Hardeep Sull, Esq.
SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com
Attorneys for the Plaintiff

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

UNITED STATES DISTRICT COURT

DISTRICT OF NEVADA

Yoandri Gonzales Terrero

Petitioner,

vs.

John Mattos, in his official capacity as Warden of Nevada Southern Detention Center;

Brian Henke in his official capacity as Field Office Director, ICE Las Vegas Office;

PAM BONDI, in her official capacity as Attorney General of the United States;

RICKISHA HIGHTOWER, in her official capacity as Assistant Chief Counsel Office of the Principal Legal Advisor, Las Vegas

and KRISTI NOEM, in her official capacity as Secretary of the U.S. Department of Homeland Security,

Respondents

CASE NO.

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

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

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

Petitioner, Yoandri Gonzalez Terrero, by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 to challenge his unlawful civil immigration detention by the United States Department of Homeland Security ("DHS") and Immigration and Customs Enforcement ("ICE"). Petitioner is a 42-year-old citizen and national of Cuba currently detained at the Nevada Southern Detention Center in Pahrump, Nevada, within the jurisdiction of this Court. He has remained in continuous DHS custody since August 4, 2025, when ICE assumed custody of him following a local arrest.

Petitioner first entered the United States in November 2019 after fleeing conditions in Cuba and seeking protection upon arrival. He was placed into removal proceedings under § 240 of the Immigration and Nationality Act and was released while those proceedings were pending. Petitioner has resided continuously in the United States since that time and has complied with all requirements imposed by immigration authorities.

Petitioner has deep family and community ties in the United States. He is father of minor children, and has served as a primary source of financial and emotional support for his family. He has maintained steady employment as a taxi driver and has no history of violent crime. His criminal history is limited to minor traffic-related matters, including a single nonviolent traffic conviction and a pending misdemeanor charge that has not resulted in a conviction. Nothing in the record suggests that Petitioner poses a danger to the community or a risk of flight.

Petitioner has pursued lawful immigration relief in good faith. In December 2021, an Immigration Judge dismissed his prior removal proceedings. On June 6, 2024, Petitioner filed

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

an Application to Register Permanent Residence or Adjust Status pursuant to the Cuban Adjustment Act, which remains pending before U.S. Citizenship and Immigration Services.

On November 3, 2025, following removal proceedings in the Las Vegas Immigration Court, an Immigration Judge granted relief to Petitioner and completed his case. No final order of removal was entered, and no stay of the Immigration Judge's decision has been issued. Petitioner's case was designated and litigated as an ECAS case, requiring that any appeal be filed electronically and served automatically through EOIR's electronic system. It is important to note that the Executive Office for Immigration Review's (EOIR) Courts & Appeals System (ECAS) is a mandatory electronic filing system for attorneys, accredited representatives, and Department of Homeland Security (DHS) personnel involved in immigration proceedings. The system aims to phase out paper filings and maintain electronic records of proceedings. The regulations governing ECAS filings are detailed in various sections of the Code of Federal Regulations (CFR) and EOIR policy documents. Therefore, it is inconceivable as to why this case didn't upload the notice through the ECAS portal.

Despite the Immigration Judge's grant of relief, DHS has continued to detain Petitioner based on an alleged appeal that does not appear in ECAS, was never electronically filed or served on Petitioner or his counsel, and has not been acknowledged by the Board of Immigration Appeals. As a result, Petitioner remains confined without a final order of removal, without a stay, and without any lawful basis for continued detention.

Petitioner has never received a constitutionally adequate custody determination following the Immigration Judge's grant of relief. He has never been adjudicated a danger or a flight risk, and

he has been denied any forum in which to challenge the legality of his continued detention. His confinement has become prolonged, arbitrary, and untethered from any legitimate statutory purpose.

Because Petitioner has been deprived of any meaningful opportunity to seek release, and because his continued detention exceeds statutory authority and violates the Constitution, habeas corpus relief is warranted.

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner challenges the legality of his ongoing civil immigration detention and seeks relief that is within the traditional scope of habeas corpus. Jurisdiction also lies under 28 U.S.C. § 1331, as this petition raises federal questions arising under the Constitution, laws, and treaties of the United States. The Suspension Clause of the United States Constitution further guarantees Petitioner's right to seek habeas corpus review where no other adequate remedy exists.
2. Venue is proper in the United States District Court for the District of Nevada, Las Vegas Division, pursuant to 28 U.S.C. § 1391(e), because Petitioner is detained within this District at the Nevada Southern Detention Center in Pahrump, Nevada.
3. John Mattos, the Warden of the Nevada Southern Detention Center is Petitioner's immediate custodian and maintains direct physical control over his confinement.

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

4. Respondent, Brian Henke, the Field Office Director of the ICE Las Vegas Field Office oversees immigration functions and supervisory responsibilities relevant to Petitioner's detention and is included as a respondent in her official capacity.

5. Respondent Pam Bondi, as Attorney General of the United States, exercises supervisory authority over the Executive Office for Immigration Review (EOIR), including the Immigration Courts and the Board of Immigration Appeals, whose determinations have affected Petitioner's detention and access to custody review.

6. Respondent Rickisha L. Hightower, in her official capacity as Assistant Chief Counsel with the Office of the Principal Legal Advisor ("OPLA"), Los Angeles (Las Vegas), is a DHS attorney responsible for representing the government in immigration proceedings and related detention matters. Respondent Hightower has participated in, or exercised supervisory authority over, the government's positions regarding Petitioner's custody and the asserted basis for continued detention.

7. Respondent Kristi Noem, as Secretary of the United States Department of Homeland Security, has ultimate legal and supervisory authority over the agencies and officers detaining Petitioner, including oversight of ICE policies and regulations governing immigration detention and release.

PARTIES

8. Petitioner Yoandri Gonzales Terrero is a citizen and national of Cuba who is currently detained at the Nevada Southern Detention Center in Pahrump Nevada. He is held in the civil immigration custody of the United States Department of Homeland Security.

SULL AND ASSOCIATES, PLLC
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(702) 953-9500 phone
dee@sullglobal.com

Petitioner brings this habeas action to challenge the legality of his prolonged and unconstitutional immigration detention.

9. Respondent John Mattos, the Warden of the Nevada Southern Detention Center, is Petitioner's immediate custodian. The Warden exercises direct physical control over Petitioner's confinement and is a proper respondent under the immediate-custodian rule governing habeas corpus petitions.

10. Respondent Brian Henke, the Field Office Director of the ICE Las Vegas Field Office oversees immigration functions and supervisory responsibilities relevant to Petitioner's detention and is included as a respondent in her official capacity.

11. Respondent Pam Bondi, Attorney General of the United States, is the chief legal officer of the federal government and exercises supervisory authority over the Executive Office for Immigration Review, including Immigration Courts and the Board of Immigration Appeals, whose determinations have affected Petitioner's access to custody review.

12. Respondent Rickisha L. Hightower, in her official capacity as Assistant Chief Counsel with the Office of the Principal Legal Advisor ("OPLA"), Los Angeles(Las Vegas), is a Department of Homeland Security attorney who represents the government in immigration proceedings and related detention matters. Respondent Hightower is named solely in her official capacity based on her role in advancing and supervising the government's positions affecting Petitioner's detention.

13. Respondent Kristi Noem, Secretary of the United States Department of Homeland Security, has ultimate legal and supervisory authority over the agencies and officers

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dec@sullglobal.com

detaining Petitioner, including oversight of U.S. Immigration and Customs Enforcement operations, policies, and regulations governing civil immigration detention and release.

FACTUAL BACKGROUND

14. Petitioner Yoandri Gonzalez Terrero is a 42-year-old citizen and national of Cuba. He first entered the United States in November 2019 after fleeing conditions in his home country and seeking protection upon arrival at the southwest border. Upon entry, Petitioner expressed a fear of return and was placed into removal proceedings under § 240 of the Immigration and Nationality Act.

15. According to the government's records, Petitioner was encountered by U.S. Customs and Border Protection officials after presenting himself at a port of entry and requesting asylum. He was issued a Notice to Appear and released on his own recognizance while his immigration proceedings were pending. Petitioner has remained continuously present in the United States since that time and has complied with all requirements imposed by immigration authorities.

16. Petitioner has no history of violent crime and no record of conduct suggesting that he poses a danger to the community. His criminal history consists solely of minor traffic-related matters, including a nonviolent traffic conviction in 2024 and a pending misdemeanor DUI charge that has not resulted in a conviction. He has never been sentenced to incarceration in a criminal case and has no history of gang affiliation or disciplinary infractions.

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

17. Petitioner has deep and longstanding ties to the United States. He is the father of minor children, all of whom are Cuban nationals residing in the United States. He has maintained steady employment as a taxi driver and has served as a primary source of financial and emotional support for his family throughout his residence in this country.

18. On August 4, 2025, Petitioner was taken into ICE custody following a local arrest. That same day, the Department of Homeland Security issued a new Notice to Appear charging him as inadmissible under INA § 212(a)(7)(A)(i)(I). Petitioner was transferred to the Nevada Southern Detention Center, where he remains detained.

19. Petitioner has a significant immigration history marked by good-faith efforts to regularize his status. In December 2021, an Immigration Judge dismissed Petitioner's prior removal proceedings. On June 6, 2024, Petitioner filed an Application to Register Permanent Residence or Adjust Status pursuant to the Cuban Adjustment Act. That application remains pending before U.S. Citizenship and Immigration Services.

20. The Cuban Adjustment Act is a unique piece of U.S. immigration legislation that provides a streamlined process for Cuban nationals to become lawful permanent residents. Its lack of an expiration date and its distinct legal framework set it apart from other immigration laws. The act continues to play a crucial role in the immigration landscape for Cuban nationals in the United States.

21. On November 3, 2025, following removal proceedings in the Las Vegas Immigration Court, an Immigration Judge granted relief to Petitioner. The Immigration Court's electronic records reflect that the case was completed, that relief was granted, and that no future hearings were scheduled. No final order of removal was entered against Petitioner.

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dee@sullglobal.com

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22. Petitioner's immigration proceedings were conducted as an ECAS case under EOIR's electronic filing and service system. As an ECAS case, all filings—including any Notice of Appeal—were required to be submitted electronically and automatically served on the parties through ECAS. Electronic filing and service were mandatory, and service by mail was neither required nor appropriate.

23. Following the Immigration Judge's grant of relief, ICE asserted that the Department of Homeland Security filed a timely appeal of the Immigration Judge's decision. However, no appeal appears in EOIR's electronic case system, no notice of appeal has been served on Petitioner or his counsel through ECAS, and the Board of Immigration Appeals has confirmed that it has no record of any appeal filed in this case. Counsel was never served and repeatedly requested for documentation and followed up with the BIA clerk yet received no information or notices.

24. Despite the ECAS requirements governing this case, the Government has claimed—without producing any documentation—that it mailed an appeal in an apparent attempt to initiate the appellate clock outside of the electronic system. Petitioner's counsel was never served with any appeal, and no appeal has been docketed electronically as required. The Government's actions reflect a deliberate failure to comply with mandatory ECAS notice procedures.

25. As a result, Petitioner remains detained based on an alleged appeal that does not exist in the electronic record, was never properly filed, and was never properly served. There is no stay of the Immigration Judge's decision and no lawful basis for continued detention.

26. Petitioner has no disciplinary history during detention, has complied with all institutional rules, and presents no evidence of flight risk or danger. His family ties, longstanding

residence in the United States, and pending statutory avenue for lawful permanent residence weigh strongly in favor of release.

27. Because ICE continues to detain Petitioner despite the Immigration Judge's grant of relief—and in the absence of any valid appeal, stay, or final order—Petitioner is subjected to prolonged and arbitrary civil confinement wholly untethered from any lawful statutory purpose. He remains detained in restrictive, penal-like conditions at the Nevada Southern Detention Center, a facility that has previously been the subject of public scrutiny following the death of a detainee during the COVID-19 pandemic, underscoring the concrete and ongoing liberty and safety interests at stake. Petitioner's continued custody persists despite the complete absence of any lawful authority justifying his detention.

28. Petitioner's ongoing detention, predicated on improper notice and an unsubstantiated claim of appeal in an ECAS case, violates the Immigration and Nationality Act and the Fifth Amendment's Due Process Clause. Having no available administrative mechanism to challenge his custody, Petitioner seeks habeas corpus relief to secure his immediate release or, in the alternative, a prompt custody determination before a neutral decision-maker with authority to order his release.

COUNT I: UNLAWFUL DETENTION IN VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT (INA) AND IMPLEMENTING REGULATIONS

29. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
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dee@sullglobal.com

30. The Immigration and Nationality Act authorizes civil immigration detention only when it serves a legitimate statutory purpose, such as ensuring appearance at future proceedings or protecting public safety. Zadvydas v. Davis, 533 U.S. 678, 690 (2001); Clark v. Martinez, 543 U.S. 371, 381 (2005). Detention that exceeds these purposes, or that continues without lawful justification, exceeds the authority granted by Congress.

31. Petitioner is a citizen and national of Cuba who was placed into removal proceedings under § 240 of the INA after seeking protection upon entry into the United States. He has resided continuously in this country for several years and has pursued all available immigration relief in good faith.

32. Petitioner has no criminal history involving violence, no disciplinary infractions during detention, and no record suggesting that he poses a danger to the community or a risk of flight. Nothing in the record supports continued confinement as necessary to ensure his appearance or to protect public safety.

33. On August 4, 2025, Petitioner was taken into ICE custody and has remained detained at the Nevada Southern Detention Center since that date.

34. On November 3, 2025, following removal proceedings in the Las Vegas Immigration Court, an Immigration Judge granted relief to Petitioner. The Immigration Court's electronic records reflect that the case was completed, that relief was granted, and that no final order of removal was entered.

35. Petitioner's case was designated and litigated as an ECAS case, requiring that all filings, including any Notice of Appeal, be submitted electronically and served automatically through EOIR's electronic system.

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
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dee@sullglobal.com

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(702) 953-9500 phone
dee@sullglobal.com

36. Following the Immigration Judge's grant of relief, the Government asserted that it filed a timely appeal. However, no appeal appears in ECAS, no Notice of Appeal was electronically filed or served on Petitioner or his counsel, and the Board of Immigration Appeals has confirmed that it has no record of any appeal in this case.

37. Despite the absence of any electronically filed appeal, stay, or final order of removal, ICE has continued to detain Petitioner based solely on its unsupported assertion that an appeal exists.

38. The Government's continued detention of Petitioner is not tethered to any pending immigration proceeding, imminent removal, or lawful statutory authority. There is no final order authorizing removal and no valid appellate process that would justify continued custody.

39. Petitioner has never been provided with an individualized custody determination following the Immigration Judge's grant of relief. No neutral decisionmaker has evaluated whether detention is necessary to address flight risk, danger, or the availability of less restrictive alternatives.

40. Because the Government continues to detain Petitioner without a valid appeal, without a stay, and without statutory authority, his detention is effectively indefinite and untethered from the purposes authorized by the INA.

41. The INA does not authorize the prolonged or indefinite detention of a noncitizen who has been granted relief by an Immigration Judge, poses no danger or flight risk, and is not subject to a final order of removal. See Zadvydas, 533 U.S. at 690–91; Clark, 543 U.S. at 380–81.

42. Petitioner's continued confinement serves no legitimate statutory purpose. It does not further removal, ensure compliance with proceedings that have already concluded, or protect public safety.

43. By detaining Petitioner without lawful authority, without proper notice, and without adherence to mandatory ECAS procedures, the Government has exceeded the narrow detention authority granted by Congress.

44. Accordingly, Petitioner's continued detention is unlawful under the Immigration and Nationality Act and its implementing regulations. Petitioner respectfully requests that this Court order his immediate release, or, in the alternative, require the Government to provide a prompt and lawful custody determination before a neutral adjudicator with authority to order his release.

COUNT II: VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT TO THE U.S. CONSTITUTION

45. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

46. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Noncitizens physically present in the United States, including those in civil immigration proceedings, are entitled to full procedural due process protections. Zadvydas v. Davis, 533 U.S. 678, 693 (2001); Landon v. Plasencia, 459 U.S. 21, 32 (1982).

47. Petitioner is a citizen and national of Cuba who was placed into removal proceedings under § 240 of the Immigration and Nationality Act after seeking protection upon entry

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

into the United States. He has resided continuously in this country for several years and has pursued available immigration relief in good faith.

48. Petitioner has no criminal history involving violence, no disciplinary infractions during detention, and no record suggesting that he poses a danger to the community or a risk of flight. Nothing in the record supports continued confinement as necessary to protect public safety or ensure appearance.

49. On August 4, 2025, ICE took Petitioner into custody following a local arrest. He has remained continuously detained at the Nevada Southern Detention Center since that date.

50. On November 3, 2025, following removal proceedings in the Las Vegas Immigration Court, an Immigration Judge granted relief to Petitioner. The Immigration Court's electronic records reflect that the case was completed, that relief was granted, and that no final order of removal was entered.

51. Petitioner's case was litigated as an ECAS case, requiring that all filings, including any Notice of Appeal, be submitted electronically and served automatically on the parties through EOIR's electronic system. Proper notice through ECAS was mandatory and central to the integrity of the proceedings.

52. Following the Immigration Judge's grant of relief, the Government asserted that it filed a timely appeal. However, no appeal appears in ECAS, no Notice of Appeal was electronically filed or served on Petitioner or his counsel, and the Board of Immigration Appeals has confirmed that it has no record of any appeal in this case.

53. Despite the mandatory ECAS requirements, the Government has claimed—without producing proof—that it mailed an appeal in an apparent attempt to trigger appellate

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
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(702) 953-9500 phone
dee@sullglobal.com

deadlines outside the electronic system. Petitioner received no notice, electronic or otherwise, sufficient to satisfy due process or ECAS service requirements.

54. As a result of the Government's failure to provide proper notice, Petitioner has been deprived of a meaningful opportunity to know of, respond to, or challenge the existence of any alleged appeal that forms the sole basis for his continued detention.

55. Petitioner has never been afforded a constitutionally adequate custody hearing following the Immigration Judge's grant of relief. No neutral decisionmaker has evaluated danger, flight risk, the availability of alternatives to detention, or Petitioner's strong family and community ties.

56. Petitioner has never been permitted to contest the Government's assertions concerning the existence of an appeal, the legality of continued detention, or the jurisdictional basis for his confinement.

57. Petitioner's detention has now become prolonged and arbitrary. There is no statutory or administrative mechanism available for him to obtain meaningful custody review, and his confinement continues without adequate procedural safeguards.

58. Immigration detention implicates a fundamental liberty interest. Prolonged civil detention without notice, without an opportunity to be heard, and without adjudication by a neutral decisionmaker violates the Due Process Clause of the Fifth Amendment. See Zadvydas, 533 U.S. at 690–91.

59. The Government's reliance on an alleged appeal that was never properly filed or served, coupled with its refusal to provide Petitioner any forum to challenge his detention, renders his confinement arbitrary and punitive in effect.

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

60. Petitioner's continued detention without proper notice, without individualized custody determination, and without meaningful procedural protections violates the Due Process Clause of the Fifth Amendment.

61. Habeas relief is warranted to remedy these constitutional violations. Petitioner respectfully requests that this Court order his immediate release, or, in the alternative, require a prompt and constitutionally adequate custody hearing before a neutral adjudicator with authority to consider all relevant factors and order his release on bond.

COUNT III: VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT – ARBITRARY AND CAPRICIOUS AGENCY ACTION

62. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

63. The Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2), requires courts to "hold unlawful and set aside" agency action that is arbitrary, capricious, an abuse of discretion, or not in accordance with law. An agency must articulate a rational connection between the facts found and the decision made and must act consistently with statutory authority. *Judulang v. Holder*, 565 U.S. 42, 55 (2011).

64. DHS has acted arbitrarily and capriciously in continuing to detain Petitioner without individualized justification. Petitioner has no criminal convictions, no history of violence, no disciplinary infractions, and has consistently cooperated with immigration authorities.

65. Nothing in Petitioner's record establishes that he poses a danger to the community or a flight risk. DHS has nevertheless maintained his detention for an extended period, and

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

has provided no reasoned explanation as to why continued confinement is necessary to serve the narrow purposes permitted by the INA.

66. DHS has also failed to meaningfully account for the Immigration Judge's November 3, 2025 decision granting relief to Petitioner and completing his removal proceedings. Despite the absence of a final order of removal, a stay, or a properly filed appeal, DHS has continued to detain Petitioner as if removal proceedings remain lawfully pending.

67. Petitioner's case was litigated as an ECAS case, requiring all filings, including any Notice of Appeal, to be submitted electronically and served automatically through EOIR's electronic system. DHS has asserted the existence of an appeal while failing to file it electronically, failing to serve it through ECAS, and failing to produce any documentary proof of its existence.

68. DHS's reliance on an alleged mailed appeal in an ECAS-designated case reflects a departure from required procedures and an unexplained inconsistency in agency practice. The agency has offered no rational explanation for disregarding mandatory electronic filing and service requirements while simultaneously using the alleged appeal as the sole justification for continued detention.

69. By detaining Petitioner based on an appeal that does not appear in ECAS, has not been served on counsel, and has not been acknowledged by the Board of Immigration Appeals, DHS has engaged in decision-making that is arbitrary, opaque, and not in accordance with law.

70. DHS has further treated the alleged jurisdictional posture of the case as a categorical bar to any form of custody review or discretionary release. This approach substitutes a

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

blanket detention rule for the individualized custody determinations required by statute and regulation.

71. To the extent DHS relies on Matter of Yajure-Hurtado, 29 I. & N. Dec. 216 (BIA 2025), that decision governs the jurisdiction of Immigration Judges, not DHS's independent authority to release individuals on parole, recognizance, supervision, or under its discretionary custody authority pursuant to 8 U.S.C. § 1182(d)(5)(A) and related regulations.

72. DHS's treatment of Yajure-Hurtado as an absolute bar to any custody consideration constitutes an unlawful categorical detention policy. Nothing in the INA mandates continued detention merely because an Immigration Judge lacks jurisdiction to conduct a bond hearing.

73. DHS has not conducted any meaningful custody assessment of Petitioner since taking him into ICE custody on August 4, 2025. It has not evaluated alternatives to detention, nor has it considered Petitioner's strong family ties, longstanding residence in the United States, lack of criminal history, or pending statutory avenue for lawful permanent residence.

74. DHS's failure to consider individualized factors, combined with its refusal to exercise or even acknowledge its own discretionary release authority, constitutes arbitrary and capricious decision-making in violation of 5 U.S.C. § 706(2)(A).

75. DHS's continued detention of Petitioner is also inconsistent with the statutory purpose of civil immigration detention, which is limited to ensuring appearance at future proceedings and protecting public safety. Petitioner's confinement advances neither purpose.

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

76. Because DHS's actions are not the product of reasoned decision-making, exceed statutory authority, disregard mandatory ECAS procedures, and rest on an unlawful categorical approach to detention, they must be set aside under the Administrative Procedure Act.

77. Accordingly, habeas relief is warranted. Petitioner respectfully requests that this Court order his immediate release or, in the alternative, direct DHS to conduct a prompt, individualized, and reasoned custody determination consistent with the Administrative Procedure Act and the Immigration and Nationality Act.

COUNT IV: VIOLATION OF THE EQUAL PROTECTION GUARANTEE OF THE FIFTH AMENDMENT

78. Petitioner re-alleges and incorporates by reference the preceding paragraphs as though fully set forth herein.

79. The Due Process Clause of the Fifth Amendment contains an implicit guarantee of equal protection that prohibits the federal government from treating similarly situated individuals differently without a rational and legitimate governmental purpose. *Reno v. Flores*, 507 U.S. 292, 302 (1993); *Plyler v. Doe*, 457 U.S. 202, 210 (1982); *Bolling v. Sharpe*, 347 U.S. 497, 499 (1954).

80. Petitioner is a citizen and national of Cuba who was placed into removal proceedings under § 240 of the Immigration and Nationality Act. As a respondent in § 240 proceedings, Petitioner is similarly situated to other noncitizens who are ordinarily eligible for individualized custody determinations under INA § 236(a).

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

81. Petitioner has no criminal history involving violence, no disciplinary infractions during detention, and has consistently cooperated with immigration authorities. Nothing in the record indicates that he poses a danger to the community or a risk of flight.

82. Despite being similarly situated to other § 240 respondents, Petitioner has been categorically denied access to any individualized custody review. DHS has treated Petitioner as subject to continued detention without bond based on disputed allegations regarding manner of entry, allegations that have never been tested in an evidentiary hearing before a neutral adjudicator.

83. On November 3, 2025, an Immigration Judge granted relief to Petitioner, completing his removal proceedings and declining to enter a final order of removal. Nevertheless, DHS has continued to detain Petitioner as if he were subject to a different and more restrictive custody regime than other similarly situated § 240 respondents.

84. To the extent any custody determination was sought after the Immigration Judge's decision, the Immigration Court declined jurisdiction based on Matter of Yajure-Hurtado, 29 I. & N. Dec. 216 (BIA 2025). As applied here, that jurisdictional conclusion deprived Petitioner of procedural protections routinely afforded to other noncitizens in § 240 proceedings.

85. DHS's and EOIR's treatment of Petitioner has created a disparity between him and similarly situated noncitizens who receive individualized custody review based on danger, flight risk, and the availability of alternatives to detention. The Equal Protection Clause prohibits such disparate treatment absent a rational basis. Village of Willowbrook v. Olech, 528 U.S. 562, 564 (2000).

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dec@sullglobal.com

86. There is no rational basis for treating Petitioner differently from other § 240 respondents. DHS has not identified any individualized factor that would justify excluding Petitioner from the custody review process afforded to others in the same statutory posture.

87. DHS's reliance on disputed factual assertions and jurisdictional classifications to categorically deny custody review improperly transforms procedural distinctions into a de facto detention classification. Disparate treatment based solely on unadjudicated allegations, rather than individualized findings, is arbitrary and not rationally related to any legitimate governmental purpose.

88. Civil immigration detention must be reasonably related to its permissible purposes of ensuring appearance at proceedings and protecting public safety. Zadvydas v. Davis, 533 U.S. 678, 690 (2001). Denying Petitioner custody review while affording it to other similarly situated individuals bears no reasonable or articulable relationship to either purpose.

89. DHS has provided no individualized explanation for why Petitioner is excluded from the custody review mechanisms available to similarly situated § 240 respondents. This unequal treatment is arbitrary, discriminatory, and constitutionally impermissible.

90. Petitioner's continued detention under an irrational and disparate custody classification violates the equal protection guarantee embodied in the Fifth Amendment.

91. Habeas relief is warranted to remedy this unconstitutional disparity. Petitioner respectfully requests that this Court order his immediate release or, in the alternative, direct DHS to provide him with the same individualized custody review afforded to similarly situated § 240 respondents.

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
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COUNT V: VIOLATION OF THE SUSPENSION CLAUSE OF THE UNITED STATES CONSTITUTION

92. Petitioner re-alleges and incorporates by reference all preceding paragraphs as though fully set forth herein.

93. The Suspension Clause of the United States Constitution provides that "[t]he Privilege of the Writ of Habeas Corpus shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it." U.S. Const. art. I, § 9, cl. 2. The Clause guarantees the availability of judicial review to challenge the legality of executive detention. *Boumediene v. Bush*, 553 U.S. 723, 745–46 (2008); *INS v. St. Cyr*, 533 U.S. 289, 300–05 (2001).

94. Habeas corpus remains available to all individuals detained by executive authority within the United States, including noncitizens held in civil immigration custody. The Supreme Court has expressly held that Congress may not eliminate all avenues of meaningful judicial review of the legality of detention. *St. Cyr*, 533 U.S. at 305–06.

95. Petitioner is detained solely under civil immigration authority and is currently confined in ICE custody. He has no criminal history involving violence, poses no danger to the community, and has consistently complied with immigration authorities while pursuing lawful immigration relief in good faith.

96. On November 3, 2025, an Immigration Judge granted asylum relief to Petitioner and completed his removal proceedings. No final order of removal was entered, and no stay of the Immigration Judge's decision has been issued.

97. Petitioner's case was designated and litigated as an ECAS case, requiring that all filings—including any Notice of Appeal—be submitted electronically and served automatically on the parties through EOIR's electronic system.

98. Despite these requirements, the Government has asserted that it filed an appeal while failing to file it electronically, failing to serve it through ECAS, and failing to produce any documentation confirming its existence. The Board of Immigration Appeals has confirmed that it has no record of any appeal filed in this case.

99. ICE has nevertheless relied on this undocumented and unserved "appeal" as the sole basis for continuing to detain Petitioner, while simultaneously denying him any forum in which to challenge the legality of that detention.

100. To the extent Petitioner has sought administrative custody review, the Immigration Court has declined jurisdiction based on Matter of Yajure-Hurtado, 29 I. & N. Dec. 216 (BIA 2025). As applied here, that jurisdictional ruling forecloses any opportunity for an Immigration Judge to review custody, regardless of danger, flight risk, or changed circumstances.

101. Because the Immigration Judge has concluded that he lacks jurisdiction and DHS has refused to exercise or even consider its own discretionary release authority, Petitioner has no administrative pathway to challenge the legality, duration, or necessity of his detention.

102. The combination of DHS's refusal to provide discretionary custody review, the Immigration Court's jurisdictional bar, and the Government's failure to provide proper notice of any appeal has eliminated all non-habeas avenues for Petitioner to test the legality of his confinement.

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

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Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

103. The Suspension Clause forbids the government from implementing a detention scheme that deprives detainees of any meaningful opportunity to challenge their detention. Boumediene, 553 U.S. at 779 ("The writ must be effective."). Where no adequate and effective substitute exists, habeas review is constitutionally required. St. Cyr, 533 U.S. at 305.

104. Petitioner's detention is prolonged, indefinite, and wholly insulated from individualized review. Absent habeas corpus, Petitioner would have no mechanism—judicial or administrative—to contest the legality of his continued civil confinement.

105. The Government's reliance on an alleged appeal that was never properly filed or served, coupled with its invocation of Yajure-Hurtado to bar all custody review, violates the Suspension Clause by depriving Petitioner of an effective and constitutionally required means to challenge unlawful detention.

106. Accordingly, habeas corpus relief is required. Petitioner respectfully requests that this Court order his immediate release or, in the alternative, direct Respondents to provide him with a prompt, meaningful, and individualized custody hearing before a neutral adjudicator with authority to grant his release.

PRAYER FOR RELIEF

Petitioner respectfully requests that this Court grant the following relief:

A. Issue a writ of habeas corpus ordering Petitioner's immediate release from immigration detention;

B. In the alternative, order Respondents to provide Petitioner with an individualized bond hearing before a neutral Immigration Judge within seven (7) days of the Court's order, at which

the government bears the burden to prove by clear and convincing evidence that continued detention is justified based on danger to the community or risk of flight;

C. Declare that Petitioner's continued detention without access to a bond hearing violates the Immigration and Nationality Act, its implementing regulations, and the Due Process Clause of the Fifth Amendment to the United States Constitution;

D. Award Petitioner reasonable costs and attorneys' fees pursuant to the Equal Access to Justice Act (EAJA), 28 U.S.C. § 2412, to the extent applicable;

E. Grant such other and further relief as the Court deems just and proper.

Respectfully Submitted,

/s/ Hardeep Sull Esq.

12/31/2025

Hardeep Sull, Esq.
Attorney for Petitioner
Sull & Associates PLLC
3753 Howard Hughes Pkwy UNIT 200,
Las Vegas, NV 89169
Phone: 702-953-9500
Email: dee@sullglobal.com

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com

CERTIFICATE OF SERVICE

I hereby certify that on this 31st day of December, 2025, I electronically filed the foregoing Petition for Writ of Habeas Corpus Pursuant to 28 U.S.C. § 2241 with the Clerk of the Court using the CM/ECF system, which will send notification of such filing to all registered counsel of record.

A copy of the foregoing document has also been served by U.S. Mail, postage prepaid, on the following parties:

1. John Mattos
Warden
Nevada Southern Detention Center
2190 E. Mesquite Avenue
Pahrump, NV 89060

2. Field Office Director
U.S. Immigration and Customs Enforcement
Las Vegas Field Office
501 S Las Vegas Blvd,#200
Las Vegas, NV 89101

3. Pam Bondi
Attorney General of the United States
U.S. Department of Justice
950 Pennsylvania Avenue NW
Washington, DC 20530

4.Kristi Noem
Secretary
U.S. Department of Homeland Security
2707 Martin Luther King Jr. Avenue SE
Washington, DC 20528

5. Fikisha Hightower
U.S. DHS
501 South Las Vegas Blvd, Suite 200
Las Vegas, NV 89101

/s/ Hardeep Sull Esq.

Hardeep Sull, Esq.
Attorney for Petitioner
Sull & Associates
3753 Howard Hughes Pkwy UNIT 200,
Las Vegas, NV 89169
Phone: 702-953-9500
Email: dee@sullglobal.com

SULL AND ASSOCIATES, PLLC
3753 Howard Hughes Parkway, Suite 200
Las Vegas, NV 89169
(702) 953-9500 phone
dee@sullglobal.com