UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF MICHIGAN
SOUTHERN DIVISION

JOSE ALEXANDER INFANTE RODRIGUEZ, and MANUEL JESUS RICARDO CUZA,

Petitioners,

v.

KEVIN RAYCRAFT, Acting Detroit Field Office Director for U.S. Immigration and Customs Enforcement, in his official capacity; TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement, in his official capacity; and KRISTI NOEM, Secretary of the U.S. Department of Homeland Security, in her official capacity,

Respondents.

Case No. 1:25-cv-1560

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF

INTRODUCTION

1. Petitioners Jose Alexander Infante Rodriguez and Manuel Jesus Ricardo Cuza, who are brothers-in-law and both citizens and nationals of Cuba, are unlawfully detained in the physical and legal custody of Respondents at the North Lake Processing Center in Baldwin, Michigan.

2. The Petitioners were paroled into the United States for a period of two (2) years by U.S. Customs and Border Protection ("CBP"), an agency within the U.S. Department of Homeland Security ("DHS") at a CBP One App appointment at a port of entry on September 23, 2024 pursuant to section 212(d)(5) of the Immigration and Nationality Act, signified by the Class of Admission Code "DT" on their respective I-94 Arrival/Departure Records. **[Exhibit 1 – Original I-94 Arrival/Departure Records]** On that same date, Petitioners were issued Notices to Appear in immigration court. **[Exhibit 2 – Notices to Appear]** Both Petitioners were charged in the Notices to Appear as "Arriving Aliens."

3. Petitioners applied for asylum, withholding of removal and relief under the Convention Against Torture on or about April 14, 2025. **[Exhibit 3 – Proof of Pending Asylum Applications]**

4. Respondent Noem, the Secretary of DHS, ordered a blanket termination of parole issued under the prior Presidential Administration in early 2025, and both Petitioners' 212(d)(5) paroles were terminated early, on April 18, 2025. **[Exhibit 4 – I-94 Arrival/Departure Records Showing Early Termination of Parole]**

5. On October 28, 2025, Petitioners mailed in their Forms I-485, Application to Register Permanent Residence or Adjust Status pursuant to the Cuban Refugee Adjustment Act of November 2, 1966, Pub. L. No. 89-732, 80 Stat. 1161, as amended (the "Cuban Adjustment Act") via the U.S. Postal Service.

6. On information and belief, Petitioners were unlawfully detained by U.S. Immigration and Customs Enforcement ("ICE") that same day, without cause and without a warrant, on their way to their place of employment at which they were employed pursuant to valid I-766, Employment Authorization Documents issued based on their pending asylum applications. **[Exhibit 5 – Employment Authorization Documents]** ICE is an agency within DHS.

7. Between April 18, 2025, the date of the early termination of Petitioners' 8 U.S.C. § 1182(d)(5) parole and October 28, 2025, the date of Petitioners' detention by Respondents, Respondents took no action to return them to custody.

8. On October 30, 2025, U.S. Citizenship and Immigration Services ("USCIS") received Petitioners' Forms I-485, Application to Register Permanent Residence or Adjust Status pursuant to the Cuban Refugee Adjustment Act of November 2, 1966, Pub. L. No. 89-732, 80 Stat. 1161, as amended (the "Cuban Adjustment Act"). **[Exhibit 6 – Proof of Petitioners' pending I-**

485, Application to Register Permanent Residence or Adjust Status] USCIS is an agency within DHS.

9. Both Petitioners are eligible for and are applicants for adjustment of status to lawful permanent residence pursuant to the Cuban Adjustment Act. USCIS has sole jurisdiction over Cuban Adjustment Act applications for "arriving aliens."

10. Respondents purport to unlawfully subject the Petitioners to indefinite, mandatory detention in violation of their Due Process rights under the Constitution, and in violation of the Immigration and Nationality Act ("INA").

11. Subsequent to their detention on October 28, 2025, Petitioners were transferred by the Respondents to the North Lake Processing Center in Baldwin, Michigan, which ICE operates through a contract with The GEO Group, Inc., a company which operates private, for-profit prisons.

12. Petitioners have complied with everything required of them by the Government since their initial entry and humanitarian parole into the United States. It is unclear at the moment why Respondents have subjected the Petitioners to detention; however, in any case, Respondents' detention of Petitioners is unlawful.

13. Respondents have detained the Petitioners based not on their personal circumstances or individualized facts but because of Respondents' incorrect categorical determination that, the Fifth Amendment notwithstanding, noncitizens are not entitled to due process of law.[1]

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[1] *See, e.g.,* NBC News, Meet the Press interview of President Donald Trump (May 4, 2025), https://www.nbcnews.com/politics/trump-administration/read-full-transcript-president-donald-trump-interviewed-meet-press-mod-rcna203514 (in response to a question whether noncitizens deserve due process under the Fifth Amendment, President Trump replied "I don't know. It seems—it might say that, but if you're talking about that, then we'd have to have a million or 2 million or 2 million trials.").

14. But Respondents cannot evade the law so easily. The U.S. Constitution requires the Respondents provide Petitioners at minimum with the rights available to Petitioner when Petitioners filed their applications for asylum after releasing them into the United States and instituting full proceedings in immigration court, as well as their rights to have their applications for lawful permanent residence pursuant to the Cuban Adjustment Act reviewed.

15. To the extent that the Respondents intend to subject the Petitioners to indefinite, mandatory detention throughout the remainder of all his proceedings in the United States based on the BIA's recent precedential decision in *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025) (holding that "all noncitizens who fall within the scope of 8 U.S.C. § 1225(b)(1) (arriving aliens) must be detained under that section and are "ineligible for any subsequent release on bond" under § 1226(a)), the Petitioners' detention is unlawful, in violation of their Due Process rights and the INA.

16. Any characterization of Petitioners' detention as pursuant to 8 U.S.C. § 1225(b) and their detention without bond by ICE is in violation of 8 U.S.C. § 1226(a).

17. Accordingly, to vindicate Petitioners' rights, this Court should grant the instant petition for a writ of habeas corpus. Petitioners ask this Court: (a) to find that Respondents' attempts to detain and transfer Petitioners are arbitrary and capricious and in violation of the law; (b) to immediately issue an order preventing Petitioners' transfer out of this district, or, in the alternative, to retain Respondents Noem and Lynch as proper Respondents to this action; and (c) to order either a bond hearing before an immigration judge or to order the Petitioners' immediate release from detention, or, in the alternative, to show cause in writing within three (3) days why the writ of habeas corpus and other relief requested in the petition should not be granted.

JURISDICTION AND VENUE

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

19. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), the INA, 8 U.S.C. §§ 1101–1537, regulations implementing the INA, and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

20. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

21. The federal government's sovereign immunity does not bar claims against federal officials that seek to prevent violations of federal law (rather than provide monetary relief).

22. Venue is proper because Petitioners are detained in Respondents' custody at the North Lake Processing Center in Baldwin, Michigan. The federal district courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their immigration detention. *See, e.g.*, *Demore v. Kim*, 538 U.S. 510, 516-17 (2003); *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

23. Venue is further proper 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 Western District of Michigan.

24. 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 Western District of Michigan, the judicial district in which the Petitioner is currently detained.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

25. 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).

26. There is no statutory exhaustion requirement in 28 U.S.C § 2241. In the absence of a statutory exhaustion requirement, "prudential" exhaustion may be judicially required. *Island Creek Coal Co. v. Bryan*, 937 F.3d 738, 746 (6th Cir. 2019). Whether or not to require prudential exhaustion falls within this Honorable Court's sound judicial discretion, provided that such discretionary requirement complies with statutory schemes and the intent of Congress. *See Shearson v. Holder*, 725 F.3d 588, 593-594 (6th Cir. 2013) (internal citation/quotation omitted).

27. The United States Court of Appeals for the Sixth Circuit has not yet issued a precedential decision as to whether courts or not should impose administrative exhaustion in the context of a noncitizen's habeas petition for unlawful mandatory detention. *See, e.g., Jose O. Puerto-Hernandez v. Robert Lynch, et al.*, No. 25-1097, 2025 WL 3012033 (W.D. Mich. Oct. 28, 2025) (internal citations omitted).

28. As noted above, the precedential decision issued by the BIA in *Matter of Q. Li* stand for the proposition that the Petitioners are subject to indefinite, mandatory detention and are ineligible for a bond hearing before an immigration judge.

29. The BIA's precedential decisions "serve as precedents in all proceedings involving the same issue or issues." 8 C.F.R. §§ 1003.1(g)(2), (d)(1). Therefore, requiring the Petitioners to seek a bond hearing and, when denied, appeal that denial to the BIA will certainly result in a

holding that anyone who is deemed "[a]n alien present in the United States without being admitted or paroled," will be subjected to mandatory detention without bond under 8 U.S.C. § 1225(b)(2).

30. Moreover, the fundamental question presented by this petition is whether 8 U.S.C. § 1225 or 8 U.S.C. § 1226 applies to the Petitioners' detention, which is a purely legal question of statutory interpretation which would not be impacted by any administrative record developed in immigration court or on appeal to the BIA.

31. This Honorable Court is not bound by and is not required to give deference to any agency interpretation of a statute. *See Loper Bright Enter. v. Raimond*o, 603 U.S. 369, 413 (2024) (holding that federal judges are not required to, and pursuant to the APA are not to defer to an agency interpretation of the law simply because a statute is ambiguous, as that is the role of the federal courts).

32. Finally, the Petitioners' constitutional challenge to their detention does not require exhaustion. The Sixth Circuit has noted that due process challenges, such as the one raised by Petitioners here, generally do not require exhaustion because the BIA cannot review constitutional challenges. *See Sterkaj v. Gonzalez*, 439 F.3d 273, 279 (6th Cir. 2006).

33. Thus, requiring prudential exhaustion is a futile exercise, and will only result in the extended, unlawful detention of the Petitioners.

34. 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 OSC 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.*

35. Petitioners are "in custody" for the purpose of § 2241 because Petitioners are arrested and detained by Respondents.

PARTIES

36. Petitioner Jose Alexander Infante Rodriguez is a 49-year-old citizen of Cuba who has been in immigration detention since October 28, 2025. Petitioner initially entered the United States on September 23, 2024 after appearing for an appointment at a port of entry made via the CBP One App, and was released on CHNV humanitarian parole. **[Exhibit 1 – I-94 Arrival/Departure Record, showing "DT" as the Class of Admission (release pursuant to 8 U.S.C. § 1182(d)(5)].** At the time of his initial parole, the Respondent was admitted through September 22, 2026. However, when the Respondents issued a blanket termination of parole in the first half of 2025, they terminated the Petitioner's parole effective April 18, 2025, and his I-94 Arrival/Departure Record "Admit Until Date" was accordingly shortened to April 18, 2025.

37. Petitioner Manuel Jesus Ricardo Cuza is a 47-year-old citizen of Cuba who has been in immigration detention since October 28, 2025. Petitioner initially entered the United States on September 23, 2024 after appearing for an appointment at a port of entry made via the CBP One App, and was released on CHNV humanitarian parole. **[Exhibit 1– I-94 Arrival/Departure Record, showing "DT" as the Class of Admission (release pursuant to 8 U.S.C. § 1182(d)(5)].** At the time of his initial parole, the Respondent was admitted through September 22, 2026. However, when the Respondents issued a blanket termination of parole in the first half of 2025, they terminated the Petitioner's parole effective April 18, 2025, and his I-94 Arrival/Departure Record "Admit Until Date" was accordingly shortened to April 18, 2025.

38. Petitioners are present within the Western District of Michigan as of the time of filing this petition, as they are currently detained at the North Lake Processing Center in Baldwin, Michigan.

39. Respondent Kevin Raycraft is the Acting Director of the Detroit Field Office of ICE's Enforcement and Removal Operations division, a component of the Department of Homeland Security. As such, he is Petitioner's immediate custodian for purposes of habeas and is responsible for Petitioners' detention and removal. *See Roman v. Ashcroft*, 340 F.3d 314 (6th Cir. 2003). He is sued in his official capacity.

40. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement, the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens, and a component agency of the Department of Homeland Security.

41. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioners' detention. Ms. Noem has ultimate custodial authority over Petitioners and is sued in her official capacity.

LEGAL FRAMEWORK

Release and Indefinite, Mandatory Detention

42. As this Honorable Court has jurisdiction over this Petition for a Writ of Habeas Corpus, it must next determine whether the Petitioners' detention is governed by the mandatory detention provisions in 8 U.S.C. § 1225(b)(2) or the discretionary detention provisions in 8 U.S.C. § 1226(a).

43. Noncitizens detained under Section 1225(b)(2) **must remain in custody for the duration of their removal proceedings**, while those detained under Section 1226(a) are entitled to a bond hearing before an IJ at any time before entry of a final removal order." *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239, 1247 (W.D. Wash. 2025).

44. At the time of the Petitioners' initial parole into the United States on September 23, 2023, there is no question that they were paroled in pursuant to enter pursuant to 8 U.S.C. § 1182(d)(5)(A), and that such parole was issued in the discretion of the Secretary of DHS. **[Exhibit 1]**

45. It is undisputed that "…when the purposes of such parole shall, in the opinion of the Secretary of Homeland Security, have been served the alien **shall forthwith** return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." 8 U.S.C. § 1182(d)(5)(A) (emphasis added).

46. Because parole pursuant to 8 U.S.C. § 1182(d)(5)(A) and the determination of when the purposes of such parole have been served are committed to the discretion of the Secretary of DHS, there is no judicial review of the parole or of its revocation. 8 U.S.C. § 1252(g).

47. The Immigration and Nationality Act does not define "forthwith." However, according to Black's Law Dictionary, the ordinary meaning of "forthwith" is: "1. Immediately; without delay. 2. Directly; promptly; within a reasonable time under the circumstances; with all convenient dispatch." Black's Law Dictionary (10th ed. 2014). Merriam-Webster defines "forthwith" as "without any delay" or "immediately." The Oxford English Dictionary defines "forthwith" as "Immediately, at once, without delay or interval."

48. It is undisputed that from the termination of Petitioners' humanitarian parole on April 18, 2025, through their collateral arrest without a warrant on October 28, 2025, the Petitioners were not in custody.

49. Thus, the Respondents failed to properly return the Petitioner to custody "forthwith" as required in order to subject him to mandatory detention pursuant to 8 U.S.C. §

1225(b)(2). Having failed to properly return the Petitioner to custody "forthwith" as required by the statute, Respondents cannot now claim that he is detained pursuant to that same statute.

50. For that reason, the Petitioners are subject to detention currently pursuant to 8 U.S.C. § 1225(a)(1), which provides that a noncitizen "present in the United States who has not been admitted or who arrives in the United States . . . shall be deemed for purposes of this chapter an applicant for admission." The statute defines an "applicant for admission" as "[a]n alien present in the United States who has not been admitted or who arrives in the United States . . . ." 8 U.S.C. § 1225(a)(1).

51. In other words, § 1225(b)(2)(A) generally requires mandatory detention of certain "applicant[s] for admission" during their removal proceedings. Individuals subject to mandatory detention under § 1225(b)(2)(A) may, however, be "temporarily released on parole 'for urgent humanitarian reasons or significant public benefit.'" *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018) (quoting § 1182(d)(5)(A)). This parole "shall not be regarded as an admission" of the noncitizen. 8 U.S.C. § 1182(d)(5)(A).

52. Once the purposes of parole have been served, the noncitizen "shall forthwith return or be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission to the United States." *Id.*

53. By contrast, § 1226(a) sets forth "the default rule" for detaining noncitizens "already present in the United States." *Jennings*, 583 U.S. at 303. Section 1226(a) provides that, "[o]n 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." 8 U.S.C. § 1226(a).

54. Unlike § 1225(b)(2)(A), noncitizens who fall under § 1226(a) are not subject to mandatory detention. Pending a removal decision, the Attorney General may continue to detain an arrested noncitizen, release them on bond, or release them on conditional parole, unless they fall within certain exceptions involving criminal offenses and terrorist activities. *See* 8 U.S.C. § 1226(a) (1)-(2), (c).

55. The Respondents have taken the position in courts across the country that § 1226(a), and the possibility of release on bond, only applies to individuals who are present in the country with lawful status but are in removal proceedings. However, section 1226(a) does not contain a requirement of lawful status, and "courts are not free to read into the language [of a statute] what is not there." *See O'Hara v. Nika Techs., Inc.*, 878 F.3d 470, 475 (4th Cir. 2017).

56. Presumably, the Respondents will take the position that the Petitioners in this case are detained pursuant to § 1225(b)(2) because they entered this country as parolees pursuant to 8 U.S.C. § 1182(d)(5). This argument fails.

57. First, the Respondents' treatment of the Petitioners since their parole was terminated by the Secretary of DHS on April 18, 2025 supports the conclusion that they are detained pursuant to § 1226(a). The Petitioners entered the country on September 23, 2023 with their spouses as humanitarian parolees. The Respondents could have, but did not, choose to return the Petitioners and their family to custody "forthwith" when they terminated parole. However, Respondents failed to do so, and thus failed to comply with the "mandatory" detention requirement of 8 U.S.C. § 1225(b)(2).

58. Rather, from April 18, 2025 through October 28, 2025, a period of six months, the Respondents have consistently treated the Petitioners as subject to § 1226(a) up to this point. Moreover, they did not go looking for the Respondents with a warrant on the basis of their

terminated parole. Rather, they stopped them during ICE sweeps in Michigan, demonstrating an utter lack of intent to return the Petitioners to mandatory detention based upon the revocation of their parole.

59. Functionally, the Respondents released the Petitioners on their own recognizance for a period of six (6) months, from April 18, 2025. By contrast, individuals detained under § 1225(b) may not be released on recognizance; they may only be paroled into the country under § 1182(d)(5)(A) (release on recognizance is a form of "conditional parole" from detention under § 1226 that is distinct from parole under § 1182(d)(5)(A)). *See Martinez v. Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *3 (D. Mass. July 24, 2025))). That distinction is significant.

60. The INA allows an individual paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5)(A) to physically enter the country subject to a reservation of rights by the Government that it may continue to treat the non-citizen "as if stopped at the border." *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020).

61. Individuals paroled into the country are thus in a fundamentally different and less protected position than "those who are within the United States after an entry, irrespective of its legality." *See Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958)). However, as noted above, the termination of parole is accompanied by a mandatory requirement ("shall") that Respondents return the noncitizen to custody "forthwith."

62. Further, applying § 1225 to all persons who have not been admitted into the United States would conflict with the statute's broader structure, the Supreme Court's traditional understanding of the relationship between §§ 1225(b) and 1226(a), and decades of immigration practice. "[O]ne of the most basic . . . . canons" of statutory interpretation is that "a statute should be construed so that effect is given to all its provisions, so that no part will be inoperative or

superfluous, void or insignificant." *Corley v. United States*, 556 U.S. 303, 314 (2009) (quoting *Hibbs v. Winn*, 542 U.S. 88, 101 (2004)) (internal brackets omitted).

63. By contrast, the Respondents' position that § 1225(b) applies to all persons who have not been admitted into the United States would render multiple provisions of § 1226 superfluous. For instance, § 1226(c)(1)(A), (D), and (E) already require mandatory detention of certain categories of inadmissible noncitizens. Indeed, Congress added § 1226(c)(1)(E)—which requires detention for certain inadmissible noncitizens charged with crimes including burglary, theft, and larceny—just this year through the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).

64. If § 1225(b) already required mandatory detention of all noncitizens who have not been admitted, these provisions would be meaningless.

65. The Respondents' theory also conflicts with the Supreme Court's previous interpretation of the relationship between §§ 1225(b) and 1225(a). In *Jennings*, the Supreme Court explained that § 1225(b) governs noncitizens "seeking admission into the country," whereas § 1226(a) governs noncitizens "already in the country" who are subject to removal proceedings. *Jennings*, 583 U.S. at 289. That interpretation is consistent with the core logic of our immigration system. "[O]ur immigration laws have long made a distinction between those aliens who have come to our shores seeking admission . . . and those who are within the United States after an entry, irrespective of its legality.

66. In the latter instance the Court has recognized additional rights and privileges not extended to those in the former category who are merely 'on the threshold of initial entry.'" *Leng May Ma*, 357 U.S. at 187 (*quoting Shaughnessy v. United States ex rel. Mezei*, 345 U.S. 206, 212 (1953)); *accord Zadvydas*, 533 U.S. 678, 693 (2001) ("The distinction between an alien who has

effected an entry into the United States and one who has never entered runs throughout immigration law."). Having been present subsequent to the termination of parole for a period of six months, the Petitioners are no longer "on the threshold of initial entry." Rather, they were constructively released into the United States subsequent to the termination of their 1182(d)(5) parole, and then rearrested and detained pursuant to § 1226(a).

67. Given this precedent, it is doubtful that Congress intended § 1225(b)(2) to apply to individuals like the Petitioners who were detained after being present in the U.S. for an extended period of time, who had not committed any crimes, and who were fully compliant with all requirements to attend ICE check-ins and immigration court hearings.

68. DHS's historic practice reinforces § 1226(a)'s application to noncitizens in the Petitioners' position who are arrested (in this case, re-arrested) well after arriving to this country.

Respondent's Revocation of Parole Was Contrary to Statute and Regulation

69. Once paroled into the United States, under the statute, a noncitizen may not be "returned to the custody from which he was paroled" unless in the Secretary's opinion, "the purposes of such parole . . . have been served." 8 U.S.C. § 1182(d)(5)(A).

70. Revocation of parole is also governed by regulations. 8 C.F.R. 212.5(e), which require written notice and which further require that to terminate parole, either the purposes of the parole have been accomplished, or that an individual decision has been made that neither a humanitarian reason nor public benefit warrants continued parole.

71. Thus, "both common sense and the words of the statute require parole revocation to be analyzed on a case-by-case basis and that a decision to revoke parole must attend to the reasons an individual noncitizen received parole." *Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV,

2025 U.S. Dist. LEXIS 135986, at *29 (W.D.N.Y. July 16, 2025) (internal citations, brackets, and quotation marks omitted).

72. Respondents, in failing to make a determination that the purpose of Petitioners' parole had been accomplished, violated the statutory and regulatory provisions of 8 U.S.C. § 1182(d)(5)(A) and 8 C.F.R. § 212.5(e). *Orellana v. Francis*, No. 25-CV-04212 (OEM), 2025 U.S. Dist. LEXIS 196589, at *9 (E.D.N.Y. Oct. 3, 2025).

73. In this context, the parole of a noncitizen is in the 'public benefit' when that noncitizen is neither a flight risk nor a danger to the community. *See, Mons v. McAleenan,* 2019 U.S. Dist. LEXIS 151174, 2019 WL 4225322, at *2 (D.D.C. Sept. 5, 2019).

74. In other words, it is *not* in the public interest to re-detain parolees who are not flight risks or dangers to the community.

75. However, no analysis of Petitioners' parole or the reasons it was granted occurred here and their re-detention is not in the public interest. Thus, Respondents violated the Immigration and Nationality Act and the Administrative Procedure Act, and detention in violation of law constitutes a violation of the Petitioners' due process rights under the Fifth Amendment.

76. Individuals who have been conditionally released from detention have a protected interest in their "continued liberty." *Herrera v. Tate*, No. H-25-3364, 2025 U.S. Dist. LEXIS 189999, at *31 (S.D. Tex. Sep. 26, 2025) (quoting *Young v. Harper*, 520 U.S. 143, 147, (1997).

77. Petitioner's re-detention, more than two years after being paroled into the United States from an initial detention, was without prior notice, a showing of changed circumstances, or a meaningful opportunity to object, and therefore he was not afforded the procedural requirements of the Fifth Amendment. *See, e.g., Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 U.S. Dist. LEXIS 156344, at *36 (D. Ariz. Aug. 11, 2025); *Rosales-Garcia v. Holland*, 322 F.3d

386, 409 (6th Cir. 2003) ("Excludable aliens—like all aliens—are clearly protected by the Due Process Clauses of the Fifth and Fourteenth Amendments."), *citing Yick Wo v. Hopkins*, 118 U.S. 356, 6 S. Ct. 1064, 30 L. Ed. 220 (1886).

78. The government therefore does not have the authority to arrest a noncitizen who has been granted parole without properly terminating that parole. *Velasquez v. Kurzdorfer*, No. 25-CV-493-LJV, 2025 U.S. Dist. LEXIS 135986, at *26 (W.D.N.Y. July 16, 2025); *Y-Z-L-H v. Bostock*, 2025 U.S. Dist. LEXIS 130216, 2025 WL 1898025, at *13 (D. Or. July 9, 2025), or unless there is some other valid reason to arrest him.

79. Due process then "requires a hearing before an immigration judge before re-detention. *Mejia v. Woosley*, Civil Action No. 4:25-cv-82-RGJ, 2025 U.S. Dist. LEXIS 203256, at *11 (W.D. Ky. Oct. 15, 2025) (internal citation and internal quotation marks omitted).

FACTUAL BACKGROUND

80. Petitioners fled Cuba, traveling through Nicaragua, Honduras, Guatemala, and Mexico to attend their CBP One appointment at a United States port of entry in September 2024.

81. After entering the United States, Petitioners and their spouses were given notices to appear and released as humanitarian parolees. Petitioners relocated to Michigan where they have been living and legally working until their unlawful detention on October 28, 2025.

82. At the time of their warrantless arrest and detention, Petitioners had a notice to appear for a Master Hearing at the Denver Immigration Court on May 5, 2025 (in the case of Petitioner Infante Rodriguez) and Detroit Immigration Court on May 15, 2026 (in the case of Petitioner Ricardo Cuza), **[Exhibit 2, Notice to Appear]**, pending asylum applications **[Exhibit 3, Evidence of Pending Asylum Application],** and valid and current employment authorization documents. **[Exhibit 4, Employment Authorization Document].**

83. Petitioners further have filed their I-485, Applications to Register Permanent Residence or Adjust Status in accordance with the Cuban Adjustment Act which are pending, and have received Biometrics Appointment Notices for November 25, 2026 and November 28, 2025.

84. Counsel for Petitioners has made multiple telephone calls to ICE ERO, and every time is transferred automatically to a national customer service number that cannot assist with this issue. Counsel for Petitioners has further contacted The Geo Group, the private prison operating the North Lake Detention Facility, and was informed that any requests for Biometrics must go through ICE ERO.

85. Counsel for Petitioners subsequently contacted ICE ERO via e-mail and requested that Respondents complete the Biometrics for Petitioners, and has received no response. For that reason, Petitioners will be filing a Motion for a Temporary Restraining Order seeking an order of court requiring Respondents to complete Biometrics for Petitioners. Failure of Petitioners, who are detained, to complete Biometrics, typically results in a denial for abandonment pursuant to 8 C.F.R. § 103.2(b)(13)(ii).

86. Petitioners have no criminal history in the United States or anywhere else in the world and have participated fully and actively in pursing relief under the laws of this country. Petitioners have complied with everything required of them by the Government since their initial entry and humanitarian parole into the United States.

87. Petitioners remain in detention and without relief from this court, facing the prospect of months, or even years, in immigration custody, separated from their families and community.

CLAIMS FOR RELIEF
COUNT ONE
Violation of Fifth Amendment Right to Due Process
Procedural Due Process

88. Petitioners restate and reallege all paragraphs as if fully set forth here.

89. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

90. To determine whether a civil detention violates a detainee's Fifth Amendment procedural due process rights, courts apply the balancing test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *United States v. Silvestre-Gregorio*, 983 F.3d 848, 852 (6th Cir. 2020) (applying the *Matthews v. Eldridge* test in the context of immigration).

91. *Matthews v. Eldridge* requires a court to consider the following three factors: "(1) the private interest that will be affected by the official action; (2) the risk of erroneous deprivation of that interest; and (3) the government's interest, including the fiscal and administrative burdens that the additional or substitute procedures entail." *See Lopez-Campos v. Raycraft, et al.*, No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025) at *9 (*citing Mathews*, 424 U.S. at 335).

92. The Petitioners were detained without warrants, based on no individualized circumstances applicable to them. Further, the Petitioners were detained based upon the Administration's novel interpretation of existing law, and without notice or any opportunity to contest the redetermination of their custody. All of the foregoing violates their due process rights.

93. Subjecting the Petitioners to indefinite, mandatory detention violates their due process rights.

COUNT TWO
Violation of the Fifth Amendment Right to Due Process
Immigration and Nationality Act – 8 U.S.C. § 1226, and Federal Regulations
Unlawful Detention

94. Petitioners restate and reallege all paragraphs as if fully set forth here.

95. On information and belief, Respondents have made no finding that Petitioners are a danger to the community or a flight risk.

96. By detaining and transferring the Petitioners categorically, Respondents have further abused their discretion because, since the agency made its initial determination to release the Petitioners into the United States, on information and belief, there have been no changes to Petitioners' facts or circumstances that support detention.

97. Respondents have already considered Petitioners' facts and circumstances and determined that Petitioners were not a flight risk or danger to the community when they initially paroled them into the United States. On information and belief, there have been no changes to the facts that justify their detention.

98. Detention that is unlawful under the Immigration and Nationality Act and the Administrative Procedure Act is a violation of the Petitioners' due process rights.

COUNT THREE
Violation of Fifth Amendment Right to Due Process
Challenge

99. Petitioners restate and reallege all paragraphs as if fully set forth here.

100. Respondents erred procedurally when they determined that the Petitioners should be subjected to indefinite, mandatory detention after paroling them into the United States more than two years ago based on the statutory and regulatory scheme.

101. Petitioners do not challenge the Respondents' decision to remove them, but challenge Respondents' legal authority to revoke or terminate their parole without due process of law.

PRAYER FOR RELIEF

WHEREFORE, Petitioners respectfully request this Court to grant the following:

a) Assume jurisdiction over this matter;
b) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
c) Declare that Petitioners' warrantless arrest and detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
d) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioners from custody immediately, or, in the alternative, to promptly provide them with a bond hearing before an immigration judge;
e) Issue an Order prohibiting the Respondents from transferring Petitioners from the district without the court's approval;
f) Award Petitioners attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
g) Grant any further relief this Court deems just and proper.

Dated this 25th day of November, 2025,

Respectfully submitted,

s/ Amy Maldonado
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ATTORNEY FOR PETITIONER

VERIFICATION

On this 25th day of November, 2025, I declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge. I make this verification in lieu of and acting on behalf of the Petitioners, Jose Alexander Infante Rodriguez and Manuel Jesus Ricardo Cuza, because the Petitioners are currently detained and because of the urgent nature of the relief requested. I am authorized to make this verification as a member of the legal team representing the Petitioners, Jose Alecxander Infante Rodriguez and Manuel Jesus Ricardo Cuza.

Dated: 11/25/2025

East Lansing, MI

s/ Amy Maldonado

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