UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

IRURE-RODRIGUEZ RAUL,

Petitioner,

v.

TODD LYONS, in his official capacity as Acting Director
U.S. Immigration and Customs Enforcement
500 12th Street SW
Washington, DC 20536

CHARLS PARRA in his official capacity as Assistant Field Office Director,
Krome North Service Processing Center
18201 SW 12th Street
Miami, FL 33194

PAMELA BONDI, in her official capacity as Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, D.C. 20530

GARRET RIPA, in his official capacity as Field Office Director for the Miami Office of
U.S. Immigration and Customs Enforcement
Enforcement and Removal Operations
18201 SW 12th Street
Miami, Florida 33194

KRISTI NOEM, in her official capacity as Secretary, U.S. Department Of Homeland Security
2707 Martin Luther King Jr. Avenue SE
Washington, D.C. 20528-0525,

Respondents.

Case No. 9:25-cv-81555

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1) Petitioner respectfully submits this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, challenging his continued detention by U.S. Immigration and Customs Enforcement (ICE) as unlawful and in violation of the Immigration and Nationality Act ("INA") and the Due Process Clause of the Fifth Amendment.

2) Despite the termination of his prior removal proceedings and the pendency of his bond appeal before the Board of Immigration Appeals (BIA), Petitioner remains detained at Broward Transition Detention Center without a bond hearing or meaningful opportunity for release. His continued detention serves no legitimate government purpose and has become unreasonably prolonged. Petitioner does not pose a danger to the community or is a flight risk, and the government has failed to demonstrate otherwise.

3) Because his detention no longer bears a reasonable relation to its original purpose and violates fundamental principles of due process, Petitioner is entitled to immediate release or, in the alternative, a prompt individualized bond hearing before an Immigration Judge with the government bearing the burden of proof by clear and convincing evidence.

JURISDICTION

4) Petitioner is in the physical custody of Respondents. Petitioner is detained at 3900 N Powerline Road, Pompano Beach, FL 33073, petitioner is under the direct control of Respondents and their agents.

5) This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., and the Administrative Procedure Act (APA), 5 U.S.C. § 701, et seq. 4. This Court has jurisdiction under 28 U.S.C. § 2241, Art. I § 9, cl. 2 of the United States Constitution (Suspension Clause) and 28 U.S.C. § 1331, as Petitioner is

presently in custody under alleged color of authority of the United States, and such custody is in violation of the Constitution, laws, and/or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, 5 U.S.C. § 702, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

6) Venue is proper in the Southern District of Florida because the Petitioner is currently detained at the Broward Transitional Center in Pompano Beach, Florida, which is located within this Judicial district. A petition for writ of habeas corpus under 28 U.S.C § 2241 must be filed in the district of the petitioner's confinement.

PARTIES

7) Petitioner Raul Irure-Rodriguez is a male citizen and national of Cuba who has been physically present in the United States since approximately May 20, 2022. He was arrested by the Department of Homeland Security (DHS) on June 23, 2025, and is currently detained at the Broward Transitional Center. Following his arrest, U.S. Immigration and Customs Enforcement (ICE) did not set a bond, and an Immigration Judge in the Miami Immigration Court denied bond on several occasions, finding him subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).

8) Defendant Todd Lyons is the Acting Director of ICE, headquartered at 500 12th Street SW, Washington, D.C. 20536. Mr. Lyons is responsible for the overall administration and enforcement of immigration detention policies nationwide, including those governing the custody of Petitioner. He is sued in his official capacity only.

9) Defendant ICE is the agency within DHS responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

10) Defendant Garret Ripa is the Field Office Director of the Miami Field Office of U.S. ICE, Enforcement and Removal Operations (ERO), located at 18201 SW 12th Street, Miami, Florida 33194. In this capacity, he oversees operations at the Broward Transitional Center, located at 3900 N. Powerline Road, Pompano Beach, Florida 33073. Mr. Ripa is the Petitioner's immediate custodian and has direct authority over his detention at Krome. He is sued in his official capacity only.

11) Defendant Pamela Bondi is the Attorney General of the United States. The Attorney General has supervisory authority over the Executive Office for Immigration Review (EOIR) and the Board of Immigration Appeals (BIA), which adjudicate immigration proceedings such as Petitioner's. She is sued in his official capacity only.

12) Defendant EOIR is the federal agency responsible for implementing and enforcing the I INA in removal proceedings, including the custody redetermination in bond hearings.

13) Defendant Kristi Noem is the Secretary of the U.S. Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner detention. Defendant Noem has ultimate custodial authority over Petitioners detention.

14) Defendant Department of Homeland Security is the federal agency responsible for implementing and enforcing the INA, including the detention and removal of noncitizens.

STATEMENT OF FACTS

15) Petitioner is 27-year-old national and citizen of Cuba who entered the United States on or about May 20, 2022, at Lukeville Arizona. He was served with a Notice to Appear on January 4, 2023. See Petitioner's Exhibit 1.

16) On June 23, 2025, the Petitioner was scheduled for a Master Calendar Hearing before an Immigration Judge. During the hearing, the Department of Homeland Security moved to dismiss proceedings, and on the same date, the Immigration Judge issued an order granting dismissal. Subsequently, as the Petitioner was exiting the Courtroom, he was detained by officers of U.S. Immigration and Customs Enforcement (ICE). He was thereafter transferred to the Broward Transitional Center, in Pompano Beach where he has remained detained since. See Petitioner's Exhibit 2.

17) On June 30, 2025, the Petitioner, through undersigned counsel, filed a request for a bond hearing. However, that request was subsequently withdrawn without prejudice on July 11, 2025. See Petitioner's Exhibit 3.

18) On August 1, 2025, Respondent appeared before the Immigration Court for a scheduled bond hearing. The Immigration Judge determined that Respondent was an "applicant for admission" under INA § 235(a)(1) and concluded that he was subject to mandatory detention pursuant to INA § 235(b)(2)(A). See Petitioner's Exhibit 4.

19) On August 8, 2025, the Immigration Court reviewed the Department of Homeland Security's negative credible fear determination and held that the Petitioner "[h]as established a significant possibility of eligibility for asylum under Section 208 of the Immigration and Nationality Act (INA), withholding of removal under Section 241(b)(3) of the INA, or protection under the Convention Against Torture (CAT)." See Petitioner's Exhibit 7.

20) The Petitioner timely appealed the Immigration Judge's denial of Bond made on August 1, 2025, to the Board of Immigration Appeals on August 28, 2025, said appeal continues pending before the Board of Immigration Appeals. See Petitioner's Exhibit 6.

21) On September 8th, 2025, the Immigration Judge entered a Bond Memorandum In support of its August 1, 2025, decision to deny bond. The Court therein states that that is the courts position "[I]t lacked jurisdiction to redetermine Respondent's custody status because Respondent is an applicant for admission subject to mandatory detention pursuant to section 235(b)(2)(A) of the INA." See Petitioner's Exhibit 5.

22) On October 9, 2025, the Petitioner, through undersigned counsel, filed a renewed Motion for Custody Redetermination following the Immigration Judge's positive credible fear determination issued on August 8, 2025. In that motion, Petitioner argued that Congress established two distinct detention frameworks under the INA. Section 235 governs the inspection and detention of "arriving aliens" and individuals apprehended at or near the border at the time of initial entry. In contrast, Section 236 applies to arrests made within the United States and authorizes the Secretary of Homeland Security to detain a noncitizen pending resolution of removal proceedings. Under Section 236, a noncitizen may be released on bond or conditional parole unless subject to the mandatory detention provisions of Section 236(c). Those mandatory detention exceptions do not apply here, as Respondent has no criminal history and no ties to any terrorist organization. Respondent is properly detained under Section 236, as evidenced by the Form I-200 dated May 23, 2022, under which he was arrested, and the subsequently issued Notice to Appear dated January 4, 2023, placing him in removal proceedings under Section 240.

23) On October 17, 2025, the above-referenced motion was adjudicated without a hearing, and the Immigration Judge denied authority to redetermine Petitioner's custody status. The Court held that the Petitioner is subject to mandatory detention pursuant to *Matter of Yajure-Hurtado*, 27 I&N Dec. 924 (BIA 2020). See Petitioner's Exhibit 8.

24) The Petitioner timely appealed the Immigration Judge's October 17, 2025, decision, and that appeal remains pending before the Board of Immigration Appeals. See Petitioner's Exhibit 10.

LEGAL FRAMEWORK

25) 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).

26) District Courts have the authority to grants writs of Habeas Corpus. See U.S.C § 2241(a). Due Process Clause. Habeas corpus is fundamentally "a remedy for unlawful executive detention." *Munaf v. Geren* 553 U.S. 674, 677 (2008) (citation omitted).

27) A writ may be issued to a petitioner who demonstrates that he is being held in custody in violation of the Constitution or federal law. See 28 U.S.C §2241(c)(3). Also See *Munaf*, 553 U.S. at 685.

28) District Courts jurisdiction extends to challenges involving immigration related detention. See *Zadvydas v. Davis*, 533 U.S. 678,687 (2001).

29) The key question is whether Petitioners detention is governed by Section 8 U.S.C § 1225(b)(2), which mandates detention, or 8 U.S.C §1226(a), which allows for release on bond. 8 U.S.C § 1225(b)(2) mandates the detention of applicants for admission, "if the examining immigration officer determines that an alien seeking admission is not clearly beyond a doubt entitled to admission[.]"

30) The INA defines "admission" and "admitted" as "the lawful entry of the alien into the United States after inspection and authorization by an immigration officer. 8 U.S.C. §1101(a)(13)(A). By using the term "seeking admission," 8 U.S.C. § 1225(b)(2) limits its application to aliens actively attempting to lawfully enter the United States. This interpretation is supported by 8 U.S.C. § 1225's repeated reference to "arriving alien"[1] and the existence of 8 U.S.C. § 1226, a separate statute that allows for detention and removal of noncitizens already present in the Country.

31) The Supreme Court discussed the difference between 8 U.S.C. § 1225 and 8 U.S.C. § 1226 in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Court It explained that 8 U.S.C. § 1225 "'authorized the Government to detain certain aliens seeking admission into the country [,]' while 8 U.S.C. § 1226 authorizes the Government to detain certain aliens already present in the United States pending the outcome of removal proceedings[.]" *Id* at 289.

32) The Supreme Court explained in *Leng May Ma v. Barber* that "our 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." 357 U.S. 185, 187 (1958). Once an alien enters the country, the legal circumstance changes, for the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

33) Further, Congress again acknowledged that noncitizens present in the United States have more substantial due process rights than new arrivals. See H.R. Rep. 104-469, p.1, at 163-66 (recognizing "that alien present in the U.S. has a constitutional liberty interest to remain in the

[1] "The term arriving alien means an applicant for admission or coming to attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to be a designated port-of-entry, and regardless of the means of transport." 8 C.F.R §1001.1(q).

U.S., and that this liberty interest is most significant in the case of a lawful permanent resident alien"). Following the amendment, federal regulations explained: "Despite being applicants for admission, aliens who are present without having been admitted or paroled will be eligible for bond and bond redetermination." *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997.).

34) On July 8, 2025, DHS announced a change of policy to its ICE employees stating that: "An 'applicant for admission' Is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of Arrival INA § 235(a)(1). Effective immediately, it is the position of DHS that such aliens are subject to detention under INA §235(b) and may not be released form ICE custody except by INA § 212(d)(5) parole." *See* **ICE MEMORANDUM:** Interim Guidance Regarding Detention Authority for Applicants for Admission, AILA Doc. No. 25071607 (July 8, 2025) (emphasis in original).

35) The new policy was adopted in *Matter of Hurtado*, 28 I&N Dec. 428 (BIA 2022). However, the new meaning is inconsistent with its long-standing principal of statutory interpretation. History demonstrates the label "applicant for admission: has not always been of Immigration applied to every noncitizen present without admission but was instead restricted to both temporal and geographical limits. DHS's current position that all noncitizens present without admission must be treated under INA § 235 contradicts this historical practice and undermines the principal that congress deliberately preserved distinct detention authorities under §§ 235 and 236.

36) Further, the Immigration Courts Reliance on the agency's interpretation is inconsistent with the Supreme Court's Recent Decision in *Loper Bright Enterprises v. Raimundo*, 144 S. Ct. 2244 (2024). In *Loper Bright* the Court found that agency interpretation of ambiguous

provisions may still be considered, but they are no longer entitled controlling weight. *Id.* Further, the interpretation conflates two distinct statutory schemes that Congress deliberately separated. § 235 governs inspection and detention of arriving aliens at or near the border while § 236 governs arrest and release of non-citizens apprehended inside the country and who are in removal proceedings under § 240. To read § 235 so broadly as to do away with § 236 would erase Congress deliberate preservation of discretionary bond authority in § 236. After *Loper Bright*, courts must reject agency readings that collapse statutory distinctions and instead adopt the interpretation that best reflects congressional design.

37) The Plain Structure of the INA demonstrates that Congress intended for INA § 236 bond authority to remain intact. Congress recently created an amendment of the INA through the *Laken Riley Act*, codified at 8 U.S.C § 1226(c)(1)(E), which subject certain individuals who commit certain crimes and meet the inadmissibility criteria to be subject mandatory detention. DHS's current interpretation nullifies Congress's recent amendment. If mere inadmissibility already made detention of a resident noncitizen mandatory under Section 1225, the Laken Riley Act would have no effect.

38) In Addition, the Petitioner brings this Habeas to enforce his right as a member of the Bond Denial Class certified in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM (C.D. Cal.).

39) On November 20, 2025, the district court granted partial summary judgment to the named petitioners, and on November 25, 2025, certified a nationwide class and extended the declaratory judgment to all class members. *Maldonado Bautista v. Santacruz*, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025); *Maldonado Bautista v. Santacruz*, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

40) The district court certified the following Bond Eligible Class:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

41) Under this interpretation, individuals, including the Respondent who were apprehended at or near the border shortly after entry, subsequently released on recognizance, and later re-detained by immigration authorities after having established residence within the United States, fall within the certified class.

42) The declaratory judgment held that Bond Denial Class members are detained under § 1226(a) and therefore may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3288403, at *11*. Further holding that Respondents violate the INA by applying § 1225(b)(2)'s mandatory-detention scheme to class members. *Maldonado Bautista*, 2025 WL 3288403, at *11*.

CLAIMS FOR RELIEF

COUNT ONE – Violation of the Fifth Amendment Right to Due Process

43) Petitioner realleges and incorporates by reference the allegations in all preceding paragraphs as though fully set forth herein.

44) Petitioner alleges a violation of rights guaranteed by the Due Process Clause of the Fifth Amendment. Because Petitioner is physically present within the United States, Petitioner is entitled to full constitutional protections with respect to detention as he has been residing within the United States since May 20, 2022 .

45) The Fifth Amendment provides that "[n]o person" shall be "deprived of life, liberty, or property, without due process of law."

46) "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Zadvydas*, 533 U.S. at 690.

47) Moreover, "[t]he Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Id.* at 693.

48) Petitioner's continued civil immigration detention imposed without an individualized custody determination and based on an erroneous statutory classification constitutes unlawful executive detention in violation of the Fifth Amendment. Accordingly, Petitioner's ongoing detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO – Unlawful Denial of Release on Bond in Violation of 8 U.S.C. § 1226(a) and its Bond Regulations.

49) Petitioner realleges and incorporates by reference the allegations in all preceding paragraphs.

50) Under 8 U.S.C. § 1226(a) individuals who are already present in the United States and placed in removal proceedings under INA § 240 may be detained and released on bond or conditional parole.

51) Respondents have unlawfully treated Petitioner as an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b),even though Petitioner is physically present in the United States and thus governed by 8 U.S.C. § 1226. This classification contradicts the text and structure of the INA, which distinguishes between (1) individuals seeking admission at or near the border, governed by 8 U.S.C. § 1225, and (2) individuals already inside the country, governed by 8 U.S.C. § 1226.

52) Congress deliberately preserved these two distinct detention authorities: 8 U.S.C. § 1225 governs border inspection; 8 U.S.C. § 1226 governs arrest and custody decisions for individuals apprehended within the United States. Respondents' interpretation collapses this statutory distinction and effectively nullifies 8 U.S.C. § 1226(a) discretionary bond framework.

53) Federal regulations expressly confirm that individuals present without admission remain eligible for custody redetermination under Respondents' interpretation collapses this statutory distinction and effectively nullifies 8 U.S.C. § 1226(a) discretionary bond framework. "Despite being applicants for admission, aliens who are present without having been admitted or paroled will be eligible for bond and bond redetermination." *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

54) DHS's 2025 internal memorandum, and the BIA's adoption of that memo in *Matter of Hurtado*, cannot override the statute or long-standing regulations. Under *Loper Bright Enterprises v. Raimondo*, 144 S. Ct. 2244 (2024), agency interpretations of ambiguous statutory provisions are no longer entitled to controlling weight, and courts must reject agency readings that conflict with congressional design.

55) Further the APA provides that a "reviewing court shall … hold unlawful and set aside agency action, findings, and conclusions found to be… arbitrary and capricious, and abuse of discretion, or otherwise not in accordance with law." 5 U.S.C § 706(2)A).

56) DHS's interpretation improperly eliminates 8 U.S.C. § 1226(a) by rendering all inadmissible individuals mandatorily detained under 8 U.S.C. § 1225, an interpretation incompatible with Congress's 2024 enactment of the Laken Riley Act, codified at 8 U.S.C. § 1226(c)(1)(E). Congress specifically added new mandatory-detention categories *within* 8 U.S.C. § 1226, confirming that 8 U.S.C. § 1226 remained the operative detention authority for individuals already present inside the United States.

57) The unlawful classification of Petitioner as an "applicant for admission" not only contradicts the statutory text but also deprives him of the discretionary custody review that Congress intentionally reserved for individuals apprehended within the United States. Respondents' actions therefore exceed their statutory authority, in violation of 5 U.S.C. § 706(2)(C).

58) Respondents' interpretation further violates the Administrative Procedure Act because it constitutes arbitrary and capricious agency action. Respondents disregarded decades of consistent agency practice, failed to account for reliance interests created by the established 8 U.S.C. § 1226(a) bond framework, and ignored the statutory amendments Congress enacted in 2024 with the Laken Riley Act confirming the continued significance of 8 U.S.C. § 1226. Respondents' unexplained reversal of long-standing policy fails to satisfy the reasoned decision-making required by law.

59) Respondents' miss application of 8 U.S.C. § 1225(b)(2) to Petitioner is contrary to

congressional intent and constitutes arbitrary, capricious, and unlawful agency action. By disregarding the statutory framework Congress enacted in 8 U.S.C. § 1226(a), Respondents have violated both the Administrative Procedure Act and the clear limits of their statutory authority.

COUNT THREE – Violation of the INA and the Declaratory Judgment in *Maldonado Bautista*

60) Petitioner realleges and incorporates by reference the allegations in all preceding paragraphs.

61) Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista* and is therefore entitled to consideration for release on bond under 8 U.S.C. § 1226(a).

62) The order granting partial summary judgment in *Maldonado Bautista* holds that Respondents violate the INA by applying mandatory detention under § 1225(b)(2) to class members.

63) Respondent are parties to *Maldonado Bautista* and are bound by the declaratory judgment, which carries the full "force and effect of a final judgment." 28 U.S.C. § 2201(a).

64) By refusing to provide Petitioner a bond hearing under 8 U.S.C. § 1226(a) and insisting Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2), Respondents violate both the INA and the binding declaratory judgment entered in *Maldonado Bautista.*

PRAYER FOR RELIEF

WHEREFORE,

A. Petitioner respectfully request that this Court:

1) Assume Jurisdiction over this matter;

2) Declare that Respondents' policy and practice of denying Petitioner consideration for bond on the basis of 8 U.S.C. § 1225(b)(2) violates the

Immigration and Nationality Act, its implementing regulations, the Administrative Procedure Act, and the Due Process Clause;

3) Issue a writ of habeas corpus requiring that Defendant release Petitioner or provide him with a bond hearing pursuant to 8 U.S.C. § 1226(a) or the Due Process Clause within 7 days;

4) Set aside the denial of bond hearing that Defendants issues to Petitioner and order Defendants to provide a new bond hearing pursuant to 8 U.S.C § 1226(a) within 7 days;

5) An award of attorney's fees and costs to the extent permitted by law, including but not limited to the Equal Access to Justice Act, 5 U.S.C. § 504, 28 U.S.C. § 2412; and

6) Grant any other and further relief that this court deems just and appropriate, including injunctions when requested as necessary to secure Petitioners rights.

DATED this 12th of December 2025.

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