UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No._____

YOSBEL ARGUELLES ARIAS,

Petitioner,

v.

MIAMI ICE FIELD OFFICE DIRECTOR, in her official capacity as Field Office Director of U.S. Immigration and Customs Enforcement Miami Field Office;

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.
_____/

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Yosbel Arguelles Arias ("Mr. Arguelles"), submits this petition for writ of habeas corpus and related relief and allege as follows:

INTRODUCTION

1. On September 1, 2025, Mr. Arguelles, a Cuban asylum seeker who also has a pending petition for permanent residency, was detained by police officers in the middle of a family

dispute. He was subsequently transferred to ICE custody. This arrest did not result in his prosecution or conviction for any crime. The Petitioner, a 38-year-old man remains detained at Krome North Service Processing Center ("Krome"), in Miami, Florida, where he is approaching five months of incarceration separated from his family in Miami, Florida. As further explained *infra*, Respondents lack the authority to arrest and detain him without a bond hearing under the Immigration and Nationality Act (INA), its implementing regulations, and the Constitution.

2. On January 13, 2026, Petitioner appeared for a custody redetermination hearing before an Immigration Judge ("IJ") in Miami, Florida, and the IJ denied bond. The IJ's ruling relied on a recent agency interpretation that sharply departs from decades of settled practice. See *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Detaining Petitioner on that basis contravenes the plain language of the Immigration and Nationality Act. 8 U.S.C. § 1225(b)(2)(A) is inapplicable does not apply to individuals like Petitioner who previously entered and have long established their domicile in the United States. Rather, Petitioner is subject to 8 U.S.C. § 1226(a), which authorizes release on bond or conditional parole and expressly governs individuals—like Petitioner—charged as inadmissible for entry without inspection.

3. 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. The Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven (7) days.

JURISDICTION & VENUE

4. 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).

5. 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).

6. 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

7. Petitioner, Yosbel Arguelles Arias, is a native and citizen of Cuba and asylum applicant who is currently detained at Krome North Processing Center, in Miami, Florida.

8. Respondent Miami ICE Field Office Director is sued in her official capacity. In that capacity, she is charged with overseeing Krome, which is owned by ICE and operated by a contractor, and has the authority to make custody determinations regarding individuals detained there. Therefore, Respondent Ripa is the immediate custodian of Petitioner. He is sued in his official capacity.

9. 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.

10. 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

11. Section 1229a of Title 8 of the U.S. Code (Section 240 of the INA) describes the primary process through which the government seeks to remove noncitizens 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).

12. 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.

13. Section 1226 of Title 8 of the U.S. Code 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).

14. 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

[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.

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).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

15. 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).

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

17. 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).

18. Here, there is no reason to require exhaustion of administrative remedies, as Petitioner has no meaningful alternative to habeas relief, and has already requested bond from the immigration court. *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.

19. 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

20. Petitioner entered the United States without inspection on or about November 20, 2021, and was subsequently placed in standard removal proceedings under 8 U.S.C. § 1229a. He timely filed an application for asylum and also has a pending I-485, Application for Permanent Residence.

21. On September 1, 2025, Mr. Arguelles was detained by police officers in the middle of a family dispute. after which he was transferred to ICE custody. This sole criminal arrest did not lead to his prosecution or conviction and the case resulted in a "no action" disposition. See Exh. "A," FDLE Search Results and "No Action" Disposition. Mr. Arguelles was transferred to Immigration and Customs Enforcement ("ICE") custody, where he has remained detained for months without release, bond, or parole, and without any lawful, reasonable, or individualized basis for continued detention. Mr. Arguelles has complied with all biometrics requirements, filed a timely I-589, and has an I-485 application pending with USCIS.

22. Immigration and Customs Enforcement ("ICE") has detained Petitioner and placed him in federal custody. The Petitioner has no serious criminal history or other derogatory

information that would subject him mandatory detention under §1226(c). He is a native and citizen of Cuba who entered the United States on or about November 20, 2021.

23. In his prior Order of Release on Recognizance, see Exh. "B," I-220A, the Respondents themselves cite to 8 U.S.C. § 1226 (§236 of the INA) as the relevant detention authority. 8 U.S.C. §1226 relates to discretionary detention that preserves the procedural right to a bond hearing. *See* 8 CFR §1003.19.

24. While both his asylum application and his adjustment of status application remain pending, Mr. Arguelles has continued to contribute meaningfully to his community. He maintained steady employment and consistently complied with all immigration-related requirements. He has no history of missing any immigration appointments, check-ins, biometrics, or court proceedings, and has demonstrated that he is neither a flight risk nor a danger to the community.

25. Mr. Arguelles Fernandez has copious evidence of family, employment, and community ties and support in the United States. See Exh. "C," Letters of Support.

26. As of the filing of this petition, Petitioner remains detained at Krome North Processing Center in Miami, Florida, and continues to be in removal proceedings. See Exh. "D," Petitioner's Notice to Appear.[2]

27. On January 13, 2026, an immigration judge denied his bond, citing to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025) so as to subject him erroneously to mandatory detention, See Exh. "E," IJ Bond Denial Order.

ARGUMENT

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

[2] The notice to appear incorrectly reflects a 2021 issuance date, although it appears to have been generated in 2025.

28. Respondents have unlawfully subjected him to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2), even though 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.

29. Upon information, knowledge, and belief, at the Petitioner's scheduled bond hearing in immigration court, DHS asserted that Petitioner is properly detained under § 1225(b)(2) and that DHS therefore lacks authority to release him on bond. The Immigration Judge found that because § 1225(b)(2) mandates detention until the conclusion of removal proceedings, Petitioner's custody is lawful and the Court lacks jurisdiction to review it. 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.

30. The IJ's bond denial relies on the BIA decision *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which district courts across the country have roundly rejected. *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).

31. 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.

32. 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).

33. 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)).

34. 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."

35. 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.

36. Petitioner has resided in the United States for approximately four (4) years and was apprehended well inside the country, he is therefore not "seeking admission." His detention under INA § 235(b)(2), 8 U.S.C. § 1225(b)(2), is unlawful. Because INA § 236(a), 8 U.S.C. § 1226(a),

governs his custody, Petitioner is entitled to a custody redetermination and individualized consideration for release on bond. The government's continued reliance on § 1225(b)(2) to deny bond contravenes the statute and violates Petitioner's Fifth Amendment due process rights.

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

37. 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.

38. 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.*

39. 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.

40. Petitioner's liberty interest is unquestionably substantial. Freedom from physical restraint is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Petitioner has been detained for approximately four months without any individualized assessment of flight risk or danger, despite his lengthy residence in the United States, significant family and community ties, and the absence of any disqualifying criminal history. The Immigration Judge declined to consider these factors, concluding that the court lacked jurisdiction to set bond.

41. The risk of erroneous deprivation is extreme. The IJ's refusal to even consider bond, based on DHS's position that Petitioner is subject to "mandatory detention" under §1225(b)(2), deprived him of the only procedural mechanism designed to test the necessity of his continued confinement. This result effectively transformed the bond hearing into an empty formality, denying Petitioner a meaningful opportunity to contest his detention. Courts have consistently held that procedures which categorically foreclose individualized review of detention 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).

42. Additionally, 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.

43. 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.

44. 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.

45. 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 findings serves no legitimate regulatory goal and instead amounts to impermissible punishment.

46. Respondents rely on *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025), to argue that the IJ lacked jurisdiction to consider bond 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).

47. By adopting DHS's erroneous interpretation, the IJ effectively 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).

48. Because Petitioner's detention falls under §1226(a), he is entitled to a prompt and meaningful bond hearing at which the Government bears the burden to justify continued detention by clear and convincing evidence. The IJ's refusal to conduct such a hearing, and DHS's misapplication of *Yajure-Hurtado*, 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

49. 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.

50. 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 for almost three months without any individualized custody determination. At his initial bond hearing, the Immigration Judge declined to exercise jurisdiction, citing *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025), and therefore refused to assess whether Petitioner posed a danger or flight risk. As a result, Petitioner remains confined without any finding that his detention is necessary to

serve a legitimate regulatory purpose. Such unexamined and indefinite detention bears no reasonable relation to ensuring appearance at removal proceedings or protecting public safety.

51. 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

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

53. Consequently, Petitioner has not received an individualized assessment of whether he presents a danger to the community or a risk of flight. Respondents' reliance on *Matter of Yajure-Hurtado* to deny a bond hearing violates Petitioner's procedural due process rights under the Fifth Amendment.

COUNT III

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

No Authority to Detain

54. 8 U.S.C. § 1226(a) authorizes immigration detention only during pending removal proceedings. Respondents' reliance on § 1225(b)(2) 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.

55. 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 Petitioner's immediate release from custody;

e. In the alternative, within seven (7) days, 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;

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, Date: January 26, 2026

/s/ Felix A. Montanez

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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's immigration attorney and authorized representative 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,

/s/ Felix A. Montanez

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