

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

RAYMUNDO FLORES CASTIZO, )  
)  
Petitioner )  
)  
vs. )  
)  
PAMELA BONDI, in her official capacity as )  
Attorney General of the United States, KRISTI )  
NOEM, in her official capacity as Secretary of )  
the Department of Homeland Security, TODD )  
LYONS, in his official capacity as Acting Director )  
of Immigration and Customs Enforcement; )  
GARRETT RIPA, in his official capacity as Field )  
Office Director of Immigration and Customs )  
Enforcement's Enforcement and Removal )  
Operations Miami Field Office; MATTHEW )  
MORDANT, in his official capacity as Warden of )  
Florida Soft Side South, )  
)  
Respondents. )  
)

Case No.: \_\_\_\_\_

Agency File: 

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

Raymundo Flores Castizo, hereinafter “Mr. Flores” or “Petitioner,” by and through undersigned counsel, files this Petition for Writ of Habeas Corpus, and in support thereof, alleges as follows:

### INTRODUCTION

1. Petitioner Raymundo Flores Castizo is in the physical custody of Respondents at the Florida Soft Side South, aka “Alligator Alcatraz”. He now faces unlawful detention because new DHS policy and precedent from the Board of Immigration Appeals (BIA or Board) hold that any person who entered the United States without admission is subject to mandatory detention.
2. The Department of Homeland Security (“DHS”) is yet to file formal charges against Petitioner.
3. Pursuant to new DHS policy issued on July 8, 2025, all Immigration and Customs Enforcement (ICE) employees 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.
4. Similarly, on September 5, 2025, the Board issued another decision, 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.

5. 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 are detained years after their entry. Instead, such individuals are subject to § 1226(a), which allows for release on conditional parole or bond.
6. 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.
7. In prior litigation, including oral argument before the Supreme Court in *Jennings v. Rodriguez*, the Government argued that individuals who entered without inspection but were not apprehended near the border or shortly thereafter were detained under § 1226(a), not § 1225(b)(2)(A), and courts accepted that interpretation. The Government now reverses course and contends that such individuals are instead subject to mandatory detention under § 1225(b)(2)(A), thereby denying them access to bond hearings. This inconsistency undermines the integrity of the agency's current interpretation and further supports that § 1225(b)(2)(A) was never intended to apply to

persons already residing in the United States at the time of apprehension, like Petitioner.

8. 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.
9. Petitioner further requests this Court to order Respondents to show cause demonstrating why he should not be released within three days given his unlawful detention. 28 U.S.C. § 2243.

### **JURISDICTION**

10. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Florida Soft Side South, aka “Alligator Alcatraz”.
11. 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).
12. 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**

13. 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 Middle

District of Florida, the judicial district in which Petitioner currently is detained.

14. Venue is proper in this District under 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Florida.

#### **EXHAUSTION OF ADMINISTRATIVE REMEDIES**

15. Administrative exhaustion of remedies in a § 2241 proceeding is not a jurisdictional requirement. *Santiago-Lugo v. Warden*, 785 F.3d 467, 474-75 (11th Cir. 2015) (abrogating *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir.2001)).

16. Further, there is no statutory exhaustion of administrative remedies where a noncitizen challenges the lawfulness of his detention. Cf. 8 U.S.C. § 1252(d)(1) (requiring exhaustion of administrative remedies only where requesting review of a final order of removal).

17. “[W]here Congress has not clearly required exhaustion, sound judicial discretion governs.” *Jones v. Zenk*, 495 F. Supp. 2d 1289, 1297 (N.D. Ga. 2007) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)). As a matter of discretion, exhaustion of administrative remedies should therefore be waived “(1) where prejudice to the prisoner’s subsequent court action ‘may

result, for example, from an unreasonable or indefinite timeframe for administrative action’; (2) where the administrative agency may not have the authority ‘to grant effective relief’; or (3) ‘where the administrative body is shown to be biased or has otherwise predetermined the issue before it.’” *Jones*, 495 F. Supp. 2d at 1297 (citing *McCarthy*, 503 U.S. at 146-48). See also *Woodford v. Ngo*, 548 U.S. 81, 103 (2006) (Breyer, J. concurring) (noting “well-established exceptions to exhaustion” that include constitutional claims, futility, hardship to the petitioner, and where administrative remedies are inadequate or unavailable) (citations omitted)).

18. In making its discretionary decision, the Court should consider the urgency of the need for immediate review. “Where a person is detained by executive order . . . the need for collateral review is most pressing. . . . In this context the need for habeas corpus is more urgent.” *Boumediene v. Bush*, 553 U.S. 723, 783 (2008) (waiving administrative exhaustion for executive detainees).

19. Petitioner’s constitutional challenge to his detention is exempt from administrative exhaustion requirements. See *Woodford v. Ngo*, 548 U.S. 81, 103 (Breyer, J. concurring) (constitutional claims are exempt from administrative exhaustion); see also *Khan v. Atty. Gen. of U.S.*, 448 F.3d 226, 236 n.8 (3d Cir. 2006) (internal quotation omitted) (“[D]ue process claims generally are exempt from the exhaustion requirement because the BIA does

not have jurisdiction to adjudicate constitutional issues.”); *United States v. Gonzalez-Roque*, 301 F.3d 39, 48 (2d Cir. 2002) (“[T]he BIA does not have jurisdiction to adjudicate constitutional issues . . . .” (quoting *Vargas v. U.S. Dep’t of Immigration & Naturalization*, 831 F.2d 906, 908 (9th Cir. 1987))).

20. Further, administrative exhaustion before the immigration judge and the BIA would be futile. Exhaustion is futile where the agency has “predetermined the issue before it.” *McCarthy*, 503 U.S. at 148. The BIA has predetermined the issue here. The BIA has held that immigration judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission. See *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2026). This decision is binding on immigration courts across the country. Therefore, exhaustion would be futile, and the Court should waive its requirement as a matter of discretion.

### **REQUIREMENTS OF 28 U.S.C. § 2243**

21. 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.*

22. 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**

23. Petitioner, Mr. Raymundo Flores Castizo, is a native and citizen of Mexico. He is currently detained at Alligator Alcatraz in Ochopee, Florida. He is in custody, and under the direct control, of Respondents and their agents.

24. Respondent, Ms. Pamela Bondi, is the United States Attorney General. She oversees the immigration court system, which is housed within the Executive Office for Immigration Review (“EOIR”) and includes all Immigration Judges and the Board of Immigration Appeals (“BIA”). She is sued in her official capacity.

25. Respondent, Ms. Kristi Noem, is the United States Secretary of Homeland Security. DHS oversees ICE, which is responsible for administering and enforcing the immigration laws. Secretary Noem is the ultimate legal custodian of Petitioner. She is sued in her official capacity.

26. Respondent, Mr. Todd Lyons, is the 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. Flores and confine him pending removal. As such, he is a custodian of Mr. Flores. He is sued in his official capacity.

27. Respondent, Garrett Ripa, is the Field Office Director of Immigration and Customs Enforcement's Enforcement and Removal Operations for the Miami Field Office. He is the federal agent responsible for the administration of immigration laws and the execution of immigration confinement and the institution of removal proceedings within Florida, which is the jurisdiction where Mr. Flores is confined. As such, he is a custodian of Mr. Flores. He is sued in his official capacity.

28. Respondent, Matthew Mordant, is the Warden of Alligator Alcatraz. He is responsible for the immediate execution of detention over Petitioner. As such, he is a custodian of Mr. Flores. He is sued in his official capacity.

### **LEGAL FRAMEWORK**

29. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings.

30. First, 8 U.S.C. § 1226 authorizes that "on a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether

the alien is to be removed from the United States.” 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).

31. 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).

32. 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).

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

34. 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).

35. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining 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.” *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).

36. Thus, in the decades that followed, most people who were apprehended within the borders of the United States 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)).

37. In *Jennings v. Rodriguez*, the Department of Homeland Security (“DHS”) confirmed that individuals who have entered the United States and are not apprehended near the border or shortly after entry are detained under 8 U.S.C. § 1226(a), not under the mandatory detention provision of § 1225(b). *Jennings v. Rodriguez*, 583 U.S. 281 (2018). During oral argument on November 30, 2016, then-Solicitor General Ian Gershengorn clarified that if an individual “is not detained within 100 miles of the border or within 14 days,” then that person “is under 1226(a)” rather than § 1226(c). When asked about “an alien who has

come into the United States illegally without being admitted [and] who takes up residence 50 miles from the border,” the Government responded, “The answer is they are held under 1226(a) and that they get a bond hearing.” Transcript of Oral Argument at 7–8. DHS further reiterated that such individuals “would be held under 1226(a)” and cited the administrative record in support of that interpretation. *Id.* These prior statements confirm that § 1226(a), not § 1225(b)(2)(A), applies to noncitizens who have long resided in the United States prior to apprehension—such as Petitioner—reinforcing that mandatory detention under § 1225(b)(2)(A) is inapplicable in this case.

38. 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 normative agency practice.

39. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”<sup>1</sup> 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.

---

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

40. 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 without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

41. 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 interpretation of the statute as ICE.

42. 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).

43. Subsequently, several courts have 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); *Santana-Rivas v. Warden of Clinton County Correctional Facility*, No. 3:25-cv-01896-JPW, 2025 (M.D. Pa. Nov. 13, 2025) (same).

44. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it contradicts 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.

45. “Courts have noted that Respondents’ interpretation of the phrase ‘seeking admission’ ‘violates the rule against surplusage and negates the plain meaning of the text.’” *Santana-Rivas*, No. 3:25-cv-01896-JPW, at \*27-28 (citing *Soto v. Soto, et. al.*, No. 25-16200, 2025 U.S. Dist. LEXIS 207818, at \*9 (D.N.J. Oct. 22; *Martinez v. Hyde*, No. 25-11613, 2025 U.S. Dist. LEXIS 141724, at \*6 (D. Mass. July 24, 2025); *Zumba v. Bondi*, No. 25-14626, 2025 U.S. Dist.

LEXIS 190052, at \*8; *Benitez v. Francis*, No.25-5937, 2025 U.S. Dist. LEXIS 157214, at \*16 (S.D.N.Y. Aug. 8, 2025). “The phrase ‘seeking admission’ in § 1225(b)(2)(A) necessarily connotes some affirmative, present-tense action.” *Santana-Rivas*, No. 3:25-cv-01896-JPW, at \*28. “The verb ‘seeking’ is a present participle, and the ‘present participle is used to signal present and continuing action.’” *Id.* (quoting *Westchester Gen. Hosp., Inc. v. Evanston Ins. Co.*, 48 F.4th 1298, 1307 (11th Cir. 2022); *D.L. Markham DDS, MSD, Inc. 401(K) Plan v. Variable Annuity Life Ins. Co.*, 88 F.4th 602, 610 (5th Cir. 2023) (“The word ‘providing,’ used here as a present participle, most commonly describes a person who is currently providing services.”) (*emphasis in original*); *United States v. Hull*, 456 F.3d 133, 145 (3d Cir. 2006) (Ackerman, Sr. Dist. J., sitting by designation, concurring) (“Congress’s use of the present participle ‘committing’ connotes present, continuing action.”)).

46. “The INA defines the term ‘admission’ as, ‘with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer.’” *Santana-Rivas*, No. 3:25-cv-01896-JPW, at \*28-29 (quoting 8 U.S.C. § 1101(a)(13)(A)). “Thus, the INA’s own definition of the term ‘admission’ supports the limited application of § 1225 to encounters with aliens along the borders and at ports of entry.” *Id.* at \*29.

47. Here, Petitioner cannot be said to be “seeking admission” as defined in § 1101(a)(13)(A). Petitioner “‘has already ‘entered’ the country’— [he] is no longer seeking to enter the United States (lawfully or otherwise).” *Santana-Rivas*, No. 3:25-cv-01896-JPW, at \*29 (quoting *Jimenez*, 2025 U.S. Dist. LEXIS 176165, at \*22, citing *Benitez*, 2025 U.S. Dist. LEXIS 157214, at \*19).

48. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection or admission. *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.

49. Section 1226 therefore leaves no doubt that it applies to people who are present without admission or parole.

50. Section 1225(b) applies only to people encountered at U.S. ports of entry or otherwise “seeking admission,” and its mandatory detention system explicitly relies on inspection at the border. 8 U.S.C. § 1225(b)(2)(A). According to the Supreme Court, the mandatory detention authority

pursuant to § 1225(b) functions “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) (reversing the decision of the lower court in finding an implausible construction of §§ 1225(b)(1), (b)(2), and 1226(c)). In contrast, § 1226 pertains only “to the process of arresting and detaining noncitizens who live ‘inside the United States’ but may still be removed,” including individuals “who were inadmissible at the time of entry.” *Id.* at 288. *Jennings* harmonizes the two statutes in a concise statement: “In sum, U.S. immigration law authorizes the Government to detain certain [noncitizens] seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain [noncitizens] already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c).” *Id.* at 289 (emphasis added).

51. 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.

52. Therefore, 8 U.S.C. § 1226 is the appropriate governing framework in this case.

## **UNDERLYING FACTS AND PROCEDURAL HISTORY OF THE CASE**

53. Petitioner last entered the United States approximately in 2006 without inspection and has not left the country since. Before this entry, he crossed the border without inspection as a minor in 1995, again in 2001 (when he was briefly encountered and returned at or near the border, apparently through a voluntary return), again in 2001 without inspection, and again in 2006 (when he was once more encountered and likely voluntarily returned). Petitioner does not possess records of these encounters but, based on his recollection and understanding, he was never served with a Notice to Appear or any formal order of removal.

54. On or about November 5, 2025, Mr. Flores was arrested by law enforcement in Florida while driving. To his knowledge, he was not charged with any traffic or criminal offense. Mr. Flores holds a valid driver license from California. ICE then took custody of Mr. Flores from the sheriff's office.

55. To date, DHS has not filed a Notice to Appear initiating proceedings against Petitioner with the Immigration Court.

56. Petitioner has deep ties to the United States, including his adult United States citizen son, his DACA recipient siblings, and his parents, who lack immigration status. Petitioner's mother suffers from diabetes, high blood pressure, and high cholesterol; his father sustained a debilitating stroke that left

him unable to work and with significant mobility limitations. Petitioner has been consistently and gainfully employed and is well-regarded in his community. His only contacts with law enforcement consist of minor traffic violations, including driving without a valid driver license and careless driving. His history of compliance, family ties, and absence of any meaningful criminal record confirm that he is neither a danger to the community nor a flight risk.

57. However, under *Matter of Yajure Hurtado*, the immigration judge currently lacks authority to adjudicate any request for bond that Petitioner could file.

58. As a result, Petitioner remains detained at Alligator Alcatraz, a facility that is subject to ongoing lawsuits and litigation for alleged inhumane conditions. Without intervention from this Court, he faces the prospect of prolonged detention lasting months or even years, separated from his family and community.

## **CAUSES OF ACTION**

### **COUNT ONE**

#### **Violation of the INA**

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

60. 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 by Respondents. Such noncitizens are detained under § 1226(a), unless they are subject to § 1225(b)(1), § 1226(c), or § 1231.

61. Respondents' current position also conflicts with arguments previously advanced by the Government before the Supreme Court, including in *Jennings v. Rodriguez* (No. 15-1204, Oral Arg. Tr. at 7–8 (Nov. 30, 2016)), where the Government maintained that individuals who entered without inspection but were not apprehended near the border or shortly thereafter were detained under § 1226(a), not § 1225(b)(2)(A). Courts accepted that interpretation. Their present argument departs from that position, further demonstrating that § 1225(b)(2)(A) was not intended to apply to persons already residing in the United States at the time of apprehension, like Petitioner. This inconsistency supports the conclusion that Petitioner is improperly subject to mandatory detention and should instead be eligible for bond consideration under § 1226(a).

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

### **COUNT TWO**

#### **Violation of Fifth Amendment Right to Procedural Due Process**

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

64. It has long been established that aliens, even if in the United States unlawfully, are entitled to due process of law under the Fifth Amendment. *See Mathews*

*v. Diaz*, 426 U.S. 67, 77 (1976) (“Even one whose presence in this country is unlawful, involuntary, or transitory is entitled to th[e] constitutional protection [of the Due Process Clause]”); *see also Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (“It is well established that certain constitutional protections available to persons inside the United States are unavailable to aliens outside of our geographic borders. But once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent”).

65. The Due Process Clause of the Fifth Amendment prohibits the government from depriving individuals of liberty without notice and a meaningful opportunity to be heard. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

66. When the Government interferes with a liberty interest, it must provide constitutionally sufficient procedures. *Ky. Dep’t of Corr. v. Thompson*, 490 U.S. 454, 460 (1989). The adequacy of these 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, including the fiscal and administrative burdens that the additional or substantive procedures would entail. *See Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

67. Applying these factors here demonstrates that the procedures attendant upon Petitioner's detention are constitutionally insufficient.

68. First, Petitioner has a significant interest at stake. Being free from physical detention by one's own government "is the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004). Petitioner is being held at Alligator Alcatraz and is far from his family and community.

69. Second, the risk of erroneous deprivation is extraordinarily high. To his knowledge, Mr. Flores is being detained without a Notice to Appear, without an Order of Expedited Removal, and without any pending proceeding to justify his continued custody. Outside of this Petition for Writ of Habeas Corpus, Mr. Flores has no access to a court with jurisdiction to review the legality of his detention.

70. Third, the Government's interest in detaining Petitioner without a hearing is minimal, if it exists at all. 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. At present, there is no final order of removal against Mr. Flores, to the best of his knowledge, nor any pending proceeding under which DHS is actively pursuing his removal. Thus, the Government's interest in detaining Mr. Flores, absent any operative

legal process, is not only weak but constitutionally insufficient to justify depriving him of his liberty without adequate procedural protections.

71. Thus, Petitioner's detention is inconsistent with due process and the fundamental fairness required by the Fifth Amendment.

### **COUNT THREE**

#### **Violation of Fifth Amendment Right to Substantive Due Process**

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

73. The Fifth Amendment's Due Process Clause not only guarantees procedural safeguards, but also protects individuals against governmental conduct that "shocks the conscience" or interferes with rights implicit in the concept of ordered liberty. *County of Sacramento v. Lewis*, 523 U.S. 833, 846–47 (1998).

74. Civil immigration detention violates due process if it is not reasonably related to its statutory purpose. *Zadvydas*, 533 U.S. 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. *Id.*

75. Preventing flight, which is meant to ensure compliance with court appearances, is not a legitimate concern in Mr. Flores' case. He has never demonstrated any indication of being a flight risk. Mr. Flores has ties to this country and has resided here for decades. Under these circumstances, continued detention cannot be justified on the basis of flight prevention.

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

77. Mr. Flores' 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 Enft.*, 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.").

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

**COUNT FOUR**  
**Violation of the Bond Regulations**

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

80. 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 were present without having been admitted or paroled were eligible for consideration for bond and bond hearings before IJs under 8 U.S.C. § 1226 and its implementing regulations.

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

82. 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.

### **REQUEST FOR RELIEF**

WHEREFORE, Mr. Flores respectfully requests the Court to grant the following relief:

1. Accept jurisdiction over this matter;
2. Order that Mr. Flores shall not be transferred outside the United States District Court for the Middle District of Florida while this habeas petition is pending;
3. 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. Flores should not be granted within three days;

4. Issue a Writ of Habeas Corpus requiring that Respondents release Mr. Flores or, in the alternative, provide Mr. Flores with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;
5. Order Respondents not to re-arrest or detain Mr. Flores under 28 U.S.C. § 1225(b)(2)(A);
6. Declare that Mr. Flores' detention is unlawful;
7. Award Mr. Flores attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
8. Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Liliana Gomez

Liliana Y. Gomez, Esq.

Florida Bar No. 123559

Liliana Y. Gomez, P.A.

5000 SW 75<sup>th</sup> Ave., Suite 400

Miami, FL 33155

786.502.7615 Tel

Liliana@lilianagomezlaw.com

*Counsel for Petitioner*

Dated: November 24, 2025

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

I represent Petitioner, Raymundo Flores Castizo, 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.

Dated this 24<sup>th</sup> day of November of 2025.

s/Liliana Gomez

Liliana Y. Gomez

Florida Bar No. 123559