UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO.

ARGENIS ULISES TERAN TORO,

Petitioner,

v.

WARDEN, KROME NORTH SERVICE PROCESSING CENTER, GARRETT J. RIPA, Miami Field Office Director, Immigration and Customs Enforcement and Removal Operations; TODD M. LYONS, Acting Director of Immigration and Customs Enforcement; KRISTI NOEM, Secretary of the Department of Homeland Security; PAMELA BONDI, Attorney General of the United States, in their official capacities,

Respondents.

_______________________________________/

VERIFIED PETITION OF WRIT OF HABEAS UNDER 28 U.S.C. § 2241

INTRODUCTION

1. Petitioner Argenis Ulises Teran Toro seeks immediate relief from ongoing and unlawful civil immigration detention. He entered without inspection on or about December 23, 2021, was apprehended at the border, then released on an order of recognizance with alternative-to-detention reporting conditions. He complied with all conditions, appeared at every hearing, timely filed for asylum, received employment authorization, and was scheduled for an individual hearing in 2028. At a routine Immigration and Customs Enforcement ("ICE") check-in—

attended in full compliance—ICE rearrested and detained him, purportedly to obtain a "faster hearing," despite Petitioner having no criminal history and no change in circumstances. Petitioner sought release from ICE custody by submitting a request for release directly to the ICE deportation officer in charge of his case. The deportation officer denied his request citing "no significant humanitarian, or public benefit" as the cause for refusing to reinstate his conditions of release.

2. ICE now refuses release and the Immigration Court takes the position that it lacks jurisdiction to redetermine custody under the Board of Immigration Appeals' precedential decision in *Matter of Yajure Hurtado*, which holds that Immigration Judges have no bond jurisdiction over noncitizens "present in the United States without admission" detained under Immigration and Nationality Act ("INA") § 235(b)(2)(A), 8 U.S.C. § 1225(b)(2)(A). 29 I&N Dec. 216 (BIA 2025). This leaves Petitioner without any administrative avenue to challenge his detention, rendering habeas the only adequate and effective remedy.

3. This case presents a pure question of law regarding whether Petitioner's detention is governed by 8 U.S.C. § 1225(b)(2)(A), which mandates detention for noncitizens "seeking admission" at ports of entry, or by 8 U.S.C. § 1226(a), which provides discretionary detention with bond hearings for noncitizens already present in the United States.

4. Additionally, the government's continued deprivation of Petitioner's liberty interest is significant because he remained free from detention since

December 28, 2021 based on DHS's determination that he was neither a danger to the community or a flight risk. His sudden, unexplained re-detention under § 1225(b) without any due process whatsoever is a serious violation of the Due Process Clause of the Fifth Amendment.

5. Accordingly, Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order his immediate release from unlawful detention, or in the alternative, order a bond hearing before an Immigration Judge ("IJ") where DHS bears the burden of justifying his continued detention.

JURISDICTION AND VENUE

6. Petitioner is in the physical custody of Respondents and is currently detained at Krome North Services Processing Center, a federal detention facility located in Miami, Florida.

7. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241(c)(3) because Petitioner is in custody in violation of the Constitution and laws of the United States. This Court also has jurisdiction under 28 U.S.C. § 1331, federal question and the Suspension Clause of the United States Constitution which preserves habeas to challenge unlawful executive detention, Article I, Section 9, Clause 2.

8. 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.*, and the All Writs Act, 28 U.S.C. § 1651.

9. 8 U.S.C. §1252(g) does not deprive this Court of jurisdiction because Petitioner is not seeking review of the three discrete actions that the Attorney General may take under § 1252(g). *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Rather, Petitioner seeks the Court's determination on the appropriate legal authority governing his detention, and consequently whether he may be released or afforded a bond hearing.

10. Under *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue is proper in the Southern District of Florida, which is the judicial district where Petitioner is currently detained. Venue is also proper in this District under 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 Southern District of Florida.

REQUIREMENTS OF 28 U.S.C. § 2243

11. 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.*

12. 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).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

13. There is no statutory exhaustion requirement for habeas challenges under 28 U.S.C. § 2241. In the absence of a statutory exhaustion requirement, "sound judicial discretion governs." *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992).

14. It would be futile for Petitioner to seek a custody redetermination hearing before an IJ because the BIA recently issued a precedential decision holding that anyone who has entered the United States without inspection is considered an "applicant for admission" who is "seeking admission" and therefore subject to mandatory detention under Section 1225(b)(2)(A). *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025); *see also Garcia v. Noem*, No. 2:25-cv-00879-SPC-NPM, 2025 U.S. Dist. LEXIS 214695, 2025 U.S. Dist. LEXIS 214695 at *7 (M.D. Fla. Oct. 31, 2025) (Polster Chappell, J.) (noting that the BIA's decision in *Yajure Hurtado* renders exhaustion futile).

PARTIES

15. Petitioner Argenis Ulises Teran Toro is a native and citizen of Venezuela. He first entered the United States in December 2021 and has resided here continuously since that time. ICE detained Petitioner on October 15, 2025, and he remains in custody at Krome North Service Processing Center. Petitioner is in custody and under the direct control of Respondents and their agents.

16. Respondent Warden is sued in his or her official capacity as the Facility Administrator of the Krome North Service Processing Center, where Petitioner is detained. He or she is the immediate physical custodian of Petitioner.

17. Respondent Garrett J. Ripa is sued in his official capacity as the Field Office Director for the Miami Field Office of Immigration and Customs Enforcement, Enforcement and Removal Operations ("ICE/ERO"). The Miami Field Office is responsible for custody and enforcement decisions concerning non-citizens within its jurisdiction, including their arrest, detention, and custody status. The Miami Field Office's area of responsibility includes the State of Florida and parts of the Caribbean region. Respondent Ripa is the immediate custodian of Petitioner and responsible for his detention and removal.

18. Respondent Todd M. Lyons is sued in his official capacity as the Acting Director of ICE" and has authority over the operations and actions of ICE, including those of Respondent Ripa, the Field Office Director for the Miami Field Office. Respondent Lyons exercises supervisory authority over ICE detention facilities nationwide and is therefore the legal custodian of Petitioner.

19. Respondent Kristi Noem is sued in her official capacity as the Secretary of the Department of Homeland Security ("DHS") and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is charged with faithfully administering the immigration laws of the United States and is a legal custodian of Petitioner.

20. Respondent Pamela Bondi is sued in her official capacity as the

Attorney General of the United States, and as such has authority over the Executive Office of Immigration Review which is a component of the Department of Justice that is responsible for implementing and enforcing the immigration laws of the United States in removal proceedings, including custody redetermination in bond hearings.

FACTUAL BACKGROUND

21. Petitioner entered the United States in December 2021 when he was 28 years old. He was apprehended upon his entry at the southern border. Consistent with 8 U.S.C. § 1226(a) which permits release on conditional parole pending a decision on whether an individual is to be removed, DHS released Petitioner on an Order of Release on Recognizance ("OREC") with alternative-to-detention reporting conditions. *See Ceballo v. Parra*, No. 25-cv-25271-JB, 2025 U.S. Dist. LEXIS 250326, at *8 (S.D. Fla. Dec. 4, 2025) (Becerra, J.) (explaining that the sole exception to mandatory detention under § 1225 is release under §1182(d)(5) which permits parole for humanitarian purposes or significant public benefit).

22. A person released on conditional parole with an OREC falls within the discretionary detention framework in § 1226(a). *Id.*; *Espinoza v. Kaiser*, No. 1:25-CV-01101 JLT SKO, 2025 U.S. Dist. LEXIS 183811, at *17 (E.D. Cal. Sep. 18, 2025) ("A person on conditional parole is usually released on their own recognizance subject to certain conditions such as reporting requirements.").

23. Petitioner's release with an OREC indicates that DHS necessarily determined that he was neither a danger, nor a flight risk. *Saravia v. Sessions,* 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017) ("[r]elease reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk."). It also indicates that DHS applied discretionary detention under § 1226 to Petitioner, as opposed to mandatory detention under § 1225.

24. Petitioner complied fully with DHS's conditions of release, attended all hearings, timely filed a Form I-589 asylum application, and was granted a valid employment authorization. Petitioner was placed in standard, non-expedited removal proceedings and was scheduled for an individual hearing on November 3, 2028. *See* 8 U.S.C. § 1229a.

25. On October 15, 2025, Petitioner appeared at his scheduled ICE check-in. Despite full compliance, no criminal history, and no change in circumstances, ICE revoked Petitioner's release and unexpectedly detained him, stating that detention would purportedly yield a "faster" hearing. ICE has since refused to release him, providing no individualized rationale, risk assessment, or changed circumstances. Instead, ICE issued a blanket denial citing "no significant humanitarian, or public benefit."

26. At the time of his detention, Petitioner had remained at liberty in full compliance with the terms of release since December 28, 2021, DHS permitted him to live at home, lawfully work, and contribute meaningfully to his community.

27. Because DHS released Petitioner under 8 U.S.C. § 1226(a) and placed him in standard removal proceedings, he cannot now be subject to mandatory detention under 8 U.S.C. § 1225. *Ceballo*, 2025 U.S. Dist. LEXIS 250326, at *8 (holding that recent detention must be governed by § 1226(a) because DHS released individual from detention on conditional parole).

28. "Petitioner could not have been released [on conditional parole] if Respondents were proceeding under expedited removal proceedings which requires mandatory detention." *Id.*; *see Patel v. Tindall*, Civil Action No. 3:25-cv-373-RGJ, 2025 U.S. Dist. LEXIS 196325, at *11 (W.D. Ky. Oct. 3, 2025) (acknowledging the government's contention that an individual "cannot be in two removal proceedings simultaneously.") Significantly, Petitioner's recent detention occurred while he was living in the United States—not at the time of entry.

29. Despite treating Petitioner as being subject to discretionary detention for years, Respondents recently detain him under § 1225 without a bond hearing based on DHS's impermissible expansion of mandatory detention and the BIA's binding decision in *Matter of Yajure Hurtado* which strips Immigration Courts of jurisdiction over bond hearings for noncitizens residing in the United States.

30. Petitioner's recent detention on this basis violates the plain text of the INA, is contrary to the statutory framework, and is inconsistent with DHS's

own classification of Petitioner as subject to discretionary detention under § 1226(a).

LEGAL FRAMEWORK

31. The INA prescribes three basic forms of detention for noncitizens in removal proceedings.

32. 8 U.S.C. § 1226(a), authorizes the arrest, detention, and release (on bond or conditional parole) of noncitizens pending a decision on removal, except for classes of individuals with certain criminal history who are covered by § 1226 (c).

33. 8 U.S.C. § 1225(b) generally mandates detention of noncitizens subject to expedited removal and recent arrivals seeking admission. There is an express exception that grants DHS limited parole authority to release an individual subject to mandatory detention for urgent humanitarian reasons or significant public benefit. 8 U.S.C. § 1182(d)(5). The Supreme Court in *Jennings* explained "[t]hat express exception to detention [set forth in § 1182(d)(5)(A)] implies that there are no other circumstances under which aliens detained under § 1225(b) may be released." *Jennings v. Rodriguez*, 583 U.S. 281, 300 (2018).

34. Last, the INA provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

35. The text of § 1226 explicitly applies to individuals "already in the country pending the outcome of removal proceedings." *Jennings*, 583 U.S. at

289. Section 1226 also includes individuals charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)'s reference to such individuals makes clear that, by default, they are afforded a bond hearing under subsection (a). "When Congress creates 'specific exceptions' to a statute's applicability, it 'proves' that absent those exceptions, the statute generally applies." *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025) (citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)).

36. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole. By default, this provision applies to all persons "pending a decision on whether the [noncitizen] is to be removed from the United States." These removal hearings are held under § 1229a, to "decid[e] the inadmissibility or deportability of an alien."

37. Critically, courts have found that § 1226 also applies to someone, like Petitioner, who was released on conditional parole under § 1226 and recently detained while living in the United States in full compliance with the terms of his release. *See, e.g.*, *Ceballo*, 2025 U.S. Dist. LEXIS 250326, at *8; *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 U.S. Dist. LEXIS 156344, at *21 (D. Ariz. Aug. 11, 2025) (holding that release under conditional parole and subsequent detention without a bond hearing is "contrary to the laws of the United States."); *Lopez v. Lyons*, Civil Action No. 1:25-cv-01838-AJT-IDD, 2025 U.S.

Dist. LEXIS 232158, at *6 (E.D. Va. Nov. 25, 2025) (granting habeas where petitioner was paroled at border in 2016, lived in U.S. for nine years, and was re-arrested in the interior; holding § 1226(a) applies to "aliens already in the country" and § 1225(b) applies only to those "actively seeking admission").

38. In similar circumstances, courts have analyzed release—whether under conditional or humanitarian parole—and found that sudden re-detention without any procedures or individual determination regarding dangerousness and flight risk violates due process. *See, e.g.*, *Lopez-Arevelo v. Ripa*, No. 1:25-cv-01838-AJT-IDD, 2025 U.S. Dist. LEXIS 188232 (W.D. Tex. Sept. 21, 2025); *Savane v. Francis*, No. 1:25-cv-6666-GHW, 2025 U.S. Dist. LEXIS 194889, (S.D.N.Y. Sept. 28, 2025); *J.S.H.M. v. Wofford*, No. 1:25-CV-01309 JLT SKO, 2025 U.S. Dist. LEXIS 204422, (E.D. Cal. Oct. 16, 2025); *Omer G.G. v. Kaiser*, No. 1:25-cv-01471-KES-SAB (HC), 2025 U.S. Dist. LEXIS 230551, at *19 (E.D. Cal. Nov. 22, 2025).

39. Despite the long-established statutory construction of Sections 1225 and 1226, and Respondents' own historical practice of providing bond hearings to noncitizens like Petitioner residing in the country, ICE reversed course in July 2025 and began asserting that all individuals present in the United States without inspection should be considered "seeking admission" and subject to mandatory detention under § 1225(b)(2)(A) without a bond hearing.

40. On September 5, 2025, the BIA issued a binding decision adopting ICE's interpretation. *Matter of Yajure Hurtado* strips Immigration Courts of

jurisdiction to hold bond hearings for any noncitizen present in the United States without inspection, regardless of how long they have resided in the United States or where ICE encountered them within the country. 29 I&N Dec. at 216, 229.

41. Respondents' and the BIA's overly broad interpretation of § 1225 departs from the INA's text, federal precedent, existing regulations, and longstanding agency practice.

42. More than 280 district court decisions have properly rejected Respondents' interpretation, finding it contravenes the INA. *See, e.g.*, *Patel v. McShane*, No. 25-5975, 2025 U.S. Dist. LEXIS 228258, at *1 (E.D. Pa. Nov. 20, 2025) (noting "at least 282" recent district court decisions rejecting the broad expansion of § 1225).

43. Accordingly, mandatory detention provisions of § 1225(b)(1) or (b)(2) cannot apply to Petitioner because DHS placed him in standard removal proceedings and released him under § 1226(a). His recent detention occurred while he was residing in the United States pursuant to conditional parole—not humanitarian parole under § 1182(d)(5).

44. ICE's recent detention of Petitioner under § 1225 clearly violates the plain text of the INA. And even if Petitioner's detention were governed by § 1225, which it is not, his detention violates the Due Process Clause because Petitioner was not afforded a hearing or opportunity to demonstrate that he is neither a flight risk or a danger to the community before he was suddenly and arbitrarily detained at his routine ICE check-in. *See Materano v. Arteta*, No. 25 Civ. 6137 (ER), 2025

U.S. Dist. LEXIS 179608, at *31 (S.D.N.Y. Sep. 9, 2025) (finding ICE's revocation of parole and application of mandatory detention under § 1225 without any procedures violated petitioner's due process rights); *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. 2025) ("even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody she has a protected liberty interest in remaining out of custody").

CLAIMS FOR RELIEF

Count I: Detention in Violation of the INA

45. Petitioner alleges and incorporates by reference the paragraphs above.

46. Petitioner was previously released by DHS on recognizance and was in full compliance with the conditions of his release. That exercise of release authority reflects treatment under 8 U.S.C. § 1226(a), which contemplates discretionary detention and release during removal proceedings.

47. ICE's sudden re-detention without any individualized finding of danger or flight risk, and without any change in circumstances, is arbitrary and contrary to law. By asserting § 1225 mandatory detention for a noncitizen long released under § 1226(a) and residing in the community, that classification is erroneous, particularly where DHS itself treated Petitioner's detention as discretionary and placed him in standard proceedings years earlier.

48. The application of § 1225(b)(2)(A) to Petitioner unlawfully mandates his continued detention without a bond hearing and violates the INA.

49. Alternatively, even if § 1225 were to apply, DHS's revocation and continued custody is constrained by the Due Process Clause of the Fifth Amendment; as discussed below, the Due Process Clause forbids arbitrary detention without a legitimate, individualized justification, especially where no bond jurisdiction exists.

Count II: Fifth Amendment Due Process—Arbitrary Civil Detention Without Adequate Process

50. Petitioner alleges and incorporates by reference the paragraphs above

51. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

52. Petitioner has significant liberty interests protected by the Due Process Clause as a person physically present with established ties to the United States. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108 (2020).

53. To determine whether civil detention violates an individual's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

54. The assertion of the wrong detention authority to Petitioner and revocation of his conditional release without any process presents a significant risk of erroneous deprivation.

55. There is no significant government interest in keeping Petitioner detained. ICE rearrested Petitioner despite years of full compliance, no criminal record, and no new facts suggesting danger or flight risk. Detaining to "speed up" a distant immigration hearing, without more, is not a permissible justification for civil confinement and is arbitrary.

56. Any government interest and administrative burden of providing Petitioner with procedural due process *before* revoking his release and detaining him is low.

57. Petitioner's continued detention without procedural due process amounts to a serious deprivation of his constitutional rights and violates the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

(1) Assume jurisdiction over this matter.

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

(3) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody; or

(4) In the alternative, order Respondents to provide Petitioner with a prompt (within 7 days) individualized bond hearing before a neutral decisionmaker at which the Government bears the burden, by clear and convincing evidence, to prove that Petitioner is a danger or a flight risk, with consideration of less restrictive alternatives to detention;

(5) Enjoin Respondents from re-detaining Petitioner absent a material change in circumstances supported by specific, articulable facts and written findings;

(6) Issue an Order enjoining the Respondents from transferring Petitioner outside this District during the pendency of these proceedings;

(7) 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

(8) Grant any further relief this Court deems just and proper.

Dated this 19th day of December 2025

By: /s/ *Alexander Martinez*
Alexander Martinez, Esq.
MARTINEZ & ASSOCIATES LAW
6750 N. Andrews Ave., Suite 200
Fort Lauderdale, FL 33309
FL Bar No. 110392
Email: alex@martinezvisas.com
Phone: (754) 317-3203
Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of Petitioner Argenis Ulises Teran Toro as his attorney. I have discussed with Petitioner the events described in this Petition and have examined all documents referenced herein. On the basis of those discussions and upon my review of those documents, on information and belief, I hereby verify that the factual statements made in the foregoing Verified Writ of Habeas Corpus under 28 U.S.C. § 2241 are true and correct to the best of my knowledge.

Date: December 19, 2025

By: /s/ *Alexander Martinez*

Alexander Martinez, Esq.
MARTINEZ & ASSOCIATES LAW
6750 N. Andrews Ave., Suite 200
Fort Lauderdale, FL 33309
FL Bar No. 110392
Email: alex@martinezvisas.com
Phone: (754) 317-3203
Attorney for Petitioner