

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**Case No.:**

**RONIEL PILOTO-BUENO,**

Petitioner,

**v.**

**FIELD OFFICE DIRECTOR,**

Miami Field Office,

U.S. Immigration and Customs Enforcement;

**KRISTI NOEM**, in her official capacity as the  
Secretary of the Department of Homeland  
Security (DHS),

Respondents.

**VERIFIED PETITION FOR WRIT OF HABEAS CORPUS & COMPLAINT FOR  
INJUNCTIVE AND DECLARATORY RELIEF**

The petitioner, Roniel Piloto-Bueno, submits this Verified Petition for Writ of Habeas Corpus & Complaint for Injunctive and Declaratory Relief, by and through undersigned counsel, and alleges as follows:

**INTRODUCTION**

1. The petitioner is a Cuban national who has resided in the United States for over two years since he arrived in Hidalgo, Texas on March 10, 2022. **Appx, p. 1, 17.** He was not treated as an arriving alien when he was apprehended by immigration authorities. **Appx, p. 14-18.**

2. Following an arrest by Miami-Dade police officers, the petitioner was transferred to Immigration and Customs Enforcement (ICE) custody and is being held at the Krome North Processing Center (Krome). **Appx, p. 2, 12-13.**

3. The petitioner remains in civil immigration detention at Krome without eligibility for a custody redetermination, bond hearing under *Matter of Hurtado*, 29 I&N Dec. 216 (BIA 2025) which held that applicants for admissions are subject to mandatory detention for the remainder of their removal proceedings under 8 U.S.C. § 1225(b)(2)(A) (2018).

4. The reliance of the Department of Homeland Security (DHS) on *Matter of Hurtado*—rejecting the argument that a noncitizen who entered the United States without inspection and has resided here for years is not seeking admission under § 1225(b)(2)(A)—is misplaced and does not align with the circumstances surrounding the petitioner’s recent detention.

5. Rather, the petitioner’s immigration custody is governed by § 1226(a), and he is entitled by agency rules and regulations to a bond hearing.

6. However, per upper-level orders, immigration judges across the country are taking the position that they are bound by *Matter of Yajure Hurtado*. **Appx, pp. 23-32.**

7. The Department of Justice has also taken a similar position in habeas litigation. **Appx, pp. 33-43.**

8. For these reasons, the petitioner brings a non-core habeas action under the Administrative Procedure Act, 5 U.S.C § 705, et seq., for injunctive relief ordering that he be afforded a bond hearing in accordance with 8 U.S.C. § 1226 and its implementing regulations and case law.

### **JURISDICTION**

9. The Court has jurisdiction over this case and may grant relief pursuant to 28 U. S. C. § 2241, et seq., (habeas corpus) and pursuant to Art. I § 9, cl. 2 of the U.S. Constitution (the Suspension Clause).


10. The Court also has jurisdiction over this case under 28 U. S. C. § 1331 (federal question), and may grant relief pursuant to the Administrative Procedure Act (APA), 5 U. S. C. §§ 701, et seq., the All-Writs Act, 28 U. S. C. § 1651, and the Declaratory Judgment Act, 28 U. S. C. §§ 2201–02.

11. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

#### VENUE

12. Venue is proper in the Southern District of Florida under 28 U.S.C. §§ 1391(e)(1)(B) and (C) because “a substantial part of the events or omissions giving rise to the claim occurred,” and because the plaintiff resides in this district.

#### PARTIES

13. The petitioner, Roniel Piloto-Bueno, is a Cuban citizen and national, who resides in Miami, Florida. His alien registration number (“A no.”) is  He last entered the United States on March 10, 2022, at or near Hidalgo, Texas. **Appx, p. 19-21.**

14. The respondent, **Field Office Director**, Miami Field Office, U.S. Immigration and Customs Enforcement is sued in his or her official capacity. In this capacity, the Field Office Director has jurisdiction over the detention facility in which the petitioner is held, is authorized to release the petitioner, and is a legal custodian of the petitioner.

15. The respondent, **Kristi Noem**, is sued in her official capacity as the United States Secretary of the Department of Homeland Security. In this capacity, she has supervisory authority over all operations of the Department of Homeland Security (DHS) and its component agencies. 6 U. S. C. § 112, 8 U. S. C. § 1101(a)(1). This includes authority over: United States Customs and

Border Protection (CBP), United States Border Patrol (USBP), U. S. Citizenship and Immigration Services (USCIS), and U. S. Immigration and Customs Enforcement (ICE).

### EXHAUSTION OF REMEDIES

16. No exhaustion is statutorily required for the petitioner's habeas claims because "Section 2241 itself does not impose an exhaustion requirement," *Santiago-Lugo v. Warden*, 785 F.3d 467, 474 (CA11 2015).

17. As to the petitioner's claim under the APA, there are no administrative remedies available that the plaintiff is required to exhaust under *Darby v. Cisneros*, 509 U.S. 137 (1993), and an agency's failure to act is reviewable agency action, *Norton v. S. Utah Wilderness Alliance*, 542 U.S. 55, 61-62 (2004).

18. Exhaustion serves no purpose here because the conclusion of the administrative process can be readily presumed and would not provide for an adequate remedy given the Board of Immigration Appeal's (BIA) in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Because the BIA has already predetermined the issue, requiring the petitioner to make an administrative request for a bond hearing would be futile. *Boffill v. Field Off. Dir.*, No. 25-CV-25179-BECERRA, 2025 WL 3246868, at 4-5 (S.D. Fla. Nov. 20, 2025) (collecting cases) (no administrative remedies had to be exhausted under the futility rule).

19. Generally, "exhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile[.]" *Linfors v. United States*, 673 F.2s 33, 334 (CA11 1982). Accordingly, the petitioner urgently seeks and is entitled to habeas relief because he has no meaningful opportunity to challenge the constitutionality of his detention through any available administrative process. *Boumediene v. Bush*, 553 U.S. 723, 783 (2008).

## LEGAL FRAMEWORK FOR ENTRY AND DETENTION

20. Section 1229a of Title 8 of the U.S. Code (Section 240 of the INA) describes the primary process through which the government seek to remove non-citizens from the United States. It specifies that “[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be . . . removed from the United States.” 8 U.S.C. § 1229a(a)(3).

21. To initiate removal proceedings against a non-citizen under Section 1229a, the Government must issue the non-citizen a Notice to Appear (NTA). 8 U.S.C. § 1229(a)(1). Most non-citizens go through removal proceedings from outside detention. But ICE is increasingly detaining non-citizens during their removal proceedings.

22. Section 1226 of Title 8 of the U.S. Code (Section 236 of the INA) is the default provision that governs the arrest and detention of non-citizens pending removal proceedings. It states that “on a warrant issued by the Attorney General,<sup>1</sup> a[] [non-citizen] may be arrested and detained pending a decision on whether the [non-citizen] is to be removed from the United States” 8 U.S.C. § 1226(a). **Non-citizens arrested upon a warrant and in ongoing removal proceedings are eligible to seek bond from an IJ.** *Id.* § 1226(a)(2) (emphasis added).

23. A **separate** provision governs the detention of people who seek admission to the United States **at the border**. It states that “in the case of a [non-citizen] who is an applicant for admission, if the examining immigration officer determines that a [non-citizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the non-citizen shall be detained for a

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<sup>1</sup> In 2003, the Immigration and Naturalization Service (INS) within the Department of Justice (DOJ) became what is now ICE, which is housed within DHS. Therefore, some statutory references to the “Attorney General,” like this one, now refer to the Secretary of DHS.

proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). IJs do not have jurisdiction to grant bond for such “applicant[s] for admission,” though DHS retains the discretion to release such non-citizens on a specific type of parole “for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A).

### FACTUAL ALLEGATIONS

24. The petitioner is a Cuban national who has resided in the United States for over two years since he arrived in Hidalgo, Texas on March 10, 2022. **Appx, pp. 1, 17.** He was not treated as an arriving alien when he was apprehended by immigration authorities. **Appx, pp. 12-16.**

25. After being processed at the border, the petition was released into the United States on an Order of Release on Recognizance “in accordance with section 236 of the Immigration and Nationality Act.” **Appx, pp. 20-22.**

26. On November 8, 2025, the petitioner was arrested by Miami Dade police officers after allegations of battery were made by his ex-partners. **Appx, pp. 3-7.** Upon information and belief, the allegations have since been rescinded and the charges dropped. This is the only encounter the petitioner has had with law enforcement. **Appx, pp. 8-9.**

27. On November 13, 2025, the petitioner was detained by immigration authorities and is being held at the Krome North Processing Center (Krome). **Appx, pp. 2, 12-13.**

28. At the time of his detention, the petitioner was pending a merit hearing before the Miami Immigration Court on his properly filed application for Asylum, Withholding of Removal, and protections under the Convention Against Torture.<sup>2</sup> **Appx, pp. 10-11.**

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<sup>2</sup> The Convention Against Torture and Other Cruel, Inhuman or Degrading Treatment or Punishment, Dec. 10, 1984, S. Treaty Doc. No. 100-20, 1465 U.N.T.S. 85 (entered into force for United States on Nov. 20, 1994).

29. The petitioner remains in civil immigration detention at Krome without eligibility for a custody redetermination, bond hearing under *Matter of Hurtado*, 29 I&N Dec. 216 (BIA 2025) which held that applicants for admissions are subject to mandatory detention for the remainder of their removal proceedings under 8 U.S.C. § 1225(b)(2)(A) (2018).

30. The reliance of DHS on *Matter of Hurtado*—rejecting the argument that a noncitizen who entered the United States without inspection and has resided here for years is not seeking admission under § 1225(b)(2)(A)—is misplaced and does not align with the circumstances surrounding the petitioner’s recent detention.

31. Rather, the petitioner’s immigration custody is governed by § 1226(a), and he is entitled by agency rules and regulations to a bond hearing.

32. However, per upper-level orders, immigration judges across the country are taking the position that they are bound by *Matter of Yajure Hurtado*. **Appx, pp. 25-34.**

33. The Department of Justice has also taken a similar position in habeas litigation. **Appx, pp. 35-45.**

34. For these reasons, the petitioner brings a non-core habeas action under the Administrative Procedure Act, 5 U.S.C § 705, et seq., for injunctive relief ordering that he be afforded a bond hearing in accordance with 8 U.S.C. § 1226 and its implementing regulations and case law.

#### **ALLEGATIONS OF LEGAL ERROR**

##### **The Petitioner’s Continued Detention is Unlawful Because He is Not Subject to Mandatory Detention Under 8 U.S.C. § 1225(b)(2).**

35. The respondents have subjected the petitioner to unlawful mandatory detention pursuant to 8 U.S.C. § 1225(b)(2), despite the fact that he was apprehended inside the United States after having resided here for over two years.

36. As a result, the respondents have deprived the petitioner of his liberty without due process, contrary to the Fifth Amendment and the INA.

37. DHS asserts that the petitioner is properly detained under § 1225(b)(2) and therefore, an immigration judge lacks the authority to release him on bond.

38. The respondents' position is that § 1225(b)(2) mandates detention until the conclusion of removal proceedings, the petitioner's custody is lawful and the Immigration Court lacks jurisdiction to review it.

39. The petitioner disputes these contentions and submits that his detention falls squarely within the scope of § 1226(a), which provides for discretionary detention and permits release on bond or conditional parole pending completion of removal proceedings.

40. Respondents rely on the BIA decision *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which courts in this district and other districts across the country have rejected to follow. See *Duvallon v. Field Office Director*, Case No. 25-cv-25179-JB, 2025 WL 3246868 (S.D. Fla. Nov. 20, 2025); *Garcia v. Noem*, Case No. 2:25-CV-00879-SPC-NPM, 2025 WL 3043895 (M.D. Fla. Oct. 31, 2025); *Puga v. Ass't Field Office Director*, Case No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369 (S.D. Fla. Oct. 15, 2025); *Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025).<sup>3</sup>

41. This Court should also decline to follow *Matter of Yajure Hurtado*, whose interpretation of § 1225 is at odds with the text of § 1225 and § 1226, is inconsistent with earlier

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<sup>3</sup> See also *Barrera v. Tindall*, No. 3 :25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Zumba v. Bondi*, No. 25-CV-14626-KSH-, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Lopez-Campos*, No. 2:25-CV12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV07492-RFL, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025).

BIA decisions, and renders superfluous the recent Laken Riley Act amendments to § 1226(c).

42. Specifically, the Chief United States District Judge Cecilia M. Altonaga, recently issued a decision in *Puga*, rejecting the Respondents' reliance on *Matter of Yajure Hurtado*. In that decision, the Court explained:

“Respondents’ reliance on the BIA’s decision in *Matter of Yajure Hurtado* — rejecting the argument that a noncitizen who entered the United States without inspection and has resided here for years is not ‘seeking admission’ under section 1225(b)(2)(A) — is also misplaced. The Court need not defer to the BIA’s interpretation of law simply because the statute is ambiguous. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024) (“[C]ourts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous.” (alteration added)). As explained, the statutory text, context, and scheme of section 1225 do not support a finding that a noncitizen is ‘seeking admission’ when he never sought to do so. Additionally, numerous courts that have examined the interpretation of section 1225 articulated by Respondents — particularly following the BIA’s decision in *Matter of Yajure Hurtado* — have rejected their construction and adopted Petitioner’s. . . . For these reasons, the Court finds that section 1226(a) and its implementing regulations govern Petitioner’s detention, not section 1225(b)(2)(A). Petitioner is entitled to an individualized bond hearing as a detainee under section 1226(a).”

*Puga v. Assistant Field Office Director*, No. 1:25-CV-24535-ALTONAGA, 2025 WL 2938369, at 5 (S.D. Fla. Oct. 15, 2025).

43. In a similarly postured case, United States District Judge Jose E. Martinez noted:

“In distinguishing between noncitizens arriving to the U.S. versus noncitizens residing in the U.S., Congress acknowledged the more substantial due process rights of noncitizens already residing in the U.S. with those of noncitizens recently arriving. *See H.R. REP. 104-469*, p. 1, at 163-66 . . . Since then, agencies interpreting the INA have applied § 1226(a) to noncitizens like Petitioner, who were apprehended while residing in the U.S., rather than at the border . . . DHS’ interpretation of the applicability of § 1225(b)(2), rather than § 1226, to noncitizens who have resided in the country for years and were already in the United States when apprehended runs afoul of the statutes’ legislative history, plain meaning, and interpretation by courts in the First, Second, Fifth, Sixth, Eighth, and Ninth Circuits.”

*Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025) (citations omitted).

44. This case turns on the statutory distinction between § 1226(a) and § 1225(b)(2) of the INA. Section 1226(a) governs the arrest and detention of noncitizens already present in the United States pending removal proceedings, while § 1225(b)(2) governs the detention of noncitizens arriving at the border or ports of entry. In enacting these provisions, Congress expressly recognized the greater due process rights of noncitizens residing within the United States as compared to those of “arriving” noncitizens. *See* H.R. REP. 104-469, pt. 1, at 163–66 (“an alien present in the U.S. has a constitutional liberty interest to remain in the U.S.”) (citing *Knauff v. Shaughnessy*, 338 U.S. 537 (1950)).

45. Consistent with this statutory framework, immigration agencies and courts have long applied § 1226(a)—not § 1225(b)(2)—to noncitizens apprehended inside the United States who were not seeking admission at the border. *See* *Maldonado v. Feely*, No. 25-cv-01542-RFB-EJY (D. Nev. Sept. 17, 2025) (“Despite being applicants for admission, aliens who are present without admission or parole will be eligible for bond and bond redetermination... inadmissible aliens, except for arriving aliens, have available to them bond redetermination hearings before an immigration judge, while arriving aliens do not.”) (citing *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)).

46. Nonetheless, on July 8, 2025, DHS issued a notice instructing ICE officers to detain all noncitizens “who have not been admitted” under § 1225(b)(2), regardless of where they were apprehended. *See* ICE Memo: *Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025). The Notice purports to eliminate bond eligibility for such individuals, directing that they “may not be released from ICE custody except by INA § 212(d)(5) parole.”

47. This expansive interpretation contradicts the statutory text, legislative history, and consistent judicial authority in multiple circuits. *See, e.g., Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025). Each of these courts rejected DHS's position and held that noncitizens residing in the United States when taken into custody are detained under § 1226(a) and therefore entitled to a bond hearing.

48. The petitioner, who has lived in the United States for over two years, was previously released into the United States by ICE, and was apprehended well inside the country, is therefore **not** properly classified as an "arriving alien." His detention under § 1225(b)(2) is unlawful. Because § 1226(a) governs his custody, the petitioner is entitled to a custody redetermination and to consideration for bond based on individualized factors. The government's continued reliance on § 1225(b)(2) to deny bond violates both the statute and the petitioner's constitutional right to due process.

## **CLAIMS FOR RELIEF**

### **COUNT I:**

#### **Violation of the Immigration and Nationality Act, 8 U.S.C. § 1226(a)**

49. The allegations in paragraphs 1-48 are realleged and incorporated herein.

50. 8 U.S.C. § 1226(a) authorizes immigration detention only during pending removal proceedings. The respondents' reliance on § 1225(b)(2) to deny the petitioner a bond hearing and to classify him as subject to mandatory detention is contrary to the plain language and structure of the INA, as well as its legislative history and judicial interpretations.

51. Because the petitioner is not subject to mandatory detention, the respondents lack authority to detain him without providing a meaningful opportunity for release on bond. Continued confinement under § 1225(b)(2) exceeds the government's statutory authority and violates both the INA and the Due Process clause of the Fifth Amendment.

#### **PRAYER FOR RELIEF**

**WHEREFORE**, Plaintiff prays that this Honorable Court grant the following relief:

- (a) Assume jurisdiction over this matter;
- (b) Set this matter for expedited consideration pursuant to 28 U.S.C. § 1657;
- (c) Order the defendants to show cause why all the relief requested by the plaintiff should not be granted within three days, and allowing the plaintiff three days to file a traverse, and, if necessary, set a hearing on this matter within five days of the submission of the return, pursuant to 28 U. S. C. § 2243;
- (d) Order under the All-Writs Act, 28 U.S.C. § 1651, that the respondents not transfer the petitioner outside of the jurisdiction of the U.S. District Court for the Southern District of Florida during the pendency of this petition;
- (e) Grant the petitioner a writ of habeas corpus ordering a prompt and constitutionally adequate custody redetermination, bond hearing before an immigration judge in accordance with 8 U. S. C. § 1226(a), at which the respondents bear the burden of proving by clear and convincing evidence that continued detention is justified;
- (f) Award plaintiff attorneys' fees and costs under the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. § 2412, and on any other basis justified under law; and

(g) Grant any other and further relief that the Court deems just and proper.

Dated: January 15, 2026

Respectfully submitted,

**s/Maitte Barrientos**

Fla. Bar No. 1010180

**s/ Anthony Richard Dominguez**

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**VERIFICATION BY SOMEONE ACTING ON  
PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: January 15, 2026

Respectfully submitted,

**s/Maitte Barrientos**

Fla. Bar No. 1010180