UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Carlos Luis GONZALEZ CARMONE

Petitioner,

v.

Garrett J. RIPA, Field Office Director of Enforcement and Removal Operations, Miami Field Office, Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; Pamela BONDI, U.S. Attorney General, Executive Office for Immigration Review; Todd LYONS, Acting Director, Immigration and Customs Enforcement; WARDEN of Glades County Detention Center in Moore Haven, Florida

Respondents.

Case No. _____

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS

INTRODUCTION

1. Petitioner Carlos Luis Gonzalez Carmona is in the physical custody of Respondents at the Glades County Detention Center in Moore Haven, Florida. Ex. 1, U.S. Immigration and Customs Enforcement (ICE) Detainee Locator. Department of Homeland Security (DHS) agents arrested and detained Petitioner immediately after leaving his mandatory immigration court hearing in Miami, Florida. Petitioner now faces unlawful detention because he was improperly placed in expedited removal, never issued a new Notice to Appear (NTA), and denied all required process in the Immigration Court and access to certain forms of relief from removal that would be potentially available in the Immigration Court.

2. Petitioner entered the United States on or around October 3, 2021, to seek asylum. Petitioner was detained by Respondents and charged with 8 U.S.C. § 1182(a)(6)(A)(i), being an alien present in the United States without being admitted or paroled. Ex. 2, NTA. On or about October 13, 2021, based on the individualized facts of Petitioner's case, Respondent DHS released Petitioner into the United States. Ex. 3. Order of Release on Recognizance. Since then, Petitioner has complied with every request, demand, and requirement imposed by Respondents, in addition to complying with all the court and legal timelines for his asylum case. Ex. 4, Personal Report Record.

3. Given that his original NTA had still not been filed with the Immigration Court, Petitioner applied for asylum and for withholding of removal with U.S. Citizenship and Immigration Services (USCIS) on February 7, 2022. Ex. 5, USCIS Asylum Receipt Notice.

4. Petitioner has lived in the United States for four years. He has an extensive U.S. citizen and legal permanent resident support network in Miami, Florida comprised of close family and friends. Petitioner was consistently employed after receiving work authorization and he worked at his last job at Formcrete for almost three years. Petitioner has no criminal history and has been a hardworking and law-abiding person since entering the United States.

5. On April 20, 2025, Respondent DHS issued Petitioner a superseding NTA, commencing removal proceedings and ordering that he appear for a hearing in Miami Immigration Court on November 4, 2025. Petitioner appeared in-person for his legally required immigration court hearing. However, instead of allowing Petitioner to proceed with his asylum case, Respondents moved to dismiss Petitioner's case entirely and the Court dismissed his proceedings. Ex. 6, EOIR Automated Case Information. On information and belief, Respondents did not advise Petitioner that they sought to terminate his case in order to place him in expedited removal proceedings.

6. After exiting the courtroom and while in the courtroom lobby, DHS agents arrested Petitioner without offering him any explanation or an opportunity to be heard.

7. Petitioner was first detained at Alligator Alcatraz, now named Florida Soft Side South, in Ochopee, Florida. Within two weeks, he was transferred away from the Southern District of Florida to Glades County Detention Center in Moore Haven, Florida, where he is currently detained.

8. Respondents seek to eject Petitioner from his own asylum case, indefinitely detain Petitioner, and transfer Petitioner across state lines so that they can rapidly deport him under an entirely separate and inapposite law, 8 U.S.C. § 1225. Respondents do so based not on Petitioner's personal circumstances or individualized facts but because of Respondents' interpretation of President Trump's whim and categorical determination that, the Fifth Amendment notwithstanding, noncitizens are not entitled to due process.[1]

9. But Respondents cannot evade the law so easily. The law which they purport to use to rapidly remove Petitioner does not authorize their

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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-donaldtrump-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.").

actions, and the U.S. Constitution requires the Respondents provide Petitioner, at minimum, with the rights available to him during § 1229a proceedings.

10. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be immediately released, or in the alternative, that he be provided a prompt bond hearing under Section 1226(a).

JURISDICTION

11. Petitioner is in the physical custody of Respondents. Petitioner is detained at Glades County Detention Center in Moore Haven, Florida.

12. This Court has subject matter 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).

13. 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, and the Immigration and Nationality Act (INA), 8 U.S.C. § 1252(e)(2).

VENUE

14. 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.

15. Venue is also properly in this Court pursuant to 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.

REQUIREMENTS OF 28 U.S.C. § 2243

16. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

17. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

18. Petitioner Carlos Luis Gonzalez Carmona is a citizen of Cuba who has resided in the United States since approximately October 3, 2021. He has been in immigration detention since November 4, 2025.

19. Respondent Garrett J. Ripa is the ICE Field Office Director for Enforcement and Removal Operations (ERO) for the State of Florida, Puerto Rico, and the U.S. Virgin Islands, which includes Moore Haven, Florida. As such, Mr. Ripa is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

20. 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 Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

21. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the Department of Justice (DOJ), of which the Executive Office for Immigration Review (EOIR) and the immigration court system it operates is a component agency. She is sued in her official capacity.

22. Respondent Todd Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

23. Respondent Warden of Glades County Detention Center is the Warden where Petitioner is currently detained. He is an immediate custodian of Petitioner. He is sued in his official capacity.

FACTUAL BACKGROUND

24. Petitioner is a 47-year-old citizen of Cuba. Ex. 7, Cuban Passport.

25. On or about October 3, 2021, Petitioner arrived in the United States at or near Hidalgo, Texas to seek asylum. Respondents arrested and detained Petitioner. On or about October 13, 2021, based on the individualized facts of Petitioner's case, Respondent DHS released Petitioner from its custody on an Order of Release on Recognizance pursuant to 8 U.S.C. § 1226(a).

26. Respondent DHS enrolled Petitioner in an Alternatives to Detention (ADT) Program and Petitioner complied with all reporting and release conditions. Petitioner's last ICE check-in at the ICE-ERO Center in Miramar, Florida was on January 12, 2024. On that day, Petitioner reported as required and Respondents indicated that he no longer had to report to ICE.

27. On or about October 4, 2021, Respondents initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a in Miami, Florida. Respondents issued him an NTA without a hearing date or time that alleged that Petitioner was inadmissible to the United States under 8 U.S.C. § 1182(a)(6)(A)(i).

28. Given that DHS had not yet filed Petitioner's NTA with the immigration court, Petitioner timely filed Form I-589, Application for Asylum and for Withholding of Removal with USCIS on February 7, 2022, and

attended his biometrics appointment on April 22, 2022. Petitioner then applied for and received employment authorization based on his pending asylum application. Ex. 8, USCIS Employment Authorization Approval Notices.

29. Since receiving employment authorization, Petitioner has been working at Formcrete as a concrete pumper for almost three years. Petitioner also has a strong support network of U.S. citizen family and friends in Miami, Florida. On information and belief, Petitioner has no criminal history.

30. On April 20, 2025, DHS re-issued Petitioner an NTA, ordering that he appear for a hearing in Miami Immigration Court in Miami, Florida on November 4, 2025. Petitioner appeared for his scheduled immigration court hearing on November 4, 2025. However, instead of allowing Petitioner to proceed with his asylum case, Respondents moved to dismiss Petitioner's case entirely and the immigration court dismissed the proceedings.

31. On information and belief, Respondents did not advise Petitioner that they sought to terminate the case to then place Petitioner in expedited removal proceedings. After exiting the courtroom, ICE agents immediately arrested Petitioner. The DHS agents did not offer Petitioner any process, including any opportunity to be heard, prior to arresting and detaining him.

32. On December 3, 2025, almost a month after his arrest and detention, DHS agents visited Petitioner and told him that ICE intends to deport him to Mexico, a third country.

EXHAUSTION OF REMEDIES

33. No statutory requirement of administrative exhaustion applies to Petitioner's case. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

34. In particular, Petitioner's removal proceedings were dismissed, and he was unlawfully placed in expedited removal, so he does not have the ability to request a bond redetermination. Accordingly, there are no administrative remedies that he could exhaust before seeking habeas relief. Even more, DHS has informed Petitioner that his deportation to a third country is imminent.

35. Further, neither an immigration judge nor the BIA can rule on a petitioner's constitutional claims. See *Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) ("[I]t is settled that the immigration judge and

this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.").

LEGAL FRAMEWORK

I. Detention Authority and Respondents' Efforts to Expand Mandatory Detention

36. The INA provides for removal proceedings to be the "sole and exclusive" procedures for removing people from the United States, subject to a few narrow exceptions. 8 U.S.C. 1229a. Section 1229a(a)(3) states that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be admitted to the United States or, if the alien has been so admitted, removed from the United States."

37. Congress has authorized civil detention of noncitizens in removal proceedings for specific, non-punitive purposes. See *Jennings v. Rodriguez*, 138 S.Ct. 830, 833 (2018); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

38. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens "already in the country." *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) "sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of a[] [noncitizen] pending a decision on whether the [noncitizen] is to be removed from the United States." *Id.* at 288 (quoting § 1226(a)). Individuals in Section 1226(a) detention are generally

entitled to a bond hearing at the outset of their detention. *See* § 1226(a)(2); 8 C.F.R. §§ 1003.19(a), 1236.1(c)(8), (d)(1).

39. Section 1226(c) "carves out a statutory category" of noncitizens from Section 1226(a) for whom detention is mandatory, comprised of individuals who have committed certain "enumerated ... criminal offenses [or] terrorist activities." *Jennings*, 583 U.S. at 289 (citing § 1226(c)(1)). Among the individuals carved out and subject to mandatory detention are certain categories of "inadmissible" noncitizens. § 1226(c)(1)(A), (D), (E). Reference to such inadmissible noncitizens makes clear that, by default, people who are applicants for admission but encountered in the interior are afforded a bond hearing under subsection 1226(a). Courts have confirmed this understanding of Section 1226. *See Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. Apr. 24, 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)) ("When Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies.").

40. Second, the INA provides for mandatory detention of certain categories of noncitizens "seeking entry into the United States" under 8 U.S.C. § 1225(b). *Jennings*, 583 U.S. at 297; *see* § 1225(b) ("Inspection of applicants for admission").

41. In *Jennings*, the Supreme Court explained that this mandatory scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a[] [noncitizen] *seeking to enter* the country is inadmissible." *Jennings*, 583 U.S. at 287 (emphasis added). Noncitizens subject to mandatory detention under Section 1225 may not be released except "for urgent humanitarian reasons or significant public benefit" under the parole authority provided by 8 U.S.C. § 1182(d)(5)(A). *See id.* at 300.

42. Section 1225 is split into two categories. Section 1225(b)(1) provides for mandatory detention of noncitizens charged with enumerated grounds of inadmissibility *and* placed in expedited removal proceedings. 8 U.S.C. § 1225(b)(1)(A)(i). Because there are so few procedural protections, expedited removal applies narrowly to only those noncitizens who are inadmissible to the United States because they engaged in fraud or misrepresentation to procure admission or other immigration benefits, 8 U.S.C. § 1182(a)(6)(C), or who are applicants for admission without required documentation, 8 U.S.C. § 1182(a)(7). No other person may be subjected to expedited removal. 8 C.F.R. § 235.3(b)(1), (b)(3).

43. Notably, under the statute, expedited removal cannot be applied to persons who have been present in the United States for two years or more. 8 U.S.C. 3 § 1225(b)(1)(A)(iii)(II). Meanwhile, Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry.

44. 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).

45. In May 2025, the Board of Immigration Appeals held that "an applicant for admission who is arrested and detained without a warrant while arriving in the United States, whether or not at a port of entry, and subsequently placed in removal proceedings is detained under section 235(b) of the INA, 8 U.S.C. § 1225(b), and is ineligible for any subsequent release on bond under section 236(a) of the INA, 8 U.S.C. § 1226(a)." *Matter of Q. Li*, 29 I. & N. Dec. 66, 69 (BIA 2025). Importantly, *Q Li* only applies to a class of individuals who entered without inspection, were detained at the border, and were subsequently *paroled into the United States*. *Id.* As a result of this new decision, many individuals who were encountered or presented themselves to immigration authorities shortly after entering the U.S. and who previously qualified for release on bond now no longer do.

46. Then, on July 8, 2025, ICE, "in coordination with" the DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice. *See* U.S. Immigration and Customs Enforcement, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025), https://www.aila.org/ice-memo-

interim-guidance-regarding-detention-authority-for-applications-for-admission.

47. The new policy claims that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225 and therefore are subject to mandatory detention 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.

48. On September 5, 2025, the BIA issued a published decision adopting this same position. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings. However, this position is incorrect because the statutory text of the INA, the statutory framework of the INA, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation – including this one – limit Section 1225(b)(2)'s scope to recently arrived noncitizens seeking admission at a border or port of entry. *See Vasquez Carcamo v. Noem*, No. 25- 00922, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025); *see also Erazo v. Hardin*, No. 25-00891, 2025 WL 3187136 (M.D. Fla. Nov. 14, 2025).

49. Consequently, on November 26, 2025, the U.S. District Court for the Central District of California issued a nationwide class certification order in *Maldonado Bautista v. Noem*, holding that noncitizens who entered without inspection are detained under Section 1226(a) and thus, are legally entitled to consideration for release on bond. *Bautista v. Noem*, 5:25-cv-01873-SSS-BFM (C.D. Cal.).

50. Petitioner has been present in the United States for longer than two years and was not determined to be inadmissible under 8 U.S.C. § 1182(a)(6)(C) or 8 U.S.C. § 1182(a)(7) during that two-year period. Thus, it is unlawful for the government to order him to be subjected to expedited removal or to detain him on that basis.

II. Due Process Violations with Expanding Mandatory Detention

51. Although civil immigration detention is authorized by statute, that detention serves only two legitimate purposes: mitigating flight risk and preventing danger to the community. *See Zadvydas*, 533 U.S. at 690.

52. A person's liberty cannot be infringed up on without "adequate procedural protections." *Zadvydas*, 533 U.S. at 690-91. DHS makes initial custody determinations pursuant to 8 C.F.R. § 1236.1(c)(8), which requires that noncitizens be released from custody only "if they 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."

53. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993). To determine whether civil detention violates a noncitizen's Fifth Amendment due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts weigh the following three factors: (1) "the private interest that will be affected by the official action;" (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335. This test requires sufficient process to mitigate the risk of erroneous deprivation of a liberty interest.

54. Revocation of release from confinement, even civil immigration confinement, infringes on a protected liberty interest. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004). Petitioner is currently detained in conditions that are indistinguishable from criminal incarceration. Even more, his detention prevents him from seeing his loved ones and working and deprives him of any privacy and freedom of movement.

55. As to the second *Matthews* factor, the current procedures cause an increased risk of erroneous deprivation of Petitioner's liberty interest in

remaining free from detention. As discussed above, Petitioner is being unlawfully detained because he was placed in expedited removal four years after being physically present in the United States and Respondent DHS did not make a determination at the time of his entry that he was either inadmissible for fraud or misrepresentation or lack of proper entry documents.

56. Further, if placed in expedited removal, a low-level DHS officer can order the removal of an individual who has been living in the United States with virtually no administrative process—just completion of cursory paperwork—based only on the officer's own conclusions that the individual has not been admitted or paroled, that the individual has not adequately shown the requisite continuous physical presence, and that the individual is inadmissible on one of the two specified grounds.

57. Once a determination on inadmissibility is made, removal can occur rapidly, within twenty-four hours.

58. An expedited removal order comes with significant consequences beyond removal itself. Noncitizens who are issued expedited removal orders are subject to a five-year bar on admission to the United States unless they qualify for a discretionary waiver. 8 U.S.C.§ 1182(a)(9)(A)(i); 8 C.F.R. § 212.2.

59. Additionally, there are reasonable alternatives available for Respondents to pursue. As discussed above, Section 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like

Petitioner who entered without inspection and were later detained while residing inside the country. As such, proper application of the INA's detention scheme allows for the possibility of detaining Petitioner under Section 1226(a) but first requires a bond hearing to make an individualized determination of his risk of flight or dangerousness. Such a hearing has not happened. Without it, the risk of erroneous deprivation of Petitioner's freedom is high.

60. Finally, the government's interest in maintaining the current procedure is minimal. Their expansion of expedited removal and mandatory detention flies in the face of statutory text, statutory framework, Congressional intent, decades of prior practice, and decisions of federal courts across the nation. Any government interest in public safety or ensuring that Petitioner attends future immigration proceedings would be satisfied through proper application of Section 1226(a), which requires a bond redetermination hearing where an immigration judge will consider Petitioner's individualized facts and circumstances to determine whether he is a danger to the community or a flight risk. Importantly, in Petitioner's case, Respondent DHS had already previously released him in October 2021 based on the individualized facts of his case and nothing has changed that would provoke re-detention.

61. Despite these baseline requirements, Respondents now regularly re-detain individuals notwithstanding an earlier determination to release

them and do so without according any notice or process whatsoever. These re-detentions violate noncitizens' right to due process.

CLAIMS FOR RELIEF

COUNT ONE
Statutory Violation of the INA

62. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

63. Petitioner is currently being detained and subjected to expedited removal in violation of his constitutional right to due process of law because he did not have an opportunity to present evidence of his two-year presence.

64. The INA authorizes judicial review of section 1225(b)(1) orders of removal. *See* 8 U.S.C. § 1252(e)(2). Review is limited to three issues, one of which is "whether the petitioner was ordered removed under such section." As a matter of constitutional avoidance (i.e. to avoid the due process question), this provision must be interpreted to allow for review of whether the petitioner was properly ordered removed under such section. Removal of someone present for more than 2 years is improper under 8 U.S.C. § 1252(b)(1)(A)(iii)(II).

65. Interpreting § 1252(e)(2) to preclude judicial review of Petitioner's claims or to deny relief where the statutory requirements are not met would raise serious constitutional concerns. To avoid these constitutional issues, the

statute must be construed to permit review where a person is unlawfully detained under color of § 1225(b)(1).

66. Courts are obligated to interpret statutes in a manner that avoids constitutional problems when a reasonable alternative interpretation is available. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018)

67. Petitioner has been physically present in the United States for more than two years, he was not determined to be inadmissible for lack of proper entry documents or fraud or misrepresentation during those two years, he was not properly removed pursuant to 8 U.S.C. 1225(b), and the removal order must be vacated and Petitioner released from detention.

COUNT TWO

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT AND THE SUSPENSION CLAUSE OF THE U.S. CONSTITIUTION

I. Expedited Removal Classification

68. Petitioner repeats and incorporates by reference each and every allegation contained in the preceding paragraphs as if fully set forth herein.

69. Petitioner is currently being detained and subjected to expedited removal in violation of his constitutional right to due process of law because he did not have an opportunity to present evidence of his two-year presence.

70. Petitioner cannot be detained for, or subjected to, expedited removal because he has been continuously present in the United States for greater than two years. 8 U.S.C. § 1225(b)(1)(A)(iii)(II).

71. The expedited removal statute largely "precludes judicial review," and therefore challenges to "confinement and removal" under that statute fall within the "core" of the writ of habeas corpus. *See Trump v. J.G.G.*, 145 S. Ct. 1003, 1006-07 (2025).

72. Thus, the extent 8 U.S.C. § 1252(e)(2) purports to preclude habeas review of whether Petitioner is ineligible for detention and removal via expedited removal due to the length of his presence in the United States, that limitation violates the Suspension Clause and is void and without effect.

73. Indeed, if there were no judicial review whatsoever of the immigration agencies' determinations that persons have been present for less than two years, then the immigration agencies would be free to find that essentially any arrested noncitizen without status is subject to expedited removal, in direct violation of the procedures and safeguards required for removal proceedings by the laws and Constitution of the United States.

74. Even assuming Petitioner is eligible for detention for removal proceedings, he has not been served with any NTA to initiate any such proceedings and has not been provided any opportunity to receive a bond hearing to which he is entitled during any such proceedings. The only current

basis for Petitioner's detention and potential deportation—expedited removal—is one that categorically does not apply to him.

II. Re-detention and Conditions of Confinement

75. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

76. 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. *See generally Reno v. Flores*, 507 U.S. 292 (1993); *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003).

77. Petitioner's detention violates the Due Process Clause. He was determined not to pose danger or flight risk when he was released from custody in October 2021 and there is no basis to conclude otherwise now. He was not accorded sufficient process prior to his sudden re-detention by DHS officials in November 2025. He has received neither notice nor an opportunity to be heard as to whether a change in custody status was warranted.

78. Respondents are likely to now contend in administrative proceedings that Petitioner is ineligible for bond under *Matter of Q Li*, 29 I. & N. Dec. 66 (BIA 2025) and their own more capacious interpretation of the mandatory detention provision at 8 U.S.C. § 1225(b). Mandatory detention without access to a bond hearing violates Petitioner's right to due process.

79. Respondents also detained Petitioner outside a courtroom after attending his mandatory court hearing without justification and are now subjecting him to inhumane conditions of confinement at Glades County Detention Center.

80. Respondents' actions violate Petitioner's right to due process.

COUNT THREE

VIOLATION OF THE FOURTH AMENDMENT (Re-detention)

81. Petitioner repeats and re-alleges the allegations contained in all preceding paragraphs of this Petition as if fully set forth herein.

82. Petitioner was detained by DHS officials as removable for not being admitted or paroled when he entered the United States. The government exercised its discretion under the INA to release him while he litigated that single charge in immigration court. At the time of Petitioner's arrest, he had been living at liberty pursuant to that determination by DHS.

83. The government lacked reliable information of changed or exigent circumstances that would justify Petitioner's arrest on the same basis after DHS officials previously decided he could pursue his claims for immigration relief at liberty.

84. His sudden and calculated re-arrest outside the courtroom following the Court's dismissal of his removal proceedings is unreasonable and therefore violates the Fourth Amendment.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

b. Enjoin Respondents from moving Petitioner outside the jurisdiction of this Court pending adjudication of this petition;

c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;

a. Grant a writ of habeas corpus requiring that Respondents immediately release Petitioner without restraints on his liberty or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

b. Declare that Petitioner's re-detention violates the Due Process Clause of the Fifth Amendment, the Fourth Amendment, and the Suspension Clause of the U.S. Constitution; and the INA and implementing regulations;

c. Void the Expedited Removal Order pursuant to 8 U.S.C. § 1252(e)(2).

d. Award Petitioner 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

e. Grant any other and further relief that this Court deems just and proper.

DATED this 4th of December, 2025

Respectfully submitted,

/s/ Juliana M. Lopez
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VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 4th of December, 2025.

/s/ Juliana M. Lopez
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