

INTRODUCTION

1. Petitioner Jose Ramon Sera Cruz ("Petitioner") is a native and citizen of Cuba who has been unlawfully detained by Immigration and Customs Enforcement ("ICE") since November 7, 2025, at the South Texas ICE Processing Center in Pearsall, Texas.
2. Petitioner is detained without any bond hearing based on Respondents' improper classification of him as subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A).
3. Petitioner is not an arriving alien, is not in expedited removal, has no final order of removal, and does not fall within any category of mandatory detention.
4. Petitioner is therefore properly detained, if at all, under 8 U.S.C. § 1226(a), which entitles him to an individualized custody redetermination hearing before an Immigration Judge.
5. Respondents' continued detention of Petitioner without a bond hearing violates the Immigration and Nationality Act ("INA"), the Administrative Procedure Act ("APA"), and the Due Process Clause of the Fifth Amendment.
6. No adequate administrative remedy exists to challenge this statutory misclassification, rendering habeas relief appropriate under 28 U.S.C. § 2241.

JURISDICTION

7. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 because Petitioner is in custody in violation of the Constitution and laws of the United States.
8. This Court also has jurisdiction under 28 U.S.C. § 1331, as this action presents federal questions arising under the INA, the APA, and the Fifth Amendment.
9. Jurisdiction is further supported by Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause).
10. Declaratory and injunctive relief are authorized by 28 U.S.C. §§ 2201–2202 and the All Writs Act, 28 U.S.C. § 1651.

VENUE

11. Venue is proper in this Court pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484 (1973), because Petitioner is physically detained within this District.
12. Venue is also proper under 28 U.S.C. § 1391(e), as Respondents are federal officials and agencies, and a substantial part of the events giving rise to this Petition occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

13. 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.
14. If an order to show cause is issued, Respondents must file a return **“within three days unless for good cause additional time, not exceeding twenty days, is allowed.”** *Id.*

PARTIES

15. Petitioner Jose Ramon Sera Cruz, A# [REDACTED], is a Cuban national currently detained at the South Texas ICE Processing Center in Pearsall, Texas.
16. Respondent Renaldo Castro is the Warden of the South Texas ICE Processing Center and has immediate physical custody of Petitioner.
17. Respondent Sylvester Ortega is the Field Office Director of ICE Enforcement and Removal Operations for the San Antonio Field Office.
18. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security and has ultimate authority over ICE detention decisions.
19. Respondent U.S. Department of Homeland Security is the federal agency charged with enforcement of the INA.
20. Respondent Pamela Bondi is the Attorney General of the United States and oversees EOIR and the immigration court system.
21. Respondent Executive Office for Immigration Review (“EOIR”) is responsible for immigration court proceedings, including custody determinations.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

22. No statutory exhaustion requirement applies to habeas petitions under 28 U.S.C. § 2241.
23. Petitioner has no adequate administrative remedy to challenge Respondents’ misclassification of his detention authority.
24. The Immigration Judge refused to exercise jurisdiction over custody, stating Petitioner was not eligible for bond.
25. Because no bond determination was issued, Petitioner cannot appeal to the Board of Immigration Appeals.
26. ICE provides no administrative mechanism to challenge detention under an incorrect statutory provision.
27. Exhaustion is therefore excused as futile.

FACTUAL BACKGROUND

28. Petitioner entered the United States on or about November 22, 2022, and was released into the interior of the United States.
29. Petitioner is a Cuban national statutorily eligible to adjust status under the Cuban Adjustment Act.
30. Petitioner filed Form I-485, Application to Adjust Status, on November 22, 2024, which remains pending.
31. Instead of granting humanitarian parole consistent with Cuban Adjustment law, DHS released Petitioner on an I-220A Order of Release, creating legal complications in his adjustment process.
32. On November 7, 2025, Petitioner appeared for a scheduled ICE check-in in Houston, Texas, and was taken into custody.
33. Petitioner was transferred to the South Texas ICE Processing Center on November 12, 2025.
34. Petitioner has no criminal history.
35. Petitioner has a U.S. citizen child born XXXXXXXXXX.
36. Petitioner provides emotional and financial support to his spouse and children.

COERCED VOLUNTARY DEPARTURE AND DUE PROCESS FAILURES

37. On or about December 15, 2025, ICE officers pressured Petitioner to accept voluntary departure.
38. Petitioner was interviewed without counsel present.
39. ICE officers threatened that if Petitioner contested his case, he would lose and be deported with long-term bars.
40. ICE officers falsely promised that acceptance of voluntary departure would result in release within one week and no future penalties.
41. ICE offered removal to countries where Petitioner is not a national, including Uganda, Spain, Ecuador, and Mexico.
42. Petitioner accepted voluntary departure under coercion and misinformation.
43. Immigration court proceedings were terminated.
44. Despite this, Petitioner remains detained.

LEGAL FRAMEWORK — § 1225 VS. § 1226

45. The INA establishes separate detention schemes under 8 U.S.C. §§ 1225 and 1226.
46. Section 1225(b) applies only to arriving aliens and recent entrants seeking admission.
47. Section 1226(a) governs discretionary detention of noncitizens already present in the United States and provides for bond hearings.

48. Petitioner is not an arriving alien and was previously released into the interior of the United States.
49. Petitioner is not subject to expedited removal, mandatory detention under § 1226(c), or post-order detention under § 1231.
50. Respondents' reliance on § 1225(b)(2)(A) is legally improper.
51. Supreme Court precedent confirms that **8 U.S.C. § 1226(a)** governs the detention of noncitizens who are already present in the United States and placed in removal proceedings, and that such detention is discretionary and subject to individualized custody determinations. *Jennings v. Rodriguez*, **583 U.S. 281, 289–90 (2018)**; *Johnson v. Arteaga-Martinez*, **596 U.S. 573, 579–80 (2022)**.
52. *Matter of Yajure-Hurtado* cannot override statutory text or Supreme Court authority.

CLAIM ONE — VIOLATION OF THE INA

53. Petitioner incorporates all preceding paragraphs.
54. Respondents unlawfully classify Petitioner under § 1225(b)(2)(A).
55. This classification contradicts the INA, decades of agency practice, and controlling precedent.
56. Petitioner is entitled to a bond hearing under § 1226(a).

CLAIM TWO — APA VIOLATIONS

57. Petitioner incorporates all preceding paragraphs.
58. Agency action that is contrary to law or arbitrary and capricious must be set aside. 5 U.S.C. § 706(2)(A).
59. Respondents ignored material facts, including Petitioner's interior release, Cuban nationality, and pending I-485.
60. EOIR's refusal to exercise custody jurisdiction was unlawful.

CLAIM THREE — PROCEDURAL DUE PROCESS

61. Petitioner incorporates all preceding paragraphs.
62. Freedom from detention is a core liberty interest protected by the Fifth Amendment.
63. Petitioner was denied any meaningful opportunity to contest his detention.
64. Under *Mathews v. Eldridge*, the risk of erroneous deprivation is extreme.
65. Procedural due process has been violated.

CLAIM FOUR — SUBSTANTIVE DUE PROCESS

- 66. Petitioner incorporates all preceding paragraphs.
- 67. Civil detention must bear a reasonable relationship to a legitimate government purpose.
- 68. Petitioner poses no danger and no flight risk.
- 69. Continued detention is arbitrary and punitive.

SUPPLEMENTAL AUTHORITY IN SUPPORT OF PETITION FOR WRIT OF HABEAS CORPUS

- 70. Petitioner submits this Supplemental Authority to further support the Court's jurisdiction and authority to grant relief under **28 U.S.C. § 2241** and to underscore that Respondents' continued detention of Petitioner without a bond hearing is unlawful under controlling statutory, constitutional, and precedential law.

Statutory Detention Authority Under the Immigration and Nationality Act

- 71. The Immigration and Nationality Act establishes distinct detention frameworks under **8 U.S.C. §§ 1225, 1226, and 1231**, each governing different categories of noncitizens and stages of removal proceedings.
- 72. **8 U.S.C. § 1226(a)** governs the discretionary detention of noncitizens who are present in the United States pending a decision on removability under **8 U.S.C. § 1229a**, and expressly authorizes release on bond or conditional parole.
- 73. By contrast, **8 U.S.C. § 1225(b)** applies narrowly to individuals who are arriving aliens or recent entrants seeking admission at or near a port of entry.
- 74. Courts have repeatedly recognized that noncitizens who have entered the United States, been released into the interior, and are later taken into ICE custody are **not properly classified as arriving aliens** subject to § 1225(b).

Supreme Court Precedent Governing Immigration Detention

- 75. The Supreme Court has made clear that **8 U.S.C. § 1226(a)** governs the detention of noncitizens who are already present in the United States and placed in removal proceedings. *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018).
- 76. In *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 579 (2022), the Court reaffirmed that § 1226 provides the statutory framework for detention of noncitizens present in the country while removal proceedings are ongoing.
- 77. The Supreme Court has further held that civil immigration detention must bear a reasonable relationship to its regulatory purpose and cannot become arbitrary or punitive. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001).

Improper Expansion of § 1225(b) and Matter of Yajure-Hurtado

78. In *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the Board of Immigration Appeals interpreted 8 U.S.C. § 1225(b)(2)(A) to apply broadly to noncitizens who entered without inspection, regardless of how long they have resided in the United States.
79. Multiple federal courts have rejected this interpretation as inconsistent with statutory text, congressional intent, and Supreme Court precedent.
80. Courts have held that the BIA's interpretation in *Matter of Yajure-Hurtado* cannot override the plain language of § 1226(a) or binding Supreme Court authority. See, e.g., *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025).
81. District courts within and outside the Fifth Circuit have repeatedly ordered Respondents to provide bond hearings under § 1226(a) or to release petitioners where detention was premised on an improper application of § 1225(b).

Administrative Procedure Act Authority

82. Agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law” must be set aside. 5 U.S.C. § 706(2)(A).
83. Respondents' continued detention of Petitioner under § 1225(b), despite Petitioner's interior presence, lack of arriving-alien status, and eligibility for discretionary custody under § 1226(a), constitutes ultra vires agency action subject to judicial correction.

Due Process Authority Supporting Relief

84. The Fifth Amendment's Due Process Clause protects noncitizens from prolonged civil detention without meaningful procedural safeguards. *Zadvydas*, 533 U.S. at 693.
85. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), the private interest in freedom from physical restraint is substantial, the risk of erroneous deprivation is high where no bond hearing is provided, and the Government's burden in providing a custody hearing is minimal.
86. Numerous courts have therefore required Respondents to provide bond hearings within a fixed and prompt timeframe or to release petitioners from custody.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court grant the following relief:

- a. **Assume jurisdiction** over this matter pursuant to 28 U.S.C. § 2241;
- b. **Order that Petitioner shall not be transferred** outside the Western District of Texas while this habeas petition is pending, so as to preserve this Court's jurisdiction;
- c. **Issue an Order to Show Cause forthwith**, ordering Respondents to show cause why this Petition should not be granted **within three (3) days**, as required by **28 U.S.C. § 2243**, subject only to the statutory limitation that any extension for good cause may not exceed **twenty (20) days**;
- d. **Issue a Writ of Habeas Corpus** requiring that Respondents **immediately release Petitioner**, or, in the alternative, **provide Petitioner with an individualized bond hearing pursuant to 8 U.S.C. § 1226(a) within seven (7) days**, at which the Government bears the burden of proof;
- e. **Declare that Petitioner's continued detention is unlawful** under the Immigration and Nationality Act, the Administrative Procedure Act, and the Due Process Clause of the Fifth Amendment; and
- f. **Grant any other and further relief** that this Court deems just and proper.

VERIFICATION

I, Jose Ramon Sera Cruz, declare under penalty of perjury that the foregoing is true and correct to the best of my knowledge.

Executed this **30th day of December, 2025**.

/s/ Jose Ramon Sera Cruz

Jose Ramon Sera Cruz

A# 

South Texas ICE Processing Center

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Pearsall, Texas 78061