

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
FT. LAUDERDALE DIVISION**

Henry Waldimir Beltrand Landaverde,

Petitioner,

v.

Case No.:

Kristi Noem, Secretary of the Department of Homeland Security; **Pamela Bondi**, Attorney General of the U.S.; **Todd M. Lyons**, Acting Director U.S. Immigration and Customs Enforcement; and, **Garrett Ripa**, ICE ERO Miami Field Office Director,

Respondents.

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

To the Honorable Judge of Said Court:

I. INTRODUCTION

1. Petitioner, Henry Waldimir Beltrand Landaverde (hereinafter “Mr. Beltrand Landaverde”), seeks a writ of habeas corpus to remedy his unlawful detention by the Respondents. Mr. Beltrand Landaverde is being unlawfully detained by Respondents in violation of his constitutional right to Due Process.

2. Mr. Beltrand Landaverde, a 25-year-old Honduran national, entered the United States (hereinafter “US”) on or around December 2, 2023. Despite having no prior criminal history and complying with requirements imposed upon his release after entry in 2023, he was detained on or about October 29, 2025, and transferred to Broward Transitional Center (hereinafter, “the detention center”), run and under the supervision/control of the US Department of Homeland Security (hereinafter “DHS” or “the Department”) and the US Immigration and Customs Enforcement (hereinafter “ICE”).

3. Mr. Beltrand Landaverde respectfully requests this Honorable Court order Respondents to show cause why the writ should not be granted within three days and, if necessary, set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243.

4. Mr. Beltrand Landaverde further respectfully requests that this Honorable Court grant him a writ of habeas corpus, ordering Respondents to release him immediately.

II. PARTIES

5. Petitioner, Henry Waldimir Beltrand Landaverde, is a 25-year-old native and citizen of Honduras who entered the US on or about December 2, 2023, and has a pending Application for Asylum and for Withholding of Removal, Form I-589 (hereinafter, "Asylum Application"). He is being unlawfully detained by Respondents at the detention center in Florida.

6. Respondent, Kristi Noem, is the Secretary of DHS, which is responsible for the administration of ICE, a subunit of DHS, and the implementation and enforcement of the immigration laws. As such, Ms. Noem is the ultimate legal custodian of Mr. Beltrand Landaverde. This Respondent is being sued in her official capacity.

7. Respondent, Pamela Bondi, is the Attorney General of the United States and head of the Department of Justice, which encompasses the Board of Immigration Appeals (hereinafter "BIA"), the Executive Office for Immigration Review (hereinafter "EOIR"), and the Immigration Courts. Ms. Bondi shares responsibility for implementation and enforcement of the immigration laws with Respondent Noem. As such, Ms. Bondi is a legal custodian of Mr. Beltrand Landaverde. This Respondent is being sued in her official capacity.

8. Respondent, Todd M. Lyons, is the Acting Director of ICE. He is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including noncitizen detention. As such, he is a legal custodian of Mr. Beltrand Landaverde. This Respondent is being sued in his official capacity.

9. Respondent, Garrett Ripa, is the ICE Field Office Director for the Miami Field Office. The Miami Field Office is responsible for the detention of noncitizens in Florida and at the detention center where Mr. Beltrand Landaverde is being detained. This Respondent also effects operational, legal, and factual control over the detention center and, as such, is a legal custodian of Mr. Beltrand Landaverde. This Respondent is being sued in his official capacity.

III. JURISDICTION AND VENUE

10. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. §§ 2201-02 (declaratory relief), and Art. I, Sec. 9, Cl. 2 of the US Constitution (Suspension Clause), as Mr. Beltrand Landaverde is presently in custody under, or by color of, the authority of the US and challenges his custody as in violation of the Constitution, laws, or treaties of the US.

11. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE and to order their release. *See, e.g., Demore v. Kim*, 538 U.S. 510 (2003); *Zadvydas v. Davis*, 533 U.S. 678 (2001). The Supreme Court upheld the federal courts' jurisdiction to review such claims in *Jennings v. Rodriguez*, 583 U.S. 281, 291-295 (2018).

12. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. §§ 1391 and 2241(d) because Mr. Beltrand Landaverde is detained at the detention center in or near Pompano Beach, Florida, within the court's jurisdiction.

IV. EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. Mr. Beltrand Landaverde has no administrative remedies available to him and his only remedy is by way of this judicial action.

14. No statutory exhaustion requirements apply to Mr. Beltrand Landaverde's claim of unlawful detention. This petition raises a constitutional law issue, and the administrative agency will

not address the constitutional issue. Likewise, the agency is unable to strike down its own regulation as in violation of the statute. *See Matter of G-K-*, 26 I&N Dec. 88 (BIA 2013)

15. Further, Mr. Beltrand Landaverde is detained by Respondents pursuant to immigration custody. He has no adequate administrative remedy to obtain a bond hearing in light of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), a recent precedential decision of the BIA which determined immigration judges (hereinafter “IJs”) lack jurisdiction to consider bond for individuals present in the US without admission under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A). Exhaustion is therefore futile and not required. *See* 28 U.S.C. § 2241; *McCarthy v. Madigan*, 503 U.S. 140, 146–49 (1992).

V. LEGAL FRAMEWORK

16. The Immigration and Nationality Act (hereinafter “INA”) distinguishes between detention of applicants for admission under 8 U.S.C. § 1225 and detention of other noncitizens under 8 U.S.C. § 1226.

17. Noncitizens subject to 8 U.S.C. § 1226 may be detained by DHS upon issuance of a warrant and are eligible for release on conditional parole or bond, unless they have been arrested, charged with, or convicted of certain crimes and are subject to mandatory detention under 8 U.S.C. § 1226(c); 8 C.F.R. § 236.1(b).

18. In accordance with 8 C.F.R. § 236.1(c)(8), ICE may release the noncitizen on their own recognizance through the issuance of Form I-286 but the noncitizen “must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding.”

19. Non-citizens detained pursuant to 8 U.S.C. § 1226 may request a custody redetermination by an IJ. The IJ may detain the non-citizen, release the non-citizen, and determine the amount of bond, if any. 8 C.F.R. § 236.1(d). *But see Matter of Yajure Hurtado*, 29 I&N Dec. 216

(BIA 2025), a recent precedential decision of the BIA which determined that all individuals present in the US without admission were detained under INA § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A), and IJs lack jurisdiction to consider bond.

20. Noncitizens subject to expedited removal or certain recent arrivals seeking admission into the country are subject to mandatory detention under 8 U.S.C. § 1225 and may be released on a temporary grant of parole by DHS pursuant to 8 U.S.C. § 1182(d)(5)(A). The grant of parole terminates automatically at the termination of the time for which parole was authorized or upon written notice. *See* 8 CFR § 212.5(e).

21. Noncitizens who enter the US are entitled to due process under the Fifth Amendment to the US Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993); *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025).

22. The Fifth Amendment's Due Process Clause prevents the government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. amend. V.

23. The interest in being free from physical restraint is the most elemental liberty interest and has always been at the core of the liberty protected by the Due Process Clause. *See Foucha v. Louisiana*, 504 US 71, 80 (1992); *Sopo v. U.S. Attorney General*, 825 F.3d 1199, 1212 (11th Cir. 2016), vacated on other grounds.

24. The essence of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time. *See Mathews v. Eldridge*, 424 U.S. 319, 348 (1976).

25. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979).

26. Immigration detention should not be used as a punishment and should only be used

when, under an individualized process, a determination is made that the noncitizen is a danger to the community or a flight risk because he is unlikely to appear for immigration court. *Zadvydas v. Davis*, 533 U.S. at 690.

27. ICE has the authority to re-detain a noncitizen and revoke their release pending the outcome of removal proceedings only when there has been a change in circumstances since the individual's initial release. *See Matter of Sugay*, 17 I&N Dec. 637, 640 (B.I.A. 1981).

VI. FACTS AND PROCEDURAL HISTORY

28. Mr. Beltrand Landaverde entered the US on or about December 2, 2023.

29. At the time of his entry, Mr. Beltrand Landaverde was encountered by immigration officers. He was detained for several days, issued a Warrant for Arrest of an Alien, served with a Notice to Appear (hereinafter "NTA") ordering him to appear before an IJ, and released from custody pending a hearing before an IJ. *See*, Warrant and NTA attached hereto as **Exhibits A** and **B**, respectively.

30. On December 7, 2023, he was issued a Form I-286, Notice of Custody Determination indicating that he was being released on his own recognizance pursuant to INA section 236, after having established to the "satisfaction of the officer that such release would not pose a danger to property or persons, and that the alien is likely to appear for any future proceeding." *See* 8 C.F.R. 8 C.F.R. § 236.1(c)(8). *See*, Notice of Custody Determination attached hereto as **Exhibit C**.

31. At the time of his release, Mr. Beltrand Landaverde was enrolled in ICE's ADT program. *See*, DHS Form G-56 attached hereto as **Exhibit D**.

32. At the time of his release in 2023, he was not granted temporary parole based on a case by case basis for urgent humanitarian reasons or significant public benefit pursuant to 8 USC § 1182(d)(5)(A).

33. On January 24, 2024, ICE filed the NTA with the Immigration Court, placing Mr.

Beltrand Landaverde in full removal proceedings under 8 U.S.C. § 1229.

34. After his release, and within one year of having entered the country, Mr. Beltrand Landaverde filed the Asylum Application because he fears returning to his home country. *See*, Notice of Filing Asylum Application attached hereto as **Exhibit E**.

35. Mr. Beltrand Landaverde obtained employment authorization and, at the time of his detention, he was employed with Solar Specialist. *See*, Employment Authorization Document attached hereto as **Exhibit F**.

36. Since his release in 2023, Mr. Bertrand Landaverde has complied with the conditions of said release.

37. Mr. Beltrand Landaverde has no criminal history.

38. On or about December 7, 2023, ICE determined that Mr. Beltrand Landaverde should be released from custody and not be detained pending the outcome of removal proceedings. During the following 22 months, Mr. Beltrand Landaverde dutifully complied with the ICE terms of his release by maintaining a current address, appearing at check ins, complying with GPS monitoring orders, and subsequent phone video/photographic check-ins. He missed one in person appointment but provided an explanation to the ICE officer and attended subsequent in person appointments. On a second occasion, he completed the photographic check-in about 40 minutes late because he was working, but submitted the following photographic check-ins on time.

39. On or around October 29, 2025, Mr. Beltrand Landaverde attended an ICE check in appointment. Suddenly, and without any justified cause, he was detained and placed in ICE custody. Afterwards, he was transferred to the detention center.

40. At the time of his current detention on or around October 29, 2025, there had been no change in Mr. Beltrand Landaverde's circumstances since his release in 2023 that would disturb ICE determination that HIS "release would not pose a danger to property or persons, and that the alien is

likely to appear for any future proceeding.” *See* 8 C.F.R. 8 C.F.R. § 236.1(c)(8).

41. To the contrary, Mr. Beltrand Landaverde’s dutiful compliance for 22 months reaffirmed the prior determination that he did not pose a danger to property or persons, and that he n is likely to appear for any future proceeding.

42. Mr. Beltrand Landaverde challenges Respondent’s constitutional and statutory authority to detain him, where Respondents have presented no legal justification or evidence of changed circumstances to justify his re-detention after his initial release in 2023.

43. Respondents have provided no meaningful procedures and deprived Mr. Beltrand Landaverde of procedural and substantive due process, and acted contrary to established law in an arbitrary and capricious manner. *See Jennings*, 583 U.S. at 291-298; *Id.* at 355-356 (Breyer, J., dissenting); *Zadvydas*, 533 U.S. at 688 (Explaining the court’s authority to consider a habeas challenge to detention that is without statutory authority notwithstanding Congress’ attempt to limit judicial review in immigration matters).

VII. CAUSES OF ACTION

Count 1: Unlawful Restraint/Detention in Violation of Constitutional Due Process

44. Mr. Beltran Landaverde incorporates by reference the allegations set forth in the preceding paragraphs.

45. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. Amend.V. 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.

46. Civil immigration detention violates due process if it is not reasonably related to its purpose. *See Zadvydas*, 533 U.S. at 690 (*citing Jackson v. Indiana*, 406 U.S. 715, 738 (1972)); *Demore*, 538 U.S. at 513. As categorical detention becomes increasingly prolonged, a sufficiently

strong special justification is required to outweigh the significant deprivation of liberty. *Zadvydas*, 533 U.S. at 690-91

47. Civil detention violates due process unless it is accompanied by strong procedural protections to guard against the erroneous deprivation of liberty. *Id.* at 690-91; *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). To justify Mr. Beltrand Landaverde’s ongoing detention, due process requires that the government provide a legal justification for his re-detention and ongoing detention. *United States v. Salerno*, 481 U.S. 739, 750, 752 (1987); *Svetlana Doe, et al., v. Noem, et al.*, No. 25-cv-10495 (D. Mass. April 14, 2025).

48. In *Sopo v. U.S. Attorney General*, 825 F.3d 1199, 1217–18 (11th Cir. 2016), vacated on other grounds, the Eleventh Circuit held that prolonged detention without an individualized finding of danger or flight risk raises serious due process concerns. While *Sopo* was vacated after the petitioner was removed, Eleventh Circuit panels and district courts continue to rely on its analytical framework, which explains that detention becomes unconstitutional when the government “provides no individualized justification” for continuing to detain a noncitizen.

49. The government’s treatment of Mr. Beltrand Landaverde establishes that, at the time of his entry in 2023, he was detained and released pursuant to the government’s discretionary authority under 8 USC § 1226(a).

50. At the time of his re-detention in 2025, there was no individualized determination prior to or contemporaneously with the decision to re-detain and there was no change in circumstances from the time of his detention and release in 2023 to his re- detention in 2025.

51. Mr. Beltrand Landaverde has not been afforded the necessary procedural safeguards to guarantee against the erroneous deprivation of his liberty. This is particularly true as Mr. Beltrand Landaverde’s period of detention grows and where the government provides no legal justification for his ongoing detention.

52. Respondents have provided no individualized showing whatsoever that Mr. Beltrand Landaverde is dangerous or a flight risk. Mr. Beltrand Landaverde timely filed the Asylum Application, appeared at ICE check ins, was gainfully employed after obtaining employment authorization, and has no criminal history.

53. Mr. Beltrand Landaverde's re-detention, almost two years after being released on recognizance from an initial detention on inspection, 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.

54. Under these circumstances, Mr. Beltrand Landaverde's detention without any evidence of danger or flight risk is impermissible and violates both substantive and procedural due process. Detention must be individualized and justified. Because Respondents have not carried—even minimally—their burden to justify detention, Mr. Beltrand Landaverde must be released.

Count 2: Violation of the Administrative Procedure Act

55. Mr. Beltrand Landaverde incorporates by reference the allegations set forth in the preceding paragraphs.

56. Under the Administrative Procedure Act (hereinafter "APA"), a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

57. An action is an abuse of discretion and a violation of the APA if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Homebuilders v. Defs. Of Wildlife*, 551 U.S. 644, 658 (2007)(quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 42 (1983)).

58. Detaining Mr. Beltrand Landaverde under 8 U.S.C. § 1225(b)(2)(A) without

establishing a change in circumstances from his initial detention and release exceeds statutory authority and is arbitrary and capricious. *See Jennings v. Rodriguez*, 138 S. Ct. 830, 852 (2018) (reserving constitutional questions); *Demore v. Kim*, 538 U.S. 510, 530–31 (2003) (upholding brief, not indefinite, detention).

59. By categorically subjecting Mr. Beltrand Landaverde to mandatory detention under § 1225(b)(2)(A), Respondents violated the APA.

VIII. PRAYER FOR RELIEF

WHEREFORE, Mr. Beltrand Landaverde prays that this Court grant the following relief:

1. Accept jurisdiction and maintain continuing jurisdiction of this action;
2. Order Respondents to show cause why the writ should not be granted within three days, and, if necessary, set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243;
3. Issue a writ of habeas corpus ordering Respondents to immediately release Mr. Beltrand Landaverde from their custody;
4. Enter preliminary and permanent injunctive relief enjoining Respondents from further unlawful detention of Mr. Beltrand Landaverde;
5. Enjoin Respondents from transferring Mr. Beltrand Landaverde outside the jurisdiction of the Court pending resolution of this matter;
6. Declare that Mr. Beltrand Landaverde's detention violates the Due Process Clause of the Fifth Amendment;
7. Declare that Mr. Beltrand Landaverde's detention violates the Administrative Procedures Act;
8. Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and

9. Grant such further relief as this Court deems just and proper.

Respectfully submitted on this 3rd day of December, 2025.

/s/Francisco F. Symphorien-Saavedra/s/
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Verification by Someone Acting on the Petitioner's Behalf Pursuant to 28 USC § 2242

I, Francisco F. Symphorien-Saavedra, hereby declare under penalty of perjury that the facts alleged in the foregoing Petition for Writ of Habeas Corpus are true and correct, to the best of my knowledge.

Dated: December 3, 2025

/s/Francisco F. Symphorien-Saavedra/s/
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