UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Leodan MENDEZ BREIJO

Petitioner,

v.

Garrett J. RIPA, Field Office Director of Enforcement and Removal Operations, Miami Field Office, Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; Pamela BONDI, U.S. Attorney General, Department of Justice; Todd LYONS, Acting Director, Immigration and Customs Enforcement; WARDEN of Glades County Center in Moore Haven, Florida

Respondents.

Case No._____

PETITION FOR WRIT OF HABEAS CORPUS AND ORDER TO SHOW CAUSE WITHIN THREE DAYS

INTRODUCTION

1. Petitioner Leodan Mendez Breijo is in the physical custody of Respondents at the Glades County Detention Center in Moore Haven, Florida. **Ex. 1**, U.S. Immigration and Customs Enforcement ("ICE") Detainee Locator. On October 25, 2025, Department of Homeland Security ("DHS") agents arrested and detained Petitioner at the ICE Miramar Office when Petitioner reported, as required, for a scheduled check-in appointment. At the time of his October 2025 arrest, Petitioner's immigration removal proceedings were pending and they remain pending today. Petitioner now faces unlawful detention because DHS and the Executive Office for Immigration Review ("EOIR") of the Department of Justice ("DOJ") now erroneously conclude that Petitioner is subject to mandatory detention because he entered without inspection.

2. Petitioner entered the United States on or around April 19, 2022, at or near San Luis, Arizona. Petitioner was apprehended by U.S. Customs and Border Protection ("CBP"). On April 20, 2022, DHS served Petitioner with a Notice to Appear ("NTA"), charging him with 8 U.S.C. § 1182(a)(6)(A)(i), being an alien present in the United States without being admitted or paroled. **Ex. 2**, Notice to Appear, Dated April 20, 2022.

3. On April 20, 2022, based on the individualized facts of Petitioner's case, Respondent DHS released Petitioner on his own recognizance, pursuant to 8

U.S.C. § 1226. **Ex. 3**, DHS Notice of Custody Determination; **Ex. 4**, Order of Release on Recognizance. Since then, Petitioner has complied with every request, demand, and requirement imposed by Respondents, in addition to complying with all the court and legal timelines for his asylum case.

4. Petitioner applied for asylum and for withholding of removal with U.S. Citizenship and Immigration Services ("USCIS") on May 27, 2022. **Ex. 5**, USCIS Asylum Receipt Notice. Additionally, on September 26, 2025, his U.S. legal permanent resident wife filed Form I-130, Petition for Alien Relative, for Petitioner. **Ex. 6**, USCIS Petition for Alien Relative Receipt Notice.

5. Petitioner has lived in the United States for three years and eight months. He has an extensive U.S. citizen and U.S. legal permanent resident support network in Miami, Florida comprised of family and friends. Petitioner has been consistently employed after receiving work authorization and has no criminal history.

6. Petitioner is represented by counsel in his immigration removal proceedings. On December 18, 2025, Petitioner, through counsel, requested a custody redetermination pursuant to 8 U.S.C. § 1226. The Immigration Judge denied the request on the stated ground that "the Respondent entered the United States without inspection." **Ex. 7**, Order of the Immigration Judge, Dated December 18, 2025.

7. Petitioner cannot be detained under 8 U.S.C. § 1225(b)(2) because, at the time of his detention on October 25, 2025, Petitioner was not "seeking admission" – lawful entry – into the United States. Instead, Petitioner had already been living in the United States for almost four years and was attending his required ICE check-in appointment. Thus, Petitioner may only be detained under 8 U.S.C. § 1226, and is entitled to a bond hearing.

8. Additionally, Respondents are detaining Petitioner in violation of his Fifth Amendment due process rights.

9. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released, or in the alternative, that he be provided a prompt bond hearing under 8 U.S.C. § 1226.

JURISDICTION

10. Petitioner is in physical custody of Respondents. Petitioner is detained at Glades County Detention Center in Moore Haven, Florida.

11. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

12. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

13. 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 Middle District of Florida, the judicial district in which Petitioner currently is detained.

14. Venue is also properly in this Court pursuant to 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 Middle District of Florida.

REQUIREMENTS OF 28 U.S.C. § 2243

15. 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.*

16. 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). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from

him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

17. Petitioner Leodan Mendez Breijo is a citizen of Cuba who has resided in the United States since approximately April 19, 2022. He has been in immigration detention since October 25, 2025.

18. Respondent Garret J. Ripa is the ICE Field Office Director for enforcement and Removal Operation ("ERO") for the State of Florida, Puerto Rico and the U.S. Virgin Islands, which includes Moore Haeve, Florida. As such, Mr. Ripa is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is named in his official capacity.

19. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the INA, and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

20. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible for the DOJ, of which the EOIR and the immigration court system it operates is a component agency. She is sued in her official capacity.

21. Respondent Todd Lyons is the Acting Director of ICE. As the head of ICE, he is responsible for decisions related to the detention and removal of certain noncitizens, including Petitioner. As such, he is also a legal custodian of Petitioner. He is sued in his official capacity.

22. Respondent Warden of Glades County Detention Center is the Warden where Petitioner is currently detained. He is an immediate custodian of Petitioner. He is sued in his official capacity.

FACTUAL BACKGROUND

23. Petitioner is a 30-year-old national of Cuba. **Ex. 8,** Petitioner's Cuban Passport. He entered the United States without inspection on or around April 19, 2022. On April 20, 2022, DHS issued Petitioner a warrant for arrest and took him into custody for further processing under 8 U.S.C. § 1226. **Ex. 9**, DHS Warrant for Arrest of Alien, Dated April 20, 2022. That same day, a custody determination was made, and Petitioner was released on his own recognizance pursuant to 8 U.S.C. § 1226. DHS then initiated removal proceedings against Petitioner under 8 U.S.C. § 1229a, charging him with having entered the United States without admission or inspection. *See* 8. USC § 1182(a)(6)(A)(i). The initial NTA issued to Petitioner did not specify the date or time of his court hearing.

24. On May 27, 2022, Petitioner filed Form I-589, Application for Asylum and for Withholding of Removal, with USCIS. Later, on December 19, 2023, DHS

issued Petitioner a superseding NTA with the same charges of removability, ordering him to appear at Miami Immigration Court on November 1, 2027, at 1:00 PM. **Ex. 10**, Notice to Appear, Dated December 19, 2023.

25. Petitioner is married to a U.S. legal permanent resident. **Ex. 11**, Certificate of Marriage, Dated July 31, 2025; **Ex. 12**, Petitioner's Wife's U.S. Legal Permanent Resident Card. On September 26, 2025, Petitioner's wife filed Form I-130, Petition for Alien Relative, under section 8 U.S.C. § 1153 (a)(2)(A). Petitioner counts with the support of his U.S. citizen and legal permanent resident family and friends and has built a strong support network in Miami, Florida. Petitioner has maintained lawful employment and worked hard to provide for himself and his family. Petitioner has no criminal history and has spent the last three and a half years living a law-abiding and productive life in the United States.

26. Still, on October 25, 2025, DHS arrested and detained Petitioner at the ICE Miramar Office, located at 3805 SW 145th Ave., Miramar, Florida 33027, when he reported as directed for a scheduled check-in appointment. **Ex. 13**, Copy of Form I-213, Record of Deportable/Inadmissible Alien. Petitioner's appearance was required under the terms of his release on his own recognizance.

27. Petitioner is represented by counsel in his removal proceedings. He is eligible for asylum and for withholding of removal because he has suffered past

persecution and has a well-founded fear of future persecution in Cuba on account of his political opinion and he is not subject to a mandatory bar.

28. On December 18, 2025, Petitioner requested a custody redetermination pursuant to 8 U.S.C. § 1226. The Immigration Judge denied the request on the stated ground that the "Respondent entered the United States without inspection", pursuant to *Matter of Yajure Hurtado*. The Immigration Judge stated he was unable to consider Petitioner's bond request.

EXHAUSTION OF REMEDIES

29. No statutory requirement of administrative exhaustion applies to Petitioner's case. Moreover, the judicially created "general rule that parties exhaust prescribed administrative remedies before seeking relief from the federal courts" does not apply to Petitioner's present challenge, as there are no prescribed administrative remedies to which he could resort. *McCarthy v. Madigan*, 503 U.S. 140, 144–45 (1992), superseded by statute on other grounds as recognized in *Woodford v. Ngo*, 548 U.S. 81 (2006).

30. In particular, DHS has taken the position that a noncitizen like Petitioner, who entered without inspection, is subject to mandatory detention under 8 U.S.C. § 1225, and EOIR has affirmed that view. In a published decision, the Board of Immigration Appeals ("BIA") recently held that "Immigration Judges lack authority to hear bond requests or to grant bond to [noncitizens] who are

present in the United States without admission." *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Under the BIA's interpretation, Petitioner is ineligible for bond as a noncitizen who entered the United States without inspection. Even more, Petitioner already requested a custody redetermination hearing on December 18, 2025, and the Immigration Judge denied the request based on *Yajure Hurtado*. Accordingly, there are no administrative remedies that he could exhaust before seeking habeas relief.

31. Further, neither an immigration judge nor the BIA can rule on a petitioner's constitutional claims. *See Matter of R-A-V-P-*, 27 I. & N. Dec. 803, 804 n.2 (BIA 2020) (holding that IJs and the BIA lack any authority to consider the constitutionality of the statutes or regulations governing immigration detention that they administer and are bound to follow); *Matter of C--*, 20 I. & N. Dec. 529, 532 (B.I.A. 1992) ("[I]t is settled that the immigration judge and this Board lack jurisdiction to rule upon the constitutionality of the Act and the regulations.").

LEGAL FRAMEWORK

I. Detention Authority and Respondent's Efforts to Expand Mandatory Detention

32. The INA prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

33. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens "already in the country." *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a)

"sets out the default rule: The Attorney General may issue a warrant for the arrest and detention of a [noncitizen] 'pending a decision on whether the [noncitizen] is to be removed from the United States." *Id.* at 288 (quoting § 1226(a)). Individuals in Section 1226(a) detention are generally entitled to a bond hearing at the outset of their detention. *See* § 1226(a)(2); 8 C.F.R. §§ 1003.19(a), 1236.1(c)(8), (d)(1).

34. Section 1226(c) "carves out a statutory category" of noncitizens from Section 1226(a) for whom detention is mandatory, comprised of individuals who have committed certain "enumerated … criminal offenses [or] terrorist activities." *Jennings*, 583 U.S. at 289 (citing § 1226(c)(1)). Among the individuals carved out and subject to mandatory detention are certain categories of "inadmissible" noncitizens. § 1226(c)(1)(A), (D), (E). Reference to such inadmissible noncitizens makes clear that, by default, people who are applicants for admission but encountered in the interior are afforded a bond hearing under subsection 1226(a).

35. Second, the INA provides for mandatory detention of certain categories of noncitizens "seeking entry into the United States" under 8 U.S.C. § 1225(b). *Jennings*, 583 U.S. at 297; *see* § 1225(b) ("Inspection of applicants for admission"). In *Jennings*, the Supreme Court explained that this mandatory scheme applies "at the Nation's borders and ports of entry, where the Government must determine whether a [noncitizen] *seeking to enter* the country is inadmissible." *Jennings*, 583 U.S. at 287 (emphasis added). Noncitizens subject to mandatory

detention under Section 1225 may not be released except "for urgent humanitarian reasons or significant public benefit" under the parole authority provided by 8 U.S.C. § 1182(d)(5)(A). *See id.* at 300.

36. Section 1225 is split into two categories. Section 1225(b)(1) provides for mandatory detention of noncitizens charged with enumerated grounds of inadmissibility *and* placed in expedited removal proceedings. 8 U.S.C. § 1225(b)(1)(A)(i). Meanwhile, Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).

37. Respondents have recently taken various steps seeking to expand their use of mandatory detention under Section 1225(b)(2) beyond its plain language. On July 8, 2025, ICE, "in coordination with" DOJ, announced a new policy that claimed that all persons who entered the United States without inspection shall now be deemed "applicants for admission" under 8 U.S.C. § 1225 and therefore are subject to mandatory detention under § 1225(b)(2)(A). *See* ICE, Interim Guidance Regarding Detention Authority for Applicants for Admission (July 8, 2025), https://www.aila.org/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission. The policy applies regardless

of when a person is apprehended and affects those who have resided in the United States for months, years, and even decades.

38. Then, on September 5, 2025, the BIA issued a published decision adopting this same position. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). That decision holds that all noncitizens who entered the United States without admission or parole are considered applicants for admission and are ineligible for immigration judge bond hearings.

39. Consequently, on November 25, 2025, the U.S. District Court for the Central District of California issued a nationwide class certification and bond eligibility order in *Maldonado Bautista v. Noem,* holding that noncitizens who entered without inspection are detained under section 1226(a) and are legally entitled to a custody redetermination. *Maldonado Bautista v. Santacruz,* No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403 (C.D. Cal. Nov. 25, 2025). However, to date, many Immigration Judges, including Petitioner's Immigration Judge, have still not accepted the final order in *Maldonado Bautista* and continue to deny bonds to noncitizens who entered without inspection.

II. Respondents' Policy on Section 1225(b)(2) Is Incorrect

40. Respondent's policy, that all undocumented noncitizens who entered without inspection are considered applicants for admission and subject to mandatory detention under Section 1225(b)(2)(A), is incorrect.

a. Statutory Text and Framework

41. The text of Section 1225, along with its placement in the overall detention scheme of the INA, make clear that the terms "applicant for admission" and "seeking admission" in Section 1225(b)(2) do not include individuals who have entered without inspection and are apprehended when already inside the United States.

42. Section 1225 is titled: "Inspection by immigration officers; expedited removal of inadmissible *arriving* aliens; referral for hearing." (emphasis added). As courts have recognized, "[t]he added word of 'arriving' indicates that the statute governs 'arriving' noncitizens, not those present already." *Beltran Barrera v. Tindall*, No. 3:25-CV-541-RGJ, 2025 WL 2690565, at *4 (W.D. Ky. Sept. 19, 2025) (citing *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425, at *5 (E.D. Mich. Sept. 9, 2025)). This limitation is particularly clear when compared to Section 1226's general title: "Apprehension and detention of aliens."

43. Also, the term "seeking" in "seeking admission" "implies action – something that is currently occurring, and in this instance, would most logically occur at the border upon inspection." *Lopez-Campos*, 2025 WL 2496379, at *6 (E.D. Mich. Aug. 29, 2025); *see also Beltran Barrera*, 2025 WL 2690565, at *4. Noncitizens who are present in the country for years are not "seeking admission." *Lopez-Campos*, at *6; *Beltran Barrera*, at *4.

44. The INA's entire framework is premised on Section 1225 governing detention of "arriving [noncitizens]" while Section 1226 "applies to [noncitizens] already present in the United States." *Jennings*, 583 U.S. at 288, 301; *see also Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *8 (S.D.N.Y. Aug. 13, 2025). A fundamental principle of statutory construction is that courts must interpret statutes to give meaning to all provisions and avoid reading out or rendering superfluous any single provision. *Corley v. United States*, 556 U.S. 303, 314 (2009) The government's current reading of Section 1225(b)(2) violates this principle.

45. Section 1226(c)'s carve-outs for certain categories of inadmissible noncitizens further indicates that, contrary to Respondents' interpretation, there are noncitizens who have not been admitted that are not governed by Section 1225's mandatory detention scheme.

b. Congressional Intent and Longstanding Agency Practice

46. The current detention system has been in place since the passage of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104--208, Div. C, §§ 302–03, 110 Stat. 3009-546, 3009–582 to 3009–583, 3009–585.

47. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection

were not considered detained under Section 1225 and that they were instead detained under Section 1226(a) and eligible for bond and bond redetermination. *See* 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).

48. Subsequently, most people who entered without inspection and were apprehended inside the United States were detained under Section 1226(a) and received bond hearings, unless their criminal history rendered them ineligible. That practice was consistent with decades of prior practice, in which noncitizens who were not deemed "arriving" were entitled to a custody hearing before an immigration judge or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994).

c. Recent Federal Court Decisions Confirming Petitioner's Position

49. Numerous federal courts, including in this District, have reached conclusions consistent with Petitioner's position. In the U.S. District Court for the Middle District of Florida, several judges have found that the new expansive interpretation of mandatory detention is likely unlawful and that Section 1226(a), not Section 1225(b), applies to noncitizens who entered without inspection and have lived in the United States for years. *See Hernandez-Lopez v. Hardin*, et al., No. 2:25-CV-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025); *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *6 (M.D. Fla. Oct. 31, 2025); *Hinojosa Garcia v. Noem*, No. 2:25-CV-00879- SPC-NPM, 2025 WL 3041895, at *3 (M.D. Fla. Oct. 31, 2025). Other courts have reached the same conclusion, rejecting

Respondents' erroneous interpretation of the INA. *See Rodriguez v. Bostock*, No. 3:25-CV-05240-TMC, 2025 WL 2782499, at *1 & n.3 (W.D. Wash. Sept. 30, 2025); *see also Buenrostro-Mendez v. Bondi*, No. CV H-25-3726, 2025 WL 2886346, at *3 (S.D. Tex. Oct. 7, 2025).

50. On November 25, 2025, the U.S. District Court for the Central District of California issued a nationwide class certification order in *Maldonado Bautista v. Santacruz*, holding that noncitizens who entered without inspection are detained under Section 1226(a) and thus, are legally entitled to consideration for release on bond. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025).

III. Petitioner Cannot be Detained under Section 1225(b)(2)

51. As discussed above, mandatory detention under Section 1225(b)(2) applies only to recently arrived noncitizens seeking admission at a border or port of entry, not individuals who entered without inspection and were later detained inside the country. At the time of Petitioner's detention on October 25, 2025, he was not "seeking admission" because he was not seeking entry into the United States. In fact, Petitioner had lived in the United States for three and a half years and was leaving his mandated ICE check-in when he was arrested and detained by ICE agents. As such, Petitioner is not subject to mandatory detention under Section 1225(b)(2).

52. Notably, Petitioner's detention is not authorized under Section 1226(a), either. As discussed above, Section 1226(a)'s discretionary detention framework requires a bond hearing to make an individualized custody determination based on Petitioner's risk of flight or dangerousness. Here, Respondents have failed to provide such a hearing. In fact, when Petitioner requested a custody redetermination on December 18, 2025, the Immigration Judge denied the request because "the [Petitioner] entered the United States without inspection." The Immigration Judge did not make an individualized assessment of the relevant custody factors. Further, there is no information indicating that Petitioner is a flight risk or danger to the community.

53. Lacking any statutory basis for his detention, Respondent must release Petitioner or, in the alternative, promptly hold a bond hearing.

IV. Petitioner's Detention Violates His Due Process Protections

54. Noncitizens are entitled to due process of the law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993). To determine whether civil detention violates a noncitizen's Fifth Amendment procedural due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

55. Under *Mathews*, courts weigh the following three factors: 1) "the private interest that will be affected by the official action;" 2) "the risk of an

erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards;" and 3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Id.* at 335.

56. Detention, even civil immigration confinement, infringes on a fundamental protected liberty interest. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529, 531 (2004). Petitioner has been detained for almost three months at two different immigration detention centers in conditions that are indistinguishable from criminal incarceration. His detention deprives him of privacy, freedom of movement, and the ability to work and see his loved ones.

57. Second, Respondents' current procedures create a substantial risk of erroneous deprivation of Petitioner's liberty interest in remaining free from detention. As discussed above, the statutory text, statutory framework, Congressional intent, the longstanding practice of the agency, and the decisions of many federal courts across the nation leave no doubt that Section 1225(b)(2) applies only to recently arrived noncitizens seeking entry at a border or port of entry, not noncitizens who entered without inspection and were detained inside the country. Here, Petitioner was not arriving at a border or port of entry nor "seeking admission" when he was detained at his ICE check-in on October 25,

2025, and he has not been given an opportunity to contest this legal basis for detention.

58. Moreover, when Respondents detained Petitioner in 2022, they found that he was not a threat to national security and released him pending his immigration hearing. Since then, Petitioner's criminal history has remained clean. Still, on October 25, 2025, Respondents arrested and re-detained Petitioner at his ICE check-in without any new or additional information suggesting he is a threat to public safety or a flight risk.

59. Additionally, there are reasonable alternatives available for Respondent to pursue. As discussed above, Section 1226(a) applies to noncitizens facing charges of inadmissibility, including noncitizens like Petitioner who entered without inspection and were later detained while residing inside the country. As such, proper application of the INA's detention scheme allows for the possibility of detaining Petitioner under Section 1226(a) but first requires a bond hearing to make an individualized determination of his risk of flight or dangerousness. An Immigration Judge has already denied Petitioner's request for a bond hearing. Without a custody redetermination analysis, the risk of erroneous deprivation of Petitioner's freedom is high.

60. Third, the government's interest in maintaining the current procedure is minimal here. Respondents' new interpretation of Section 1225(b)(2) flies in the

face of the statutory text and framework, Congressional intent, almost three decades of prior practice, and the decisions of federal courts across the nation. Any government interest in public safety or ensuring that Petitioner attends future immigration proceedings would be satisfied through proper application of Section 1226(a), which requires a bond hearing where an immigration judge will consider Petitioner's individualized facts to determine whether he is a danger to the community or a flight risk. Importantly, in Petitioner's case, Respondents already released him in April 2022 based on the individualized facts of his case and nothing has changed that would provoke re-detention.

Finally, civil immigration detention violates substantive due process if it is not reasonably related to its statutory purpose. *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Brown v. Taylor*, 911 F.3d 235, 243 (5th Cir. 2018). The only legitimate purpose for civil immigration detention is to prevent flight risk and ensure the safety of the community. *Zadvydas*, 533 U.S. at 690–91. Here, Petitioner's detention is not reasonably related to its purpose. As mentioned above, there is no reason to believe that Petitioner would not attend his immigration proceedings because he has complied with all the conditions of his prior release. Further, Petitioner has no criminal history and there has been no material change regarding public safety since Petitioner's prior release from Respondents' custody in April 2022. Thus, Petitioner's detention is unconstitutional because it does not serve a lawful

purpose. *See Alfonso Perez v. Matthew Mordant et al.*, No. 2:25-CV-00947-SPC-DNF, 2025 WL 3466956, at *10-11 (M.D. Fla. Dec. 3, 2025).

CLAIMS FOR RELIEF

COUNT I
Violation of the INA

61. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation of fact set forth in the preceding paragraphs.

62. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to Petitioner who had been residing in the United States for three years and a half and was not "seeking admission" when he was detained by Respondents in October 2025.

63. Thus, Petitioner can only be detained under § 1226(a). Notably, Respondents' actions also violate § 1226(a) because Respondents have refused to consider Petitioner for bond without ever demonstrating that he is a flight risk or danger to others. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II
Violation of the Due Process Clause of the Fifth Amendment

64. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

65. 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…lies at the heart of the liberty that the Clause protects." *Zadvydas v. Davis*, 533 U.S. 678, 690, 121 S.Ct. 2491, 150 L.Ed.2d 653 (2001).

66. Respondents violated Petitioner's procedural due process rights by revoking their prior release on recognizance decision and detaining him without reasonable notice and without a meaningful opportunity to be heard as to whether a change in custody status was warranted.

67. Petitioner's detention also violates his substantive due process rights because it is not reasonably related to a legitimate government purpose. Petitioner was already determined not to pose a danger or flight risk when he was released from custody in April 2022 by Respondents and there is no basis to conclude otherwise now.

PRAYER FOR RELIEF

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

a. Assume jurisdiction over this matter;

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

c. Issue a writ of habeas corpus requiring that Respondents immediately release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

d. Enjoin Respondents from moving Petitioner outside the jurisdiction of this Court pending adjudication of this petition;

e. Declare that Petitioner's continued detention violates the INA and its implementing regulations and the Due Process Clause of the Fifth Amendment of the U.S. Constitution;

f. Order that Respondents return all retained identity documents to Petitioner; and

g. Grant any other and further relief that this Court deems just and proper.

DATED this 14th of January, 2026.

Respectfully submitted,

/s/ Juliana M. Lopez
Juliana M. Lopez, Esq.
Florida Bar No. 1050003
Cordero & Associates, P.A.
800 S. Douglas Road, Suite 350
Coral Gables, FL 33134
jlopez@corderoassociates.com
(305) 777-2677

Attorney for Petitioner

VERIFICATION

Pursuant to 28 U.S.C. §§ 2242 and 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for Habeas Corpus are true and correct.

Executed this 14th of January, 2026.

/s/ Juliana M. Lopez
Juliana M. Lopez
Florida Bar No. 1050003
Cordero & Associates P.A.
800 S. Douglas Road, Ste. 350
Coral Gables. FL 33134
Tel: (305) 777-2677
Email: jlopez@corderoassociates.com

Attorney for Petitioner