

**UNITED STATES DISTRICT COURT MIDDLE DISTRICT OF FLORIDA
TAMPA DIVISION**

Juan Carlos Maradiaga,

Case No.: _____

Petitioner,

v.

Jail Warden Pinellas, ICE Detention Facility,
Todd M. Lyons, Acting Director, U.S. Immigration
and Customs Enforcement (ICE),
Kristi Noem, Secretary of the Department
of Homeland Security,
Pamela Bondi, Attorney General
Garrett J. Ripa Field Office Director
Enforcement and Removal Operations ICE

Respondents.
_____)

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS PURSUANT
TO 28 U.S.C. § 2241, AND MOTION FOR TEMPORARY RESTRAINING
ORDER AND PRELIMINARY INJUNCTIVE RELIEF**

COMES NOW, Petitioner Juan Carlos Maradiaga (“Petitioner”), by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and states as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal immigration custody within the Middle District of Florida,

specifically, Petitioner is held in the Pinellas County Jail and temporarily held in the Tampa Immigration and Custom Enforcement Facility.


2. This Court has federal question jurisdiction under 28 U.S.C. § 1331 and authority to grant equitable relief.
3. Venue is proper in this District because Petitioner is detained here and his immediate custodian is located in this District.

II. PARTIES

4. Petitioner Juan Carlos Maradiaga is a noncitizen residing in the Tampa area prior to detention.
5. Respondents are federal officers and agencies exercising custody and legal control over Petitioner.

III. FACTUAL BACKGROUND

6. Petitioner has resided in the United States since March 2005 for over 20 years and has been under ICE supervision since 2012, reporting as required. See Exhibits A and B.
7. Petitioner is married to a US Citizen since 2010 and has 2 US Citizen children 18 and 8 years old. See Exhibit C.
8. Petitioner has filed tax returns, accordingly, has a mortgage and assets together with his US Citizen wife to sustain his family. See Exhibit D.

9. Petitioner is the beneficiary of an approved Form I-130, Family petition, Receipt #  filed by his US Citizen spouse and approved by US Citizenship and Immigration Service on April 13, 2013. See Exhibit E.
10. Without warning, individualized findings, or a custody determination under INA § 236(a), ICE detained Petitioner.
11. Petitioner has no criminal convictions triggering mandatory detention under INA § 236(c).
12. Removal proceedings under INA § 240 are pending, with a master calendar hearing scheduled for March 26, 2027, at 1pm in the Immigration Court in Orlando, Florida. See Exhibit F.
13. Petitioner is prima facie eligible for relief, including consular processing through an approved family petition, Form I-130 filed by his U.S. citizen spouse, pending asylum, and cancellation of removal. See Exhibit G.

IV. LEGAL FRAMEWORK

14. ICE asserts detention authority under INA § 235(b), claiming Petitioner is an “applicant for admission.”
15. INA § 235(b) applies to individuals encountered at or near entry or seeking admission at a port of entry.

16. Petitioner was apprehended long after entry while reporting under supervision, placing him within INA § 236(a).
17. INA § 236(a) requires individualized custody determination and authorizes release on bond or own recognizance.
18. Under the Immigration and Nationality Act (INA), detention depends on the timing and context of apprehension. INA § 235(b) applies to noncitizens at or near entry, while INA § 236(a) governs those already in the U.S., allowing bond or release after an individualized custody review.
19. The BIA's recent decision in Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), interprets § 1225(b)(2)(A) to apply broadly to any EWI ("entered without inspection") individual, denying bond hearings for long-term residents.
20. Numerous federal district courts, however, have rejected this broad application when the individual has been in the interior U.S. for years. See Martinez Martinez v. Knight, No. 1:25-cv-00610-BLW (D. Idaho 2025); Hernandez v. Bondi, No. 1:25-cv-00615-BLW (D. Idaho 2025); Duran Serrato v. Anderson, No. 4:25-cv-00603-BLW (D. Idaho 2025). These courts consistently find § 1226(a) governs detention of long-term interior residents.
21. The Supreme Court has distinguished brief mandatory detention from prolonged custody: Demore v. Kim, 538 U.S. 510 (2003), upheld brief

detention for certain criminal aliens, emphasizing the narrow scope of § 236(c); Jennings v. Rodriguez, 138 S. Ct. 830 (2018), declined to authorize blanket mandatory detention for all EWIs; and Zadvydas v. Davis, 533 U.S. 678 (2001), invalidated indefinite detention without a foreseeable removal date.

V. ELEVENTH CIRCUIT AND SUPREME COURT AUTHORITY

22. The Eleventh Circuit recognizes that civil immigration detention must bear a reasonable relation to its purpose and cannot be arbitrary. See Sopo v. U.S. Attorney General, 825 F.3d 1199 (11th Cir. 2016), vacated as moot but persuasive on due process principles.
23. Federal habeas courts have consistently granted relief where detention is prolonged, statutory authority is misapplied, or no bond/custody review occurs. See Ziaei v. ICE (D.N.M. 2025); Kilmar Abrego García v. ICE (E.D. Pa. 2025); Northwest ICE Processing Center bond injunctions (W.D. Wash. 2025).
24. Prolonged detention without individualized evaluation violates both statutory and constitutional limits, particularly when Petitioner has no criminal history, substantial equities, and no imminent removal.

25. Jennings v. Rodriguez, 138 S. Ct. 830 (2018), did not authorize blanket mandatory detention of all EWIs and expressly declined to resolve constitutional limits.

26. Prolonged detention without individualized process violates the Fifth Amendment. See Zadvydas v. Davis, 533 U.S. 678 (2001).

VI. CLAIMS FOR RELIEF

COUNT I – UNLAWFUL DETENTION UNDER INA § 236(a)

27. ICE failed to conduct individualized custody determination.

COUNT II – ULTRA VIRES APPLICATION OF INA § 235(b)

28. ICE's reliance on § 235(b) exceeds statutory authority as applied to Petitioner.

COUNT III – FIFTH AMENDMENT DUE PROCESS VIOLATION

29. Continued detention without meaningful process is unconstitutional.

VII. IRREPARABLE HARM

30. Petitioners suffer ongoing irreparable harm through unlawful restraint and family separation.

VIII. EXHAUSTION AND EMERGENCY

31. Petitioners provided ICE with written notice and opportunity to correct the unlawful detention.

32. Exhaustion is satisfied or futile.

IX. REQUEST FOR TEMPORARY RESTRAINING ORDER

33. Immediate injunctive relief is warranted to prevent continued unconstitutional detention or transfer.

X. REQUEST FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Issue the writ of habeas corpus ordering immediate release or a bond hearing.
- B. Grant a Temporary Restraining Order preventing transfer.
- C. Declare Respondents' actions unlawful.
- D. Award costs and any further relief deemed just.

Respectfully submitted,



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CERTIFICATE OF SERVICE

I hereby certify that on December 16, 2025, I sent a copy of the Emergency Petition for Writ of Habeas Corpus Pursuant To 28 U.S.C. § 2241, And Motion for Temporary Restraining Order and Preliminary Injunctive Relief to the following respondents: Office of the United States Attorney at Middle District of Florida – Tampa Division 501 E. Polk Street, Suite 1000 Tampa, FL 33602; Current Warden Sheriff Bob Gualtieri of Pinellas County Sheriff’s Office at 10750 Ulmerton Road Largo, FL 33778; Warden / Jail Administrator Pinellas County Jail 14400 49th Street North Clearwater, FL 33762; and Attorney General of the United States U.S. Department of Justice at 950 Pennsylvania Avenue, NW Washington, DC 20530; Acting Director U.S. Immigration and Customs Enforcement at 500 12th Street, SW Washington, DC 20536; Secretary U.S. Department of Homeland Security at 245 Murray Lane, SW Washington, DC 20528; Field Office Director ICE Enforcement and Removal Operations Miami Field Office at 333 S. Miami Avenue, Suite 700 Miami, FL 33130 via certified mail.


GABRIELA KVASNA, ESQ.
Attorney for Petitioner