UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

LAZARO ROSADO RODRIGUEZ,

Petitioner-Plaintiff,

v.

KRISTI NOEM, in their official capacity as Secretary of the United States Department of Homeland Security;

PAMELA BONDI, in their official capacity as Attorney General of the United States;

MATTHEW MORDANT, in their official capacity as Florida Soft Side South Field Office Director for Enforcement and Removal Operations, United States Immigration and Customs Enforcement;

TODD LYONS, in their official capacity as Acting Director of Immigration and Customs Enforcement

GARRET RIPA, in their Official capacity as, Director of Miami Field Office, U.S. Immigration and Customs Enforcement;

CHARLES PARRA, in their official capacity as Assistant Field Office field office director for ICE in Miami,

SIRCE OWEN, in their official capacity as Acting Director of the Executive Office for Immigration Review;

Respondents-Defendants.

Case No. _____

Verified Petition for Writ of Habeas Corpus

Oral Argument Requested

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Lazaro Rosado Rodriguez, submits this Petition for Writ of Habeas Corpus and for Related Relief, by and through undersigned counsel and alleges as follows:

INTRODUCTION

1. Petitioner respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging his continued and unlawful detention by United States Immigration and Customs Enforcement ("ICE"). The Petitioner seeks immediate release, or in the alternative, a constitutionally adequate bond hearing.

2. Petitioner is a native and citizen of Cuba who has resided in the United States since June 2022. Shortly after entering the country, he encountered immigration authorities, which issued him a Notice to Appear ("NTA") dated June 10, 2022, and placed him into removal proceedings pursuant to 8 U.S.C. § 1229a before the Miami Immigration Court. Upon issuance of the NTA, ICE released Mr. Rosado Rodriguez on his own recognizance ("ROR").

3. From the date of his release in June 2022 until his detention in November 2025, Mr. Rosado Rodriguez complied with every condition imposed by ICE. He appeared for all his court dates at the Miami

Immigration Court and never absconded or failed to appear. Mr. Rosado Rodriguez has no criminal history whatsoever.

4. On March 7, 2023, Petitioner filed an application for asylum with the Immigration Court.

6. On November 20, 2025, Mr. Rosado Rodriguez appeared for his scheduled master calendar hearing. The government moved to dismiss his case and the Immigration Judge granted the government's motion. Immediately, the Petitioner was unexpectedly detained. Petitioner has not had a bond hearing.

7. Respondents-Defendants' actions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution, the Immigration and Nationality Act and implementing regulations, and the Accardi doctrine, which obligates administrative agencies to follow their own rules, procedures, and instructions. Petitioner brings this action for habeas relief and respectfully requests that this Court` issue a writ of habeas corpus and order Petitioner's release from custody, with appropriate conditions of supervision if necessary.

JURISDICTION AND VENUE

8. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody and seeks a writ of habeas corpus challenging the legality of his continued civil detention by U.S. Immigration and Customs Enforcement ("ICE") in violation of the Constitution and laws of the United States.

9. Venue is proper in this Court under 28 U.S.C. § 2241(a) because Petitioner is detained within the geographic boundaries of the Southern District of Florida, at Krome Service Processing Center, in Miami-Dade County, Florida. (See Exhibit A).

PARTIES

10. Petitioner, LAZARO LUIS ROSADO-RODRIGUEZ, entered the United States on or about June 10, 2022, fleeing from Cuba, and has continuously resided in this country for the last three and a half years. Petitioner is currently detained at Florida Soft Side South. He is in custody of ICE, and under the direct control, of Respondents and their agents.

11. Respondent KRISTI NOEM is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this

capacity, Respondent NOEM is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent NOEM is a legal custodian of Petitioner.

12. Respondent PAM BONDI is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent BONDI is a legal custodian of Petitioner.

13. Respondent TODD LYONS is sued in their official capacity as the Acting Director of Immigration and Customs Enforcement.

14. Respondent GARRET RIPA is sued in his official capacity as the Acting Director of the Miami Field Office of U.S. Immigration and Customs Enforcement. Respondent Ripa exercises authority over Petitioner's detention, transfer, and potential release.

15. Respondent CHARLES PARRA is sued in his official capacity as Assistant Field Office Director for the Krome Service Processing Center.

16. Respondent SIRCE OWEN is sued in his official capacity as Acting Director of the Executive Office for Immigration Review.

STATEMENT OF FACTS AND PROCEDURAL HISTORY

17. Petitioner was born in Cuba on [redacted] and came to the United States on June 10, 2022, to seek refuge in the United States.

18. Shortly after his entry, Petitioner was encountered by Immigration officials who gave him a Notice to Appear ("NTA") placing him in proceedings under 8 U.S.C. § 1229a and released the Petitioner on his own recognizance, with a Form I-220A. (See Exhibit B). Petitioner was charged as inadmissible to the United States pursuant to INA § 212(a)(6)(A)(i).

19. On March 3, 2023, he timely filed an application for asylum with the Immigration Court in Miami, FL. (Please see Exhibit C).

20. On May 10, 2024, the Petitioner married Dianabel Gallo Landa, a lawful permanent resident of the United States. (Please see Exhibit D). Together, they have a United States citizen son, born on July 29, 2024.

21. On March 23, 2025, the Petitioner's wife filed an I-130, Petitioner for Alien Relative, on the Petitioner's behalf. (Please see Exhibit D).

22. On November 20, 2025, the Petitioner appeared in Miami Immigration Court for his master calendar hearing, and instead of allowing him to proceed with his asylum application, Respondents' moved to dismiss his case entirely and the immigration court dismissed the proceedings. (See Exhibit E).

23. On information and belief, Respondents did not advise Petitioner that they sought to terminate his case to place him in expedited removal proceedings.

24. Petitioner had resided in the United States since June 2022, for over three years, at the time he was detained by Respondents in November 2025.

25. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including "Protecting the American People Against Invasion," an executive order (EO) setting out a series of interior immigration enforcement actions.

26. On January 21, 2025, Acting Deputy Secretary of DHS Benjamin Huffman issued for public inspection and effective immediately a

designation expanding the scope of expedited removal to apply nationwide and to certain noncitizens who are unable to prove they have been in the country continuously for two years. On January 24, 2025, DHS published a Notice that expanded the application of expedited removal. Office of the Secretary, Dep't of Homeland Security, Designating Aliens for Expedited Removal, 15 Fed. Reg. 8139 ("January 2025 Designation"). The designation was "effective on" January 21, 2025.

27. The January 2025 Designation expands the pool of noncitizens who can be subjected to the summary removal process substantially to include noncitizens who are apprehended anywhere in the United States and who have not been in the United States continuously for more than two years. *Id.* at 8140.

28. The January 2025 Designation does not state that it applies to noncitizens who were in the United States before its effective date.

29. On information and belief, Petitioner avers that Respondents concealed the basis for dismissal from the immigration court and Petitioner because the purpose was to divest him of his due process rights in his properly filed asylum application.

30. On information and belief, Respondents did not afford Petitioner an opportunity to be heard before issuing him an expedited removal order, depriving him of due process.

31. On information and belief, Petitioner has no criminal history and has not been afforded a bond hearing post detention.

32. The Petitioner's family, consisting of his Lawful Permanent Resident and U.S. citizen child are suffering due to his detention.

LEGAL FRAMEWORK

Due Process

33. "The Due Process Clause applies to all persons within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (citation modified). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects." *Id.* at 690.

34. Under substantive due process doctrine, a restraint on liberty like civil detention is only permissible if it serves a "legitimate nonpunitive

objective." *Kansas v. Hendricks*, 521 U.S. 346, 363 (1997). The Supreme Court has only recognized two legitimate objectives of immigration detention: preventing danger to the community or preventing flight prior to removal. *See Zadvydas v. Davis*, 533 U.S. 678, 690-92 (discussing constitutional limitations on civil detention).

35. "Procedural due process imposes constraints on governmental decisions which deprive individuals of liberty," like the decision to detain a non-citizen. *Mathews v. Eldridge*, 424 U.S. 319, 332 (1976) (citation modified). "The fundamental requirement of [procedural] due process is the opportunity to be heard at a meaningful time and in a meaningful manner." *Id.* at 333 (citation modified).

Application for Asylum

36. Although a grant of asylum may be discretionary, the right to apply for asylum is not. The Refugee Act broadly affords a right to apply for asylum to any noncitizen "who is physically present in the United States or who arrives in the United States[.]" 8 U.S.C. § 1158(a)(1).

37. Because of the life-or-death stakes, the statutory right to apply for asylum is robust. The right necessarily includes the right to counsel, at no

expense to the government, *see* 8 U.S.C. § 1229a(b)(4)(A), § 1362, the right to notice of the right to counsel, *see* 8 U.S.C. § 1158(d)(4), and the right to access information in support of an application, *see* § 1158(b)(1)(B) (placing the burden on the applicant to present evidence to establish eligibility.).

38. Noncitizens seeking asylum are guaranteed Due Process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

39. Noncitizens who are applicants for asylum are entitled to a full hearing in immigration court before they can be removed from the United States. 8 U.S.C. § 1229a. Consistent with due process, noncitizens may seek administrative appellate review before the Board of Immigration Appeals of removal orders entered against them and judicial review in federal court upon a petition for review. 8 U.S.C. § 1252(a) et seq. 29.

Expedited Removal

40. In 1996, Congress created "expedited removal" as a truncated method for rapidly removing certain noncitizens from the United States with very few procedural protections. 8 U.S.C. § 1225(b)(1). Because there are few procedural protections, expedited removal applies narrowly to only those

noncitizens who are inadmissible to the United States because they engaged in fraud or misrepresentation to procure admission or other immigration benefits, 8 U.S.C. § 1182(a)(6)(C), or who are applicants for admission without required documentation, 8 U.S.C. § 1182(a)(7). No other person may be subjected to expedited removal. 8 C.F.R. § 235.3(b)(1), (b)(3).

41. Noncitizens subjected to expedited removal are ordered removed by an immigration officer "without further hearing or review." 8 U.S.C. § 1225(b)(1)(A)(i). That officer must determine whether the individual has been continuously present in the United States for less than two years; is a noncitizen; and is inadmissible because he or she has engaged in certain kinds of fraud or lacks valid entry documents "at the time of . . . application for admission." *See* 8 U.S.C. § 1225(b)(1)(A)(i), (iii) (citing 8 U.S.C. § 1182(a)(6)(C), (a)(7)). These noncitizens are subject to mandatory detention. 8 U.S.C. §1225(b)(iii)(IV).

Statute and Regulations Governing Removal and Detention

42. Under the INA, 8 U.S.C. § 1225 and § 1226 govern the detention of noncitizens before a final order of removal. *Puga v. Assistant Field Off. Dir.*,

Krome N. Serv. Processing Ctr., No. 25-24535-CIV, 2025 WL 2938369, at *3 (S.D. Fla. Oct. 15, 2025)

43. Section 1225 covers "applicants for admission" who are noncitizens "present in the United States who [have] not been admitted." *Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *2 (D. Mass. July 7, 2025) (alteration in original; citation and footnote call number omitted). Section 1225(a)(3) requires all applicants for admission to be inspected by an immigration officer. 8 U.S.C. § 1225(a)(3). Certain applicants for admission may be subject to removal proceedings under § 1225(b). *See id.* § 1225(b); *see also Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 108–09 (2020) (citations omitted). "Because section 1225 is mandatory, a 'noncitizen detained under section 1225(b)(2) may be released only if he is paroled for urgent humanitarian reasons or significant public benefit.' " *Puga*, 2025 WL 2938369, at *3 (*quoting Barrera v. Tindall*, No. 25-cv-541, 2025 WL 2690565, at *2 (W.D. Ky. Sept. 19, 2025). Section 1225(b)(2) applies where an alien is "seeking admission" into the United States. 8 U.S.C. § 1225(b)(2)(A).

44. Unlike § 1225, § 1226 "authorizes the Government to detain certain aliens already in the country pending the outcome of removal

proceedings[.]" *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) sets out a discretionary detention framework for noncitizens arrested and detained "[o]n a warrant issued by the Attorney General," and authorizes the Attorney General to "continue to detain the arrested alien[,]" release him on a "bond of at least $1,500[,]" or release him on "conditional parole[,]" 8 U.S.C. § 1226(a)(1)–(2). While the arresting immigration officer makes an initial custody determination, noncitizens detained under § 1226(a) may appeal that determination in a bond hearing before an immigration judge. *See* 8 C.F.R. §§ 1236.1(c)(8), (d)(1). "Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention." *Jennings*, 583 U.S. at 306 (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)); *see also* Lopez Benitez v. Francis, No. 25-cv-5937, 2025 WL 2371588, at *13 (S.D.N.Y. Aug. 13, 2025) ("To be sure, a noncitizen detained under § 1226(a) is undoubtedly entitled to a bond hearing before an immigration judge.").

CLAIMS FOR RELIEF

Count One

Violation of the Fifth Amendment of the U.S. Constitution Substantive Due Process

45. Petitioner realleges all paragraphs above as if fully set forth here.

46. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of "life, liberty, or property, without due process of law." U.S. Const. Amend. V. Due process protects "all 'persons' within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 693.

47. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

48. While asylum is a discretionary benefit, the right to apply is not. 8 U.S.C. § 1158(a)(1). Any noncitizen who is "physically present in the United States or who arrives in the United States (whether or not at a designated port of arrival . . .), irrespective of such [noncitizen's] status, may apply for asylum." *Id.*

49. Because the denial of the right to apply for asylum can result in serious harm or death, the statutory right to apply is robust and meaningful. It includes the right to legal representation, and notice of that right, see id. §§ 1229a(b)(4)(A), 1362, 1158(d)(4); the right to present evidence in support of asylum eligibility, see id. § 1158(b)(1)(B); the right to appeal an adverse

decision to the Board of Immigration Appeals and to the federal circuit courts, see id. §§ 1229a(c)(5), 1252(b); and the right to request reopening or reconsideration of a decision determining removability, see id. § 1229a(c)(6)-(7).

50. Expedited removal, in contrast, severely limits the availability of such rights. Interviews occur on an exceedingly fast timeline; review of a negative interview decision by an immigration judge must occur within seven days of the decision. See 8 C.F.R. § 1003.42.

51. Here, the Petitioner was not advised by DHS that they sought to dismiss his proceedings in order to place him in expedited removal, depriving him of the bundle of rights associated with his pending asylum application. Because of his legal interest in his pending asylum application, this violated due process. *See generally Mathews v. Eldridge*, 424 U.S. 319, 333 (1976) (requiring notice and an opportunity to be heard before deprivation of a legally protected interest).

Count Two

Violation of the Fifth Amendment of the U.S. Constitution Procedural Due Process

52. Petitioner realleges all paragraphs above as if fully set forth here.

53. Courts balance three factors to determine whether procedural due process is satisfied: (1) the private interest at issue; (2) the risk of erroneous deprivation of that interest through the procedures used, and the probable value, if any, of additional procedural safeguards; and, (3) the government's interest, including fiscal and administrative burdens that additional or substitute procedural requirements entail. *Mathews v. Eldridge*, 424 U.S. 319, 333 (1976).

54. The first factor, the private interest at issue, favors Petitioner. "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause [of the Fifth Amendment] protects." *Zadvydas v. Davis*, 533 U.S. 678, 690.

55. The second factor, the risk of erroneous deprivation of liberty and the probable value of procedural safeguards, favors Petitioner. To safeguard against erroneous deprivations of liberty, the statute specifies the limited number of reasons that an order of supervision can be revoked. Regulations specify who may lawfully revoke the order and the procedures that must be followed when doing so, including giving notice and an opportunity to be

heard. Respondents violated those laws here, leaving the risk of erroneous deprivation of liberty not just high, but certainly. Requiring Respondents to give notice and an opportunity to respond prior to revoking an order of supervision is of great value because it reduces the probability of needless detention of a person, like Petitioner, who is neither dangerous nor a flight risk.

56. The third factor, the government's interest, also favors Petitioner. When the government ignores law that ensures notice and an opportunity to respond to a person at risk of revocation of an order of supervision, it is more likely to waste limited financial and administrative resources on unnecessary detention of people who are neither flight risks nor dangerous. This waste drags down the efficiency of the entire immigration system. And because the government must also spend resources defending against a habeas corpus petition in federal court to compel Respondents to comply with law, requiring Respondents to instead provide notice and a meaningful opportunity to respond prior to revoking an order of supervision reduces fiscal and administrative burdens on the government.

57. For these reasons, detaining the without providing notice and a meaningful opportunity to respond violated procedural due process under the Fifth Amendment to the U.S. Constitution.

Count Three

Violation of the Immigration and Nationality Act and Regulations governing Expedited Removal and Detention

58. Petitioner realleges all paragraphs above as if fully set forth here.

59. The application of Expedited Removal and Detention of Petitioner pursuant to 8 U.S.C. §1225(b)(1) is unlawful.

60. 8 U.S.C. § 1225(b)(1)(A)(i) limits the application of expedited removal to non-citizens who are inadmissible pursuant to INA § 212(a)(6)(C) for fraud or § 212(a)(7), for lacking valid documents. Additionally, it requires detention of certain aliens undergoing expedited removal proceedings who have not "been physically present in the United States continuously for the 2-year period immediately prior to the date" that they were determined inadmissible under § 1225(b)(1).

61. Petitioner was charged as inadmissible pursuant to INA §212(a)(6)(A). (See Exhibit B). Additionally, he has been present in the United States for

over three years. For those reasons, Respondents may not detain Petitioner under § 1225(b)(1).

62. The remaining statutory question is whether § 1225(b)(2) applies to all aliens who, like Petitioner, are already in the country but entered without inspection. If so, § 1225(b)(2) makes Petitioner's detention mandatory. If not, § 1226(a) applies, Petitioner's detention is discretionary, and he is entitled to a bond hearing if he remains detained.

63. To start, § 1225(b)(2)'s language is clear. It states, "in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for" removal proceedings.

8 U.S.C. § 1225(b)(2)(A).

64. In other words, § 1225(b)(2) requires detention if three conditions are met:

(1) the alien is an "applicant for admission";
(2) the alien is "seeking admission"; and
(3) an "examining immigration officer determines" the alien "is not clearly and beyond a doubt entitled to be admitted.

Id.; see, e.g., Lopez Benitez v. Francis, No. 25 CIV. 5937 (DEH), 2025 WL 2371588, at *6 (S.D.N.Y. Aug. 13, 2025).

65. Here, the first condition is met. The term "applicant for admission" includes an alien "present in the United States who has not been admitted." 8 U.S.C. § 1225(a)(1). "The terms 'admission' and 'admitted' mean, with respect to an alien, the lawful entry of the alien into the United States after inspection and authorization by an immigration officer." *Id.* § 1101(a)(13)(A). Because Petitioner is present in the United States and has not "lawful[ly] ent[ered] . . . after inspection and authorization by an immigration officer," he is an "applicant for admission." *Id.* §§ 1101(a)(13)(A); 1225(a)(1).

66. But at the time of Petitioner's re-detention, he was not "seeking admission." Again, admission refers to "lawful entry . . . into the United States after inspection and authorization by an immigration officer." *Id.* § 1101(a)(13)(A). When ICE detained him on November 20, 2025, Petitioner was not seeking entry, much less "lawful entry . . . after inspection and authorization." Because Petitioner is not "seeking admission," ICE may not detain him under § 1225(b)(2).

67. If that were not enough, the Supreme Court recently discussed the relationship between § 1225 and § 1226: "In sum, U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under § 1226(a) and (c)." *Jennings*, 583 U.S. at 289.

68. The Court clarified how these provisions applied to different categories of aliens: "§ 1226 applies to aliens already present in the United States." *Id.* at 303. On the other hand, "the language of §§ 1225(b)(1) and (b)(2) is quite clear": "§ 1225(b) applies primarily to aliens seeking entry into the United States ('applicants for admission' in the language of the statute)." *Id.* at 297, 303. Respondents may argue that this Jennings language is dicta. Even if it is, courts "are generally bound by Supreme Court dicta, especially when it is recent and detailed." *McRorey v. Garland*, 99 F.4th 831, 837 (5th Cir. 2024) (*quoting Hollis v. Lynch*, 827 F.3d 436, 448 (5th Cir. 2016)). So § 1225(b)(2) applies to aliens "seeking admission," and § 1226 applies to aliens "already in the country." Respondents may not detain Petitioner pursuant to § 1225(b)(2).

PRAYER FOR RELIEF

WHEREFORE, Petitioner requests that this Court:

a. Exercise jurisdiction over this matter;

b. Enjoin Petitioner's removal or transfer outside the jurisdiction of this Court and the United States pending its adjudication of this petition;

c. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, the INA and implementing regulations

d. Order Petitioner's immediate release or a bond hearing;

e. Award Petitioner costs and reasonable attorneys' fees; and

f. Order such other relief as this Court may deem just and proper.

Respectfully submitted,

/s/Carolina A. Collado
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8 U.S.C. § 2242 VERIFICATION STATEMENT

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