UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. ________________

FREDDY DEL RIO LIMA,

Petitioner,

v.

MIAMI ICE FIELD OFFICE DIRECTOR, in her official capacity;

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

PAMELA BONDI, in her official capacity as Acting Attorney General of the United States.

Respondents.
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PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Freddy Del Rio Lima, submits this petition for writ of habeas corpus and and alleges as follows:

1. On September 30, 2025, Miami Sector Intelligence Unit Border Patrol Agents, Border Patrol Resident Agents, and members of the Monroe County Sheriff's Department conducted targeted patrol operations near Key Largo, Florida. Acting in unmarked vehicles, agents stopped Petitioner's vehicle near the intersection of Card Sound Road and State Road 905 after previously identifying the vehicle as a "target" based on the alleged immigration status of its owner. See Exh. "C," Form I-213, Record of Deportable/Inadmissible Alien. Agents approached Petitioner, questioned him regarding his immigration status, and conducted record checks through Department of Homeland Security (DHS) databases. Id. Based on those checks, agents determined

that Petitioner was present in the United States without admission or parole and placed him into immigration custody. Petitioner had no prior encounters with immigration enforcement officers before this arrest. Id.

2. Petitioner is a long-term inhabitant of the United States who entered without inspection on September 13, 2005, when he was twenty-nine (29) years old. He is married and the father of four United States citizen children, ages seven (7), ten (10), seventeen (17), and nineteen (19). See Exhs. "F-G," Marriage Certificate; Birth Certificates. He has extensive family and community ties in the United States and is statutorily eligible for cancellation of removal. *See* 8 U.S.C. §1230. Nevertheless, Petitioner remains detained and separated from his family despite presenting no danger to the community and no risk of flight.

3. Petitioner's criminal history is minimal. In 2012, Petitioner was charged with driving under the influence (DUI) and driving without a license (DWLS); both charges were dismissed. See Exh. "E," Criminal Records. In 2013, Petitioner received a withhold of adjudication for a traffic offense. Id. He has no history of violence, no drug-related offenses, and no aggravated or felony convictions of any kind. Petitioner has no convictions that would subject him to mandatory detention under 8 U.S.C. § 1226(c), and Respondents therefore lack any statutory basis to detain him without at a minimum providing an individualized bond hearing under § 1226(a).

4. What is more, on February 2, 2023, Petitioner filed a Form I-918, Petition for U Nonimmigrant Status, as a derivative beneficiary of his wife's U-visa application. U.S. Citizenship and Immigration Services determined that the family had submitted a bona fide U-visa application. See Exh. "D," USCIS Notices. As a result, Petitioner was granted deferred action and employment authorization under category (C)(14). Id.

5. Petitioner entered the United States without inspection on September 13, 2005, at the age of twenty-nine (29). See Exh. "B," Notice to Appear. Despite being married, having four United States citizen children), and being the beneficiary of a bona fide U-visa application with deferred action, Petitioner remains detained and separated from his family, even though he presents no danger to the community and no risk of flight.

6. Respondents have refused to provide Petitioner with an individualized bond hearing based on their reliance on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025). Consistent with nationwide guidance issued on January 13, 2026 by Chief Immigration Judge Teresa L. Riley, immigration judges have been instructed to treat *Yajure Hurtado* as binding precedent and to deny bond jurisdiction categorically. See Exh. "H," EOIR Nationwide Guidance (Jan. 13, 2026) (directing immigration judges to continue applying *Matter of Yajure Hurtado* notwithstanding a certified class action lawsuit that nullified that agency decision), AILA Doc. No. 26011404. As a result, Petitioner has been denied any meaningful opportunity to seek release on bond or conditional parole.

7. Respondents' erroneous legal interpretation is plainly contrary to the statutory framework governing immigrant detention and contrary to decades of agency practice applying § 1226(a) to people like Petitioner. Petitioner seeks a writ of habeas corpus requiring that he be released as the government has no articulable interest in his continued detention as he is a deferred action recipient exempt from removal. *See Santiago v. Noem*, 25-cv-361, 2025 WL 2792588 (Oct. 2. 2025) (ordering immediate release of deferred action recipient); *Guifarro Mena v. De Anda-Ybarra*, 25-cv-608 (W.D.TX Dec. 12 2025) (same). Many district courts have determined instead to order the immediate release of immigration habeas petitioners held in custody in violation of their due process rights. *See, e.g., J.U. v. Maldonado*, No. 25-cv-4836, 2025 U.S. Dist. LEXIS

191630, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025); *Zumba v. Bondi*, No. 25-cv-14626, 2025 WL 2753496, at *11 (D.N.J. Sept. 26, 2025); *Sampiao v. Hyde*, No. 25-cv-11981, 2025 WL 2607924, at *12 (D. Mass. Sept. 9, 2025). In the majority of these cases, the Court found that the government had an insignificant interest in detaining the petitioner, for example, when—as here—he or she has an unexpired deferred action grant.

8. In the alternative, Petitioner asked that he be released unless Respondents provide a bond hearing under §1226(a) within seven (7) days.

JURISDICTION & VENUE

9. This Court has subject matter jurisdiction under Art. I § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

10. 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).

11. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is currently detained in this district and division and events or omissions giving rise to this action occurred in this district and division.

PARTIES

12. Petitioner, Freddy Del Rio Lima, is a native and citizen of Mexico who is currently detained at Broward Transitional Center (BTC), in Pompano Beach, Florida.

13. Respondent Kelei Walker is the Field Office Director for the ICE Miami Field Office. In that capacity, she is charged with overseeing BTC, which is owned by ICE and operated

by a contractor, and has the authority to make custody determinations regarding individuals detained there. Therefore, Respondent Walker is the immediate custodian of Petitioner. She is sued in her official capacity.

14. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). She supervises ICE, an agency within DHS that is responsible for the administration and enforcement of immigration laws, and she has supervisory responsibility for and authority over the detention and removal of non-citizens throughout the United States. Secretary Noem is the ultimate legal custodian of Petitioner. Respondent Noem is sued in her official capacity.

15. Respondent Pamela Bondi is the Attorney General of the United States. As the Attorney General, she oversees the Executive Office for Immigration Review (EOIR), including all immigration judges (IJs) and the BIA. Respondent Bondi is sued in her official capacity.

LEGAL BACKGROUND

A. Detention During Removal Proceedings

16. 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).

17. To initiate removal proceedings against a non-citizen under Section 1229a, the Government must issue the non-citizen an 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.

18. 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,[1] 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).

19. 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 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).

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

21. Regardless, "[w]here Congress does not say there is a jurisdictional bar, there is none." *Santiago-Lugo v. Warden*, 785 F.3d 467, 473 (11th Cir. 2015). The fact that it did not limit courts' subject matter jurisdiction to decide unexhausted § 2241 claims compels the conclusion

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[1] 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.

that any failure of [the respondent] to exhaust administrative remedies is not a jurisdictional defect." *Id.* at 474.

22. In the absence of a statutorily mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision that rests soundly within the broad discretion. of district courts. *See J.N.C.G. v. Warden, Stewart Detention Ctr.*, No. 4:20-CV- 62-MSH, 2020 WL 5046870, at *3 (M.D. Ga. Aug. 26, 2020) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); *see also Richardson v. Reno*, 162 F.3d 1338, 1374 (11th Cir. 1998); *Yahweh v. U.S. Parole Comm'n*, 158 F. Supp. 2d 1332, 1341 (S.D. Fla. 2001).

23. Here, there is no reason to require exhaustion of administrative remedies because Petitioner has no meaningful administrative avenue to seek relief. In light of the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), and nationwide guidance instructing immigration judges to treat that decision as binding precedent, immigration judges are categorically concluding that they lack jurisdiction to conduct bond hearings for individuals in Petitioner's posture. As a result, seeking a bond hearing before the Immigration Court would be futile, as the outcome of the administrative process can be reasonably anticipated and would not provide relief commensurate with Petitioner's claims. *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001) ("[A] petitioner need not exhaust their administrative remedies where the administrative remedy will not provide relief commensurate with the claim."); *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982) ("[E]xhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile[.]"). In light of the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), exhaustion would be futile because the outcome of the administrative process can be reasonably anticipated and would not constitute an adequate remedy.

24. Accordingly, 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. *See Boumediene v. Bush*, 553 U.S. 723, 783 (2008).

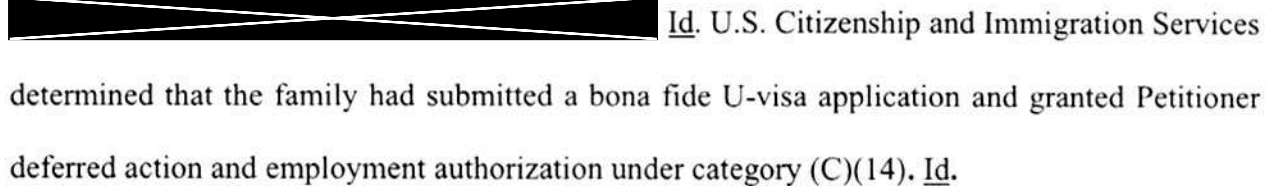
STATEMENT OF FACTS

25. Petitioner entered the United States without inspection on September 13, 2005, when he was twenty-nine (29) years old. Since that time, he has resided continuously in the United States and established deep family and community ties. See Exh. "B," Petitioner's Notice to Appear.

26. On January 22, 2022, Petitioner married Rufina Ortiz Mendez. Together, they are raising four United States citizen children. See Exhs. "F-G," Marriage Certificate; Birth Certificates. Petitioner is the biological father of V.L.D. ([redacted], and I.G.D. ([redacted] and the stepfather of A.P. ([redacted] and J.W.P. ([redacted]. Id. Petitioner plays an active parental role in all four children's lives, and his continued detention has caused significant hardship to the family.

27. Petitioner's criminal history is minimal. In 2012, Petitioner was charged with driving under the influence (DUI) and driving without a license (DWLS); both charges were dismissed. See "Exh. E," Criminal Records. In 2013, Petitioner received a withhold of adjudication for driving without a valid driver's license. Id. He has no convictions for crimes involving violence, controlled substances, aggravated felonies, or any offense that would subject him to mandatory detention under 8 U.S.C. § 1226(c).

28. On February 2, 2023, Petitioner filed a Form I-918, Petition for U Nonimmigrant Status, as a derivative beneficiary of his wife's U-visa application. See Exh. "D," I-918A, Petition for U nonimmigrant status. Petitioner's wife is a survivor of domestic violence perpetrated by [redacted]

 Id. U.S. Citizenship and Immigration Services determined that the family had submitted a bona fide U-visa application and granted Petitioner deferred action and employment authorization under category (C)(14). Id.

29. On September 30, 2025, Miami Sector Intelligence Unit Border Patrol Agents, Border Patrol Resident Agents, and members of the Monroe County Sheriff's Department conducted targeted patrol operations near Key Largo, Florida, operating in unmarked vehicles. See Exh. "C," Form I-213, Record of Deportable/Inadmissible Alien. Agents observed Petitioner driving near Card Sound Road and State Road 905 and stopped his vehicle after it had been previously identified as a "target" based on the alleged immigration status of its owner. Id.

30. Agents approached Petitioner, identified themselves as Border Patrol agents, questioned him regarding his immigration status, and conducted record checks through DHS databases. Id. Based on those checks, agents determined that Petitioner was present in the United States without admission or parole and placed him into immigration custody. Id. Petitioner had no prior immigration encounters before this arrest. Id.

31. Following his arrest, Petitioner was placed into removal proceedings and detained at BTC in Pompano Beach, Florida, where he remains detained as of the date of this Petition.

32. Petitioner is statutorily eligible for Cancellation of Removal under INA § 240A(b) 8 USC §1230 (INA § 240A(b)) and presents no danger to the community and no risk of flight. He has extensive family ties, a long residence in the United States, and a history of compliance with legal obligations.

33. Petitioner has not sought a bond hearing before the Immigration Court because doing so would be futile. See Exh. "H," EOIR Nationwide Guidance (Jan. 13, 2026.) In light of the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), and nationwide

guidance instructing immigration judges to treat that decision as binding precedent, immigration judges are categorically concluding that they lack jurisdiction to conduct bond hearings for individuals in Petitioner's posture.

34. As a result of Respondents' unlawful interpretation of the detention statutes, Petitioner remains detained at BTC without any opportunity for an individualized bond hearing, in violation of the Immigration and Nationality Act and the Due Process Clause of the Constitution.

ARGUMENT

A. Petitioner's Continued Detention Is Unlawful Because He Is Not Subject to Mandatory Detention Under 8 U.S.C. § 1225(b)(2)

35. Petitioner contends that Respondents have unlawfully subjected him to 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 several years. As a result, Respondents have deprived him of his liberty without due process, contrary to the Fifth Amendment and the INA.

36. Although Petitioner is detained pursuant to removal proceedings, he has not received an individualized bond hearing. Respondents have taken the position that Petitioner is properly detained under 8 U.S.C. § 1225(b)(2) and that DHS therefore lacks authority to release him on bond. In light of *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), and nationwide guidance instructing immigration judges to treat that decision as binding precedent, immigration judges are categorically concluding that they lack jurisdiction to conduct bond hearings for individuals in Petitioner's posture. As a result, seeking a bond hearing before the Immigration Court would be futile, as the Immigration Court would lack authority to review Petitioner's custody. Petitioner disputes Respondents' legal position and submits that his detention

falls squarely within the scope of 8 U.S.C. § 1226(a), which provides for discretionary detention and permits release on bond or conditional parole pending the completion of removal proceedings.

37. Respondents' position rests entirely on the BIA's decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), which purports to classify noncitizens who entered without inspection and have resided in the United States for years as "applicants for admission" subject to mandatory detention under § 1225(b)(2). District courts across the country have overwhelmingly rejected this interpretation. *See e.g., 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). 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 BIA decisions, and renders superfluous the recent Laken Riley Act amendments to § 1226(c).

38. Specifically, the Chief United States District Judge Cecilia M. Altonaga, recently issued a decision in *Alvarez 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)."

See Alvarez Puga v. Assistant Field Office Director, Krome North Service Processing Center et al., No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025) at *10.

39. 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).

40. 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)).

41. 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."

42. This expansive interpretation contradicts the statutory text, legislative history, and consistent judicial authority in multiple circuits. *See, e.g., Merino v. Noem*, No. 25-cv-23845 (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.

43. Petitioner, who has lived in the United States for two decades 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, 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 Petitioner's constitutional right to due process. The Fifth Amendment guarantees that no person shall be deprived of life, liberty, or property without due process of law. U.S. CONST. amend. V. This protection extends to all persons within the United States—citizens and noncitizens alike—regardless of immigration status. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Because Petitioner has been detained for an extended period without a meaningful opportunity to seek release, his detention offends both procedural and substantive due process.

B. Petitioner's Continued Detention Violates His Substantive and Procedural Due Process Rights

44. Civil immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has made clear that there are only two plausible purposes for immigration detention: ensuring a non-citizen's appearance at his removal proceedings and/or preventing danger to the community. *Zadvydas*, 533 U.S. at 690. Indeed, where civil detention "is of potentially *indefinite* duration," courts have "also demanded that the dangerousness rationale be accompanied by some other special circumstance." *Id.* If immigration detention is not reasonably related to one of these purposes, it is essentially punitive and therefore violative of the Due Process Clause. *See id.*

45. To determine whether the Government's procedures satisfy procedural due process, courts apply the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022). Under *Mathews*, courts consider: (1) the private interest affected by the government action; (2) the risk of erroneous deprivation of that interest through existing procedures and the probable value of additional safeguards; and (3) the government's interest, including administrative or fiscal burdens of additional process. *Mathews*, 424 U.S. at 335. Each of these factors strongly favors Petitioner.

46. First, the Petitioner's liberty interest is undoubtedly substantial. Freedom from physical constraint is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Petitioner has been detained for nearly a month without any individualized assessment of flight risk or danger, despite his long residence in the United States, extensive family ties, and absence of any criminal history that would justify mandatory detention. These core factors were

never weighed because the Immigration Judge concluded—erroneously—that the court lacked jurisdiction to consider bond at all.

47. Second, the risk of erroneous deprivation is extraordinarily high. By refusing to consider bond based on DHS's assertion that Petitioner is subject to "mandatory detention" under 8 U.S.C. § 1225(b)(2), the Immigration Court deprived Petitioner of the only procedural safeguard designed to test the necessity of continued confinement. This categorical denial eliminated individualized review altogether, transforming what should have been a meaningful custody determination into a nullity. Courts have repeatedly held that procedures which foreclose individualized assessment of detention impermissibly heighten the risk of erroneous deprivation and violate due process. *See Günaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154 (D. Minn. May 21, 2025) (describing DHS's unilateral detention authority as creating "not just a risk, but a likelihood" of erroneous deprivation).

48. Third, the Government's interests are adequately protected by the individualized bond determination procedure already contemplated by §1226(a). As the Ninth Circuit recognized in *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017), "the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future proceedings can be reasonably ensured by less restrictive conditions." Far from imposing any undue burden, allowing bond hearings for noncitizens apprehended inside the United States promotes fairness and efficiency.

49. Accordingly, under *Mathews*, the procedures used to detain Petitioner fail to satisfy procedural due process. The IJ's refusal to exercise jurisdiction, based solely on DHS's misclassification of Petitioner as subject to §1225(b)(2), constituted a denial of any meaningful

opportunity to be heard. The Government's blanket invocation of "mandatory detention" cannot substitute for constitutionally required process.

50. Even apart from procedural deficiencies, Petitioner's continued confinement violates substantive due process. Government detention is constitutionally permissible only when it occurs in a criminal context with robust procedural protections, or in civil circumstances where a "special justification" outweighs the individual's liberty interest. *Zadvydas*, 533 U.S. at 690. No such justification exists here.

51. Petitioner's confinement is purely civil and ostensibly intended to ensure his presence for removal proceedings. Yet the Government has offered no individualized justification for his ongoing detention, no finding that he poses a danger or flight risk, because the IJ never reached those issues. Detaining a long-term Florida resident without such a finding serves no legitimate regulatory goal and instead amounts to impermissible punishment.

52. Respondents rely on *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025), to argue that the IJ lacked jurisdiction to consider bond because Petitioner is "an arriving alien" detained under §1225(b)(2). That reliance is misplaced. As discussed *supra*, Petitioner was apprehended well inside the United States, after residing here for several years. He is therefore properly detained under §1226(a), which provides for discretionary release on bond. The BIA's decision in *Yajure-Hurtado* cannot override Congress's clear statutory distinction between §1225(b)(2) (governing those seeking admission at the border) and §1226(a) (governing those already present in the United States).

53. By adopting DHS's erroneous interpretation, the IJ denied Petitioner any opportunity for an individualized bond determination. This denial renders his continued detention arbitrary, indefinite, and unconstitutional. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D.

Wash. 2025) (holding that detention of noncitizens apprehended within the U.S. under §1225(b)(2) violates due process and exceeds statutory authority).

54. Because Petitioner's detention is governed by 8 U.S.C. § 1226(a), he is entitled to a prompt and meaningful individualized bond hearing at which the Government bears the burden of justifying continued detention by clear and convincing evidence. The Immigration Court's categorical refusal to conduct such a hearing—based on DHS's misapplication of *Matter of Yajure Hurtado*—deprived Petitioner of any meaningful opportunity to challenge his confinement and violated the Due Process Clause of the Fifth Amendment.

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
Substantive Due Process

55. The Supreme Court has found that the "Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 682.

56. Immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527. Petitioner has been detained since September 30, 2025 without any individualized custody determination. Because the Immigration Judge concluded—based on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025)—that the court lacked jurisdiction to consider bond, the Immigration Court refused to assess whether Petitioner posed a danger to the community or a risk of flight. As a result, Petitioner remains confined without any finding that his detention is necessary to serve a legitimate regulatory

purpose. Detention imposed without individualized justification bears no reasonable relation to ensuring appearance at removal proceedings or protecting public safety.

57. By categorically denying Petitioner the opportunity for individualized review, Respondents have transformed a civil regulatory scheme into punitive confinement in violation of substantive due process. The Fifth Amendment forbids detention that is arbitrary, excessive in relation to its purpose, or unsupported by individualized justification. *See Zadvydas*, 533 U.S. at 690. Because Petitioner has never been found to be a danger or flight risk, and because Respondents have provided no special justification for continued incarceration, his detention is not reasonably related to its purpose and thereby violates his due process rights.

COUNT II

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

Procedural Due Process

58. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals' due process rights.

59. Petitioner has been denied any meaningful process to challenge his confinement. Although the Immigration Court nominally schedules bond hearings in removal proceedings, Petitioner did not seek a bond hearing because doing so would have been futile. In light of *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), and binding guidance instructing immigration judges to treat that decision as controlling, immigration judges are categorically declining to exercise bond jurisdiction for individuals in Petitioner's posture. As a result, Petitioner has been deprived of any opportunity for an individualized determination of whether he poses a danger to the community or a risk of flight. Respondents' reliance on *Yajure Hurtado* to foreclose bond jurisdiction entirely—and thereby eliminate any procedural mechanism to challenge

continued detention—violates the procedural component of the Due Process Clause of the Fifth Amendment.

COUNT III

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a)

No Authority to Detain

60. 8 U.S.C. § 1226(a) authorizes immigration detention only during pending removal proceedings. Respondents' reliance on § 1225(b)(2) to deny 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 interpretation.

61. Because Petitioner is not subject to mandatory detention, 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, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;
b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Respondents not transfer Petitioner outside of the jurisdiction of the U.S. District Court for the Middle District of Florida during the pendency of this petition;
c. Declare that Respondents' actions or omissions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution and/or the Immigration and Nationality Act;

d. Order Respondents to provide Petitioner with a prompt and constitutionally adequate bond hearing before An Immigration Judge with jurisdiction under 8 U.S.C. § 1226(a), at which the Government bears the burden of proving by clear and convincing evidence that continued detention is justified;

e. In the alternative, order Petitioner's immediate release from custody if a bond hearing is not held within fourteen (14) days of this Court's order;

f. Award Petitioner reasonable fees under the Equal Access to Justice Act, 5 U.S. Code § 504;

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

Respectfully submitted,

Dated: January 22, 2026

/s/ Felix A. Montanez

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Counsel for Petitioner

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.

Respectfully submitted, Dated: January 22, 2026

/s/ Gizelle Rodriguez

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