 (declaratory relief).

25. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. § 2241 because Petitioner is detained at the Krome North Service Processing Center in Miami, Florida under the jurisdiction of the ICE Miami Field Office.

EXHAUSTION

26. Administrative exhaustion, which is a prudential doctrine in habeas cases, does not apply in this case due to futility. *Puga*, No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369, at *2 ("Since the result of Petitioner's custody redetermination and any subsequent bond appeal to the BIA is nearly a foregone conclusion under *Matter of Yajure Hurtado*, any prudential exhaustion requirements are excused for futility.").

REQUIREMENTS OF 28 U.S.C. § 2243

27. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) 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.* (emphasis added).

28. 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

29. Petitioner, **FERNANDO JOSUE ARDON-QUIROZ**, is a native and citizen of Honduras who last entered the United States on July 27, 2022, and has a pending application for SIJS with USCIS. He is currently detained in ICE custody at the Krome North Service Processing Center in Miami, Florida.

30. Respondent **ASSISTANT FIELD OFFICE DIRECTOR**, Krome North Service Processing Center, U.S. Immigration and Customs Enforcement, is sued in his or her official capacity as the official responsible for overseeing Krome North Service Processing Center, the facility where Petitioner is currently detained. The individual who occupies this position is not publicly disclosed. This Respondent is a legal custodian of Petitioner and is sued in his or her official capacity.

31. Respondent **FIELD OFFICE DIRECTOR**, Miami Field Office, U.S. Immigration and Customs Enforcement, is sued in his or her official capacity. The Miami Field Office is the Field Office that oversees the Krome North Service Processing Center in Miami, Florida, where Petitioner is currently detained.

LEGAL FRAMEWORK FOR IMMIGRATION DETENTION

32. The Immigration and Nationality Act ("INA") prescribes two statutory sections that govern a noncitizen's detention prior to a final order of removal: 8 U.S.C. §§ 1225 and 1226.

33. The detention provisions at 8 U.S.C. § 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.

34. 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard non-expedited removal proceedings before an immigration judge. *See* 8 U.S.C. § 1229a. Individuals detained under the authority of § 1226(a) are entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d).

35. 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).

36. Following 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) ("Despite 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 . . . The effect of this change is that inadmissible [noncitizens], except for arriving [noncitizens], have available to them bond redetermination hearings before an immigration judge, while arriving [noncitizens] do not. This procedure maintains the *status quo* . . .").

37. Thus, in the decades that followed, most people who entered without inspection—unless they were subject to some other detention authority—received bond hearings. 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 Immigration Judge 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)).

38. Respondents' new policy turns this well-established understanding on its head and violates the statutory scheme.

39. Indeed, prior to the BIA's change in position, this legal theory that noncitizens who entered the United States without admission or parole are ineligible for bond hearings was already rejected by a District Court in the Western District of Washington, finding that such individuals are entitled to bond redetermination hearings before immigration judges, and rejecting the application of § 1225(b)(2) to such cases. *Rodriguez v. Bostock*, No. 3:25-CV-05240 TMC, 2025 WL 1193850, at *12 (W.D. Wash. Apr. 24, 2025).

40. Despite this finding from a federal court, on July 8, 2025, ICE released a memorandum instructing its attorneys to coordinate with the Department of Justice, the agency housing EOIR, to reject bond redetermination hearings for applicants who arrived in the United States without documents.

41. On September 5, 2025, the BIA issued an opinion adopting this approach to the detention statutes, *see Matter of Yajure Hurtado*, 29 I. & N. Dec. at 220, further entrenching the government's interpretation of the governing detention statutes. Because this decision is precedential, it is binding on immigration judges (absent contrary instructions from a federal court sitting in habeas).

42. This interpretation defies the INA. The plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.

43. 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, which "decid[e] the inadmissibility or deportability of a[] [noncitizen]."

44. 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). 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.

45. 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).

46. The government's interpretation subjects all inadmissible noncitizens to 8 U.S.C. § 1225 and its mandatory detention provisions. But such a reading renders superfluous significant portions of 8 U.S.C. § 1226(c) that reference inadmissible noncitizens, including 8 U.S.C. § 1226(c)(1)(E) that Congress enacted just months ago by passing the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

47. The new subsection makes a noncitizen subject to mandatory detention if he (i) is inadmissible under 8 U.S.C. §§ 1182(a)(6)(A), (6)(C), or (7) (the "inadmissibility criterion"); "and" (ii) is charged with, arrested for, convicted of, or admits to committing certain crimes (the "criminal conduct criterion"). 8 U.S.C. § 1226(c)(1)(E) (emphasis added). By using the conjunction "and," the provision mandates detention only where the inadmissibility criterion and the criminal conduct criterion are both satisfied.

48. Accordingly, the mandatory detention provision of § 1225(b)(2) does not apply to people like Petitioner who are alleged to have entered the United States without admission or parole.

FACTUAL ALLEGATIONS AND RELEVANT BACKGROUND

49. Upon arrival to the United States in July 2022, the DHS identified Mr. Ardon Quiroz as a UC from Honduras.

50. Shortly thereafter, the DHS transferred Petitioner to the ORR, who determined that Petitioner was not a flight risk or danger to the community, and released him from federal custody. There have been no changes to Mr. Ardon Quiroz's circumstances, such as accrued criminal history, undermining this determination.

51. On April 28, 2025, ICE commenced removal proceedings against Mr. Ardon Quiroz, and scheduled a preliminary hearing for March 30, 2026, before the Orlando, Florida immigration court.

52. When Mr. Ardon Quiroz became statutorily eligible for SIJS, he filed an application for such status, which remains pending with the USCIS. Once the USCIS grants this application and a visa becomes available, Mr. Ardon Quiroz can acquire lawful permanent residence.

53. Despite the ORR's prior determination that Mr. Ardon Quiroz need not be detained, the DHS's classification of Mr. Ardon Quiroz as a UC, and Mr. Ardon Quiroz's pending petition for SIJS, ICE arrested and detained him on his eighteenth birthday, September 11, 2025.

54. ICE detained Mr. Ardon Quiroz at Alligator Alcatraz for one month before transferring him to the Krome Service Processing Center, where he remains detained.

55. As of November 10, 2025, Mr. Ardon Quiroz has not been provided any written explanation of the basis for his detention, nor any other documents from ICE regarding his

detention or immigration proceedings.

56. Mr. Ardon Quiroz moved for a bond hearing before an immigration judge at the Krome Service Processing Center, which the immigration judge denied on November 12, 2025.

57. Regardless of any appeal of the immigration judge's decision, Mr. Ardon Quiroz will remain in detention pending the appeal. Under *Yajure Hurtado*, it is virtually certain that the Board will affirm the immigration judge's determination and conclude that Mr. Ardon Quiroz is a mandatory detainee because of the manner of his entry.

58. Mr. Ardon Quiroz's removal proceedings will recommence on December 3, 2025, regardless of the appeal of his motion for bond.

CAUSES OF ACTION

COUNT ONE

Violation of 8 U.S.C. § 1226(a)

Unlawful Denial of Bond Hearing

59. Petitioner incorporates paragraphs 1 to 58 as if fully stated herein.

60. ICE's continued detention of Mr. Ardon Quiroz without the opportunity for him to obtain a bond hearing on the theory that he is subject to mandatory detention under 8 U.S.C. § 1225 contravenes the INA.

61. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted or paroled.

62. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231. The application of § 1225(b)(2) to bar Petitioner from receiving a custody redetermination hearing before an immigration judge violates the INA.

63. Rather, § 1225 applies to noncitizens actively "seeking admission" at the border or its immediate functional equivalent. By contrast, § 1226 governs the arrest and detention of those "already in the country" pursuant to a warrant issued by the Attorney General. The two provisions are mutually exclusive. *See Jennings v. Rodriguez*, 583 U.S. 281, 288-89 (2018).

64. Even if Petitioner appeals the immigration judge's denial of his bond motion, the DHS will detain Petitioner pending the appeal. Considering the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. at 220, the DHS is virtually guaranteed to win the appeal.

65. In *Matter of Yajure Hurtado*, the BIA held that all noncitizens who entered the United States without admission or parole, like Petitioner, are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and are ineligible for bond hearings. It constitutes the BIA's affirmation of Respondents' faulty reimagining of the governing detention statutes.

66. This Court has rejected the BIA's reasoning in *Matter of Yajure Hurtado* and declined to follow it in granting habeas relief to petitioners in the Southern District of Florida. *See, e.g.*, *Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *5 (S.D. Fla. Oct. 15, 2025); *Puga v. Ass't Field Office Dir.*, No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369, at *5 (S.D. Fla. Oct. 15, 2025).

67. Numerous other federal courts have ruled that the BIA's decision is not entitled to any deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024), and have overwhelmingly rejected the BIA's decision in *Yajure Hurtado*, concluding it is contrary to law. *See, e.g.*, *Antonio Aguirre Villa v. Normand*, No. 5:25-cv-89, 2025 LX 442534, at *35-36 (S.D. Ga. Nov. 4, 2025) ("I conclude Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2) . . . Thus, Petitioner's detention based on 8 U.S.C. § 1225(b)(2) is unlawful. Any immigration court order which has relied on this misinterpretation to continue to detain Petitioner

is contrary to the INA, and therefore, § 2241 relief is proper."); *J.A.M. v. Streeval*, No. 4:25-cv-342 (CDL), 2025 LX 418115, at *14-16 (M.D. Ga. Nov. 1, 2025) (rejecting the government's arguments, which largely parrot the rationale in *Yajure Hurtado* . . . [to] conclude[] that § 1226(a), not § 1225(b)(2), applies" to immigrants like Petitioner, and ordering the immigration court to grant a bond hearing); *Garcia v. Noem*, No. 2:25-cv-00879-SPC-NPM, 2025 LX 400655, at *11 (M.D. Fla. Oct. 31, 2025) ("Since DHS's change in policy, courts in this District and around the country have rejected its new interpretation of the INA. This Court agrees with the growing consensus.").[1]

[1] The overwhelming majority of United States Federal District Courts outside of the Eleventh Circuit have drawn the same conclusion. *See, e.g., Hernandez Lopez v. Hardin*, No. 2:25-cv-830-KCD-NPM, 2025 U.S. Dist. LEXIS 212865, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025); *Aguilar Guerra v. Joyce*, 2:25-cv-534-SDN, 2025 U.S. Dist. LEXIS 208608, 2025 WL 2986316 (D. Maine Oct. 23, 2025); *Contreras Maldonado v. Cabezas*, No. 25-cv-13004, 2025 U.S. Dist. LEXIS 208752, 2025 WL 2985256 (D. N.J. Oct. 23, 2025); *Gomez Garcia v. Noem*, No. 5:25-cv-02771-ODW (PDx), 2025 U.S. Dist. LEXIS 209286, 2025 WL 2986672 (C.D. Cal. Oct. 22, 2025); *Loa Caballero v. Baltazar*, No. 25-cv-03120-NYW, 2025 U.S. Dist. LEXIS 208290, 2025 WL 2977650 (D.Colo. Oct. 22, 2025); *Ochoa Ochoa v. Noem*, No. 25-CV-10865, 2025 U.S. Dist. LEXIS 204142, 2025 WL 2938779 (N.D. Ill. Oct. 16, 2025); *N.A. v. Larose*, No. 25-cv-2384-RSH-BLM, 2025 U.S. Dist. LEXIS 198688, 2025 WL 2841989 (S.D. Cal. Oct. 7, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 U.S. Dist. LEXIS 188232, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 U.S. Dist. LEXIS 175513, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 U.S. Dist. LEXIS 175767, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 U.S. Dist. LEXIS 174828, 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Garcia v. Noem*, No. 25-cv-02180-DMS-MM, 2025 U.S. Dist. LEXIS 171714, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 U.S. Dist. LEXIS 169423, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 U.S. Dist. LEXIS 167280, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 U.S. Dist. LEXIS 165015, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 U.S. Dist. LEXIS 163056, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Samb v. Joyce*, No. 25 Civ. 6373 (DEH), 2025 U.S. Dist. LEXIS 161109, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 U.S. Dist. LEXIS 160622, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 U.S. Dist. LEXIS 158808, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Maldonado v. Olson*, No. 25-cv-03142-SRN-SGE, 2025 U.S. Dist. LEXIS 158321, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Lopez Benitez v. Francis*, No. 25 Civ. 5937 (DEH), 2025 U.S. Dist. LEXIS 157214, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Rosado v. Figueroa*, No. 25-CV-02157-PHX-DLR (CDB), 2025 U.S. Dist. LEXIS 156344, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. 25-CV-02157-PHX-DLR (CDB), 2025 U.S. Dist. LEXIS 156336, 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Diaz Martinez v. Hyde*, No. 25-CV-11613-BEM, 2025 U.S. Dist. LEXIS 141724,

68. Because *Matter of Yajure Hurtado* is binding agency law, Petitioner has been denied a custody redetermination hearing by the immigration judge at Krome Processing Center, to which he is entitled as an individual subject to detention under 8 U.S.C. § 1226(a).

69. Petitioner was not "seeking admission" within the meaning of § 1225(b) but was "already in the country" within the meaning of *Jennings*, 583 U.S. at 288–89. His custody is governed by § 1226(a), under which detention is discretionary and subject to individualized bond hearings.

70. The Court should, at a minimum, order Respondents to grant an individualized bond hearing consistent with long-standing practice.

COUNT TWO

Due Process Violation

71. Petitioner incorporates paragraphs 1 to 58 as if fully stated herein

72. ICE's continued detention of Mr. Ardon Quiroz without the opportunity for him to obtain a bond hearing on the theory that he is subject to mandatory detention under 8 U.S.C. § 1225 contravenes Due Process.

73. 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." *Black v. Decker*, 103 F.4th 133, 143 (2d Cir. 2024) (quoting *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001)); accord *Trump v. J. G. G.*, 604 U.S. 670, 673 (2025) (" 'It is well established that the Fifth Amendment entitles aliens to due process of law' in the context of removal proceedings.") (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)).

74. The Fifth Amendment forbids deprivation of liberty without notice and a

---

2025 WL 2084238 (D. Mass. July 24, 2025); *Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 U.S. Dist. LEXIS 128085, 2025 WL 1869299 (D. Mass. July 7, 2025).

meaningful opportunity to be heard before a neutral decision-maker.

75. To determine whether civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the three-part test articulated in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under that test, courts must weigh (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

76. Applying the *Mathews* test, Petitioner's liberty interest is paramount, and the risk of erroneous deprivation is extreme considering that Petitioner, who has no criminal history in the United States, and whom the ORR has already determined is not a flight risk or danger to the community, is not subject to mandatory detention under 8 U.S.C. § 1226(c). Likewise, the risk of erroneous deprivation of liberty is great due to the lack of a non-independent adjudicator. *Marcello v. Bonds*, 349 U.S. 302, 305-06 (1955).

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(a) Assume jurisdiction over this matter;

(b) Grant the writ of habeas corpus and order that Respondents release Petitioner from immigration detention, or at minimum order a custody redetermination hearing consistent with 8 U.S.C. § 1226(a);

(c) Enjoin the Respondents from transferring Petitioner outside the jurisdiction of the U.S. District Court for the Southern District of Florida;

(d) Award petitioner costs and reasonable attorneys' fees in this action as provided for by the Equal Access to Justice Act, 28 U.S.C. § 2412; and

(e) Grant any additional relief that this Court deems just and proper.

Dated: November 13, 2025

Respectfully submitted,

s/ Mark Andrew Prada
Fla. Bar No. 91997
s/ Maitte Barrientos
Fla. Bar No. 1010180
Prada Dominguez, PLLC
12940 SW 128 Street, Suite 203
Miami, FL 33186
c. 786.238.2222
o. 786.703.2061
mprada@pradadominguez.com
maitte@pradadominguez.com

s/ Cassandra DeCoste*
Fla. Bar No. 1019992
s/ Ashley Hamill*
Fla. Bar No. 1022547
Family and Immigration Rights Center
P.O. Box 11331
Tallahassee, FL 32302
c. 850.619.2047
c. 850.841.9925
o. 850.739.0017
cdecoste@firclaw.org
ahamill@firclaw.org

*Applications for Admission
Pro Hac Vice Forthcoming

Counsel for Petitioner

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

I represent Petitioner, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

Dated: November 13, 2025

s/ Mark Andrew Prada
Fla. Bar No. 91997