

UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF FLORIDA

IVAN GARCIA-PEREZ, 

Civil Action No.

*Petitioner.*

v.

KELLY WALKER, in her official capacity as  
ASSISTANT FIELD OFFICER DIRECTOR  
BROWARD TRANSITIONAL CENTER  
PAM BONDI, in her official capacity as  
ATTORNEY GENERAL;  
KRISTI NOEM, in her official capacity as  
SECRETARY OF THE DEPARTMENT OF  
HOMELAND SECURITY;  
CALEB VITELLO, in his official capacity as  
DIRECTORS OF UNITED STATES  
IMMIGRATION AND  
CUSTOMS ENFORCMENT

*Respondents.*

**VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS  
PURSUANT TO 28 U.S.C. § 2241**

Ivan Garcia-Perez (Mr. Garcia-Perez), a citizen of Cuba, petitions this Court for a writ of habeas corpus to remedy his prolonged and unlawful detention by Respondents. Immigration authorities detained Mr. Garcia-Perez without presenting an arrest warrant on November 7, 2025 during his regular ICE Check-In at the ICE Field Office in Miramar, Florida.

In early December of 2025, the government transferred Mr. Garcia-Perez to the Broward Transitional Center in Pompano Beach, Florida. As of the date of this petition, Mr. Garcia-Perez has not been permitted to communicate with his attorney, ICE has informed his attorney that they

do not have his file available, and he has not received a copy of any form of arrest warrant permitting his detention.

Mr. Garcia-Perez's Individual Immigration Hearing was scheduled for May 26, 2028 at the Miami Immigration Court for the full review of his timely filed Asylum Petition. Since his unlawful arrest, his Individual Hearing has been cancelled and he now has a Master Immigration Hearing on January 8, 2026 at the Broward Transitional Center Immigration Court. It is important to note that a Master Hearing is a preliminary hearing for immigration purposes. Stating it plainly, Respondents' decision to detain Mr. Garcia-Perez has ensured that his immigration proceedings are further delayed.

Respondents have detained Mr. Garcia-Perez without an arrest warrant; without explanation; and without cause. For the reasons set forth below, Mr. Garcia-Perez's continued unreasonably prolonged detention is unlawful and he is entitled to release.

In support of this petition, Mr. Garcia-Perez alleges as follows:

#### **CUSTODY**

1. In early December of 2025, the government transferred Mr. Garcia-Perez to the Broward Transitional Center in Pompano Beach, Florida.

#### **JURISDICTION**

2. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*, as amended by the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (IIRIRA), Pub. L. No. 104 - 208, 110 Stat. 1570.

3. 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, because Mr. Abreu is presently in custody under color of the authority of the United States and such custody is in violation of the

Constitution, laws, 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

4. 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 Southern District of Florida, the judicial district in which Mr. Garcia-Perez is detained.

#### PARTIES

5. Mr. Garcia-Perez is a citizen of Cuba. On or about March of 2022, he entered the United States where he was released on his own recognizance with the sole condition that Mr. Garcia-Perez check in at the ICE Field Office in Miramar, Florida every twelve (12) to sixteen (16) months. Immigration and Customs Enforcement (ICE) detained Mr. Garcia-Perez on November 7, 2025 and he has remained in custody continuously since that date.

6. Respondent Kelly Walker, the Assistant Field Officer Director of Broward Transitional Center, is responsible for the overall operation and direction of the detention center where Mr. Garcia-Perez is currently detained under the authority of ICE. As such, Ms. Walker may be considered to be Mr. Garcia-Perez's immediate custodian.

7. Respondent Pam Bondi is the Attorney General of the United States and is responsible for the administration of ICE and the implementation and enforcement of the Immigration and Naturalization Act (INA). As such, the Attorney General is a legal custodian of Mr. Garcia-Perez.

8. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS). The Secretary is responsible for the administration of ICE and the implementation and enforcement of the INA. As such, Secretary Noem is a legal custodian of Mr. Garcia-Perez.

9. Respondent Kelly Walker is the Assistant ICE Field Office Director of ICE's Broward Transitional Center and Warden of Broward Transitional Center. Ms. Walker is a legal custodian of Mr. Garcia-Perez. *See Vasquez v. Reno*, 233 F.3d 688, 690 (1st Cir. 2000), *cert. denied*, 122 S. Ct. 43 (2001).

10. Respondent Caleb Vitello, the Director of ICE, is responsible for the overall operation and direction of the Broward Transitional Center in Pompano Beach, Florida where Mr. Garcia-Perez is currently detained under the authority of ICE. Mr. Vitello is a legal custodian of Mr. Garcia-Perez.

### **STATEMENTS OF FACTS**

#### **I. Immigration History and Procedural Background**

11. Mr. Garcia Perez entered the United States on or about March 2022. Shortly thereafter, he was encountered by immigration authorities, issued a Notice to Appear (NTA) dated March 18, 2022, and placed into removal proceedings before the Miami Immigration Court located at 333 S. Miami Avenue. *See* Notice to Appear attached as Exhibit "A".

12. Upon issuance of the NTA, ICE released Mr. Garcia Perez on his own recognizance (ROR), subject to standard conditions, including periodic check-ins with ICE. *See* ICE Order of Release on Recognizance attached as Exhibit "B".

13. As part of his release, Mr. Garcia Perez was required to report to ICE on a regular basis. From the date of his release in March 2022 until his detention in November 2025, Mr. Garcia Perez complied with every single condition imposed by ICE. He appeared for all required ICE check-ins, maintained consistent contact with the agency, and never absconded or failed to appear. *See* ICE Order of Release on Recognizance attached as Exhibit "B".

14. Mr. Garcia Perez also fully complied with all Immigration Court obligations. He attended every Master Calendar Hearing scheduled in his case before the Miami Immigration Court. His case was ultimately set for an Individual Hearing on May 26, 2028, reflecting that his removal proceedings remain active and that there was no imminent adjudication requiring detention. *See* Immigration Court Notice of Hearings attached as Exhibit “C”. At no point prior to November 2025 did ICE allege that Mr. Garcia Perez violated any condition of release, posed a flight risk, or presented any danger to the community.

15. During this period, Mr. Garcia Perez timely filed his application for asylum and related relief. His filings were made within the applicable deadlines, and his case has proceeded in an orderly and compliant manner. There have been no allegations of delay, fraud, misrepresentation, or bad faith.

## **II. Compliance, Rehabilitation, and Lawful Integration**

16. Since his release on ROR in March 2022, Mr. Garcia Perez has taken extraordinary steps to integrate lawfully and productively into U.S. society. He timely filed his Asylum Petition with the Miami Immigration Court and was issued a valid Employment Authorization Document. He also obtained a valid Social Security card, allowing him to lawfully work and contribute to the U.S. economy.

17. Mr. Garcia Perez has maintained lawful employment and has demonstrated a strong and consistent work ethic. Most notably, he pursued and completed higher education in the healthcare field. He earned his Associate’s Degree in Nursing in the United States and successfully graduated from his nursing program. *See* Petitioner’s Associate’s Degree in Nursing attached as Exhibit “D”.

18. He has obtained the necessary credentials and approvals related to his nursing education, positioning him to take the NCLEX examination and enter the nursing profession, an area of critical need.

19. In addition to his professional achievements, Mr. Garcia Perez has built substantial community and family ties. He is married, and his marriage further anchors him to the community and to compliance with all immigration obligations. *See* Petitioner's Marriage Certificate attached as Exhibit "E".

20. He has received multiple letters of support from his employer, coworkers, educators, classmates, friends, and family members. These letters consistently describe Mr. Garcia Perez as responsible, compassionate, hardworking, and deeply committed to helping others. *See* Petitioner's Letters in Support attached as Exhibit "F".

21. Importantly, Mr. Garcia Perez has no criminal history whatsoever. A certified record from the Miami-Dade Sheriff's Office confirms that he has no arrests, no convictions, and no criminal involvement of any kind. *See* Petitioner's Police Clearance Letter "G". There is no allegation, past or present, that he has engaged in any conduct that would make him a danger to the community.

### **III. September–November 2025 ICE Check-In and Detention**

22. In September 2025, Mr. Garcia Perez appeared for a scheduled ICE check-in, as he had done consistently for years. This check-in was conducted pursuant to the conditions of his ROR release. During this check-in process, Mr. Garcia Perez was unexpectedly detained. He was formally taken into ICE custody on November 7, 2025.

23. Critically, Mr. Garcia Perez was detained without any explanation as to why his long-standing ROR status was being revoked. ICE did not allege any violation of conditions, did not

identify any new facts, and did not cite any statutory basis requiring detention. To date, ICE has never explained why Mr. Garcia Perez was detained at all.

24. Since his detention, Respondent has submitted no fewer than three informal requests for custody redetermination to ICE. In response to each of these requests, ICE has stated that it is unable to conduct a custody redetermination “at this time.” *See* Email from ICE as to Custody Redetermination attached as Exhibit “H”. ICE has provided no legal or factual explanation for this position. Specifically, ICE has failed to explain:

- a. Why Mr. Garcia Perez was detained during a routine check-in;
- b. Why he is allegedly ineligible for release;
- c. Why custody redetermination cannot be considered; and
- d. Whether ICE believes any statutory basis for mandatory detention applies.

#### **IV. Failure to Produce ICE File and Arrest Warrant**

25. Equally concerning is ICE’s failure to provide counsel with Mr. Garcia Perez’s ICE file, including the arrest warrant that would purportedly authorize his detention. Counsel has repeatedly requested a copy of the complete ICE file, with specific emphasis on the arrest warrant and any documentation justifying custody. *See* Email Correspondence between Counsel and ICE attached as Exhibit “I”.

26. ICE has repeatedly responded that Mr. Garcia Perez’s file is “in transit” and not accessible to the deportation officer assigned to the case. As of the date of this submission, ICE has not produced a warrant, has not produced the underlying file, and has not identified the authority under which Mr. Garcia Perez was arrested and detained.

27. In effect, ICE continues to detain Mr. Garcia Perez while simultaneously disclaiming the ability to explain why he is detained, why he cannot be released, or to provide the documents that would establish the legality of his custody.

28. Most recently, Mr. Garcia Perez has submitted a formal Custody Redetermination Request that remains unanswered. *See* ATD Request attached as Exhibit “J”.

29. Without any form of explanation and/or presentation of an arrest warrant, Respondents have detained Mr. Garcia-Perez on November 7, 2025 and placed his pending immigration proceedings on the detained docket. He now has a Master Immigration Hearing on January 8, 2026 at the Broward Transitional Center Immigration Court. *See* Electronic Immigration Court Notice of Hearings attached as Exhibit “K”.

**V. No Basis for Continued Detention and Eligibility for ATD**

30. Mr. Garcia Perez does not fall within any category of mandatory detention. ICE has never alleged otherwise. He presents no danger to the community, as demonstrated by his spotless criminal record, professional achievements, and extensive community support. He presents no risk of flight, as demonstrated by nearly four years of uninterrupted compliance with ICE supervision and Immigration Court proceedings.

31. Given these facts, continued detention serves no legitimate government purpose. At a minimum, Mr. Garcia Perez is an ideal candidate for Alternatives to Detention. He has already demonstrated that he will report as required, comply with conditions, and appear for all future hearings.

**COUNT ONE**  
**VIOLATION OF IMMIGRATION AND NATIONALITY ACT – PROLONGED  
MANDATORY DETENTION OF A NON-CITIZEN AFTER AN INDEPENDENT BOND  
DETERMINATION**

32. Mr. Garcia-Perez re-alleges and incorporates by reference paragraphs 1 through 31 above.

33. Mr. Garcia-Perez's continued detention by Respondents is unlawful and contravenes 8 U.S.C. § 1226(a)&(b). Specifically, 8 U.S.C. § 1226(a)(2) states that the Attorney General "may release the alien on ... (A) bond of at least \$1,500 with security approved by, and containing conditions prescribed by, the Attorney General; or (B) conditional parole." 8 U.S.C. § 1226(a). The method described by 8 U.S.C. § 1226(b) for a revocation of bond states that the Attorney General "at any time may revoke a bond or parole authorized under subsection (a), rearrest the alien under the original warrant, and detain the alien." 8 U.S.C. § 1226(b).

34. In this instance, Mr. Garcia-Perez entered the United States in March of 2022 whereas Respondents chose to release him under his own recognizance with the sole condition that Mr. Garcia-Perez check in at the ICE Field Office in Miramar, Florida every twelve (12) to sixteen (16) months. *See ICE Order of Release on Recognizance attached as Exhibit "B"*.

35. At no point between March of 2022 to November of 2025 has Respondents presented an Arrest Warrant for Mr. Garcia-Perez. Specifically, since November of 2025, Mr. Garcia-Perez's counsel requested copies of his arrest warrant and his immigration file repeatedly. *See Email Correspondence between Counsel and ICE attached as Exhibit "I"*. As of this filing, Mr. Garcia-Perez still does not have any record of his arrest warrant and/or a copy of his immigration file.

36. Making Respondents' action more egregious is Mr. Garcia-Perez's lack of access to a reasonable opportunity to participate in immigration court proceedings as required under U.S.C. §1229a. Specifically, Mr. Garcia-Perez is not currently afforded the right to examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government. U.S.C. §1229a(a)(4).

37. Mr. Garcia-Perez's immigration proceedings has been moved to the detained docket whereas he has his Master Immigration Hearing on January 8, 2026 at the Broward Transitional

Center Immigration Court. *See* Electronic Notice of Immigration Hearing attached as Exhibit “K”. However, Mr. Garcia-Perez remains deprived of his immigration file, including his arrest warrant despite repeated requests to Respondents.

38. Mr. Abreu faces an unreasonable period of future mandatory detention as he awaits a non-final decision by Immigration Judge Thomas Ayze without the ability to properly examine the evidence against him, to present evidence on his own behalf, and to cross-examine witnesses presented by the Government. U.S.C. §1229a(a)(4). Lengthy detention during the pendency of immigration proceedings is unreasonable. *See Chavez-Alvarez*, 783 F.3d at 477-78.

39. For these reasons, Mr. Garcia-Perez’s continued detention by Respondents is unlawful and in violation of the Immigration and Nationality Act.

**COUNT TWO**  
**SUBSTANTIVE DUE PROCESS VIOLATION**

40. Mr. Garcia-Perez re-alleges and incorporates by reference paragraphs 1 through 31 above.

41. A person in removal proceedings is entitled to due process under the Fifth Amendment. *Reno v. Flores*, 507 U.S. 292, 306 (1993). In removal proceedings, which are civil rather than criminal in nature, constitutional requirements of due process are only satisfied by a full and fair hearing. *Matter of Exilus*, 18 I&N Dec.276, 281 (BIA 1982).

42. The Due Process Clause of the Fifth Amendment requires that the deprivation of Mr. Garcia-Perez’s liberty be narrowly tailored to serve a compelling government interest. Mr. Garcia-Perez is currently deprived of his due process rights to which he is entitled under the Fifth Amendment of the United States Constitution. *Animashaun v. INS*, 990 F.2d 234, 238 (5th Cir.1993)(citing *Reno v. Flores*, 507 U.S. 292, 305 (1993)).

43. While Respondents may attempt to argue that they have an interest in detaining Mr. Garcia-Perez in order to effectuate removal, that interest does not justify the prolonged detention of Mr. Garcia-Perez.

44. This is especially apparent given Mr. Garcia-Perez's prior history. He has appeared for every immigration hearing before the appropriate Immigration Court; he has appeared at every check in at the ICE Field Office in Miramar, Florida; he has timely filed his Asylum Claim with the appropriate federal agency; and he has obtained is lawful work authorization card and social security card while his claim remains pending before the appropriate federal agency.

45. For these reasons, Mr. Garcia-Perez's continued detention by Respondents is unlawful and in violation of due process of the law under the Fifth Amendment.

**COUNT THREE**  
**PROCEDURAL DUE PROCESS VIOLATION**

46. Mr. Garcia-Perez re-alleges and incorporates by reference paragraphs 1 through 31 above.

47. Mr. Garcia-Perez's prolonged detention violates a noncitizen's due process rights guaranteed under the Fifth Amendment. As the Court held in *Sopo*, "aliens should [not] be punished for pursuing avenues of relief and appeals." 825 F.3d at 1215 (citing *Ly v. Hansen*, 351 F.3d 263 at 272 (6th Cir. 2003); ("[A]ppeals and petitions for relief are to be expected as a natural part of the process. A noncitizen that would not normally be subject to indefinite detention cannot be so detained merely because he seeks to explore avenues of relief that the law makes available to him.")). "Although an alien may be responsible for seeking relief, he is not responsible for the amount of time that such determinations may take." *Ly*, 351 F.3d at 272.

48. Mr. Garcia-Perez is currently being detained by Respondents without the ability to seek an individualized bond hearing and triggering the cancellation of his Individual Hearing that was set

for May 26, 2028. This hearing was for the sole purpose of determining whether Mr. Garcia-Perez's asylum claim should be granted.

49. Prior to Mr. Garcia-Perez's immigration proceedings remained pending in the Miami Immigration Court. He was scheduled for an Individual Immigration Hearing on May 26, 2028 at the Miami Immigration Court. *See* Immigration Court Notice of Hearings attached as Exhibit "C". This is more than two years from the date of this filing.

50. Without any form of explanation and/or presentation of an arrest warrant, Respondents have detained Mr. Garcia-Perez on November 7, 2025 and placed his pending immigration proceedings on the detained docket. He now has a Master Immigration Hearing on January 8, 2026 at the Broward Transitional Center Immigration Court. *See* Electronic Immigration Court Notice of Hearings attached as Exhibit "K".

51. Respondents' decision to detain Mr. Garcia-Perez without explanation, documentation, or legal reason makes his detention even more egregious. This is because Respondents' actions have created an even longer delay as to the disposition of Mr. Garcia-Perez's asylum claim because he, now, is being placed in an entirely new court docket and his Individual Hearing set for May 26, 2028 has effectively been cancelled all together.

52. For these reasons, Mr. Garcia-Perez's continued detention by Respondents is unlawful and in violation of procedural due process under the Fifth Amendment.

**COUNT FOUR**  
**ADMINISTRATIVE PROCEDURE ACT VIOLATION**

53. Mr. Garcia-Perez re-alleges and incorporates by reference paragraphs 1 through 31 above.

54. The APA provides that courts "shall . . . hold unlawful and set aside agency action" that is "arbitrary, capricious, an abuse of discretion." 5 U.S.C. § 706(2)(A). In *Motor Vehicle Mfrs. Ass'n v. State Farm*, the Supreme Court emphasized that an agency acts arbitrarily and capriciously

when it entirely fails to consider an important aspect of the problem or offers an explanation that runs counter to the evidence before the agency. 463 U.S. 29, 43 (1983). Respondent's actions are arbitrary and capricious.

55. Mr. Garcia-Perez's apprehension and continued detention is arbitrary and capricious because it departs from the agency's existing policies without providing a reasoned explanation for departing from these policies.

56. Mr. Garcia-Perez is neither a flight risk, nor a danger to the community. Quite the opposite: Mr. Garcia-Perez has complied with all of DHS and ICE conditions of his initial release under his own recognizance; Mr. Garcia-Perez has timely filed his asylum claim, which remained pending for full adjudication by the Miami Immigration Court prior to his detention; Mr. Garcia-Perez has obtained is lawful work authorization card and social security card while his claim remains pending before the appropriate federal agency; Mr. Garcia-Perez has obtained his Associate's Degree in Nursing; and Mr. Garcia-Perez has not had any encounter with law enforcements. Despite these findings, the government has departed from its existing policies without providing a reasoned explanation for departing from these policies when detaining Mr. Abreu.

57. As noted above, no rationale for Mr. Garcia-Perez's detention on November 7, 2025 nor a determination of release has been presented by DHS and/or ICE despite his pending ATD request. For these reasons, Mr. Garcia-Perez's continued detention by Respondents is unlawful and in violation of the Immigration and Nationality Act.

**COUNT FIVE**  
**RECOVERY OF ATTORNEY FEES AND COSTS**

58. Mr. Garcia-Perez re-alleges and incorporates by reference paragraphs 1 through 31 above.

59. If he prevails, Petitioner requests attorney's fees and costs under the Equal Access to

Justice Act (“EAJA”), as amended, 28 U.S.C. § 2412.

**PRAYER FOR RELIEF**

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

- a) Assume jurisdiction over this matter;
- b) Issue an order directing Respondents to show cause why the writ should not be granted;
- c) Issue a writ of habeas corpus ordering Respondents to release Mr. Garcia-Perez on his own recognizance or under parole, a low bond, or other reasonable conditions of supervision;
- d) Award Petitioner reasonable costs and attorney’s fees; and
- e) Grant any other relief which this Court deems just and proper.

Date: December 19, 2025

Respectfully submitted:

/s/ Louize Fiore

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