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**UNITED STATES DISTRICT COURT**  
**MIDDLE DISTRICT OF FLORIDA**  
**JACKSONVILLE DIVISION**

**FRANCISCO GARNELO-REYES,**

Petitioner,

v.

**WARDEN, Baker Correctional  
Institution; FIELD OFFICE DIRECTOR,  
Enforcement and Removal Operations,  
U.S. Immigration and Customs  
Enforcement, Jacksonville Field Office;  
US Department of Homeland Security  
(DHS);**

Respondents.

Case No.: \_\_\_\_\_

A 

**PETITION FOR WRIT OF HABEAS CORPUS (28 U.S.C. § 2241)**

1. Petitioner Francisco Garnelo-Reyes, by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 and states as follows:

**INTRODUCTION**

2. This is a petition for writ of habeas corpus challenging Petitioner's ongoing civil immigration detention without any custody hearing, despite the absence of mandatory detention authority and despite Petitioner's serious and worsening medical conditions.
3. Petitioner has been detained at Baker Correctional Institution in Sanderson, Florida since November 24, 2025.
4. Petitioner sought a bond redetermination before the Immigration Court. On December 18, 2025, the Immigration Judge denied the request solely on the ground that the court allegedly lacked jurisdiction to conduct any bond hearing, relying on 8 U.S.C. § 1225(b)(2)(A) and Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). (Exhibit F)
5. As a result, Petitioner remains detained without any individualized custody hearing, without any neutral determination of danger or flight risk, and without any administrative mechanism to seek release.
6. Petitioner is not an arriving alien. He has lived in the United States for over ten years, is married to a United States citizen, and has a concrete lawful immigration pathway through marriage-based consular processing. (Exhibit C)

7. Petitioner is also the victim of a serious automobile accident, requires surgical intervention, and suffers from diabetes. Continued detention prevents adequate medical care and places him at substantial risk of irreparable harm. (Exhibit B)
8. Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment.

## **II. JURISDICTION AND VENUE**

9. This Court has jurisdiction pursuant to 28 U.S.C. § 2241 and 28 U.S.C. § 1331.
10. Petitioner is detained within the Middle District of Florida. Venue is proper.

## **III. PARTIES**

11. Petitioner Francisco Garnelo-Reyes is in ICE custody at Baker Correctional Institution.
12. Respondent Warden, Baker Correctional Institution, is Petitioner's immediate custodian.
13. Respondent Field Office Director, Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement, Jacksonville Field Office is responsible for local custody decisions relating to detainees at Baker Correctional Institution.
14. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE.

## **IV. CUSTODY**

15. Petitioner has been continuously detained at Baker Correctional Institution in Sanderson, Florida since November 24, 2025.

## **V. FACTUAL BACKGROUND**

### **A. Immigration Custody and Background**

16. Petitioner Francisco Garnelo-Reyes is a native and citizen of Mexico who has resided in the United States for more than a decade. During this time, he has established deep roots in the community, demonstrated consistent stability, and maintained a record of good moral character. He has no criminal history, no criminal convictions, and no history of violence. (Exhibit E, E-2)
17. On November 24, 2025, Petitioner was stopped by local law enforcement in Tampa, Florida, for driving without a valid driver's license. This minor traffic infraction represents Petitioner's only interaction with law enforcement. He was not charged with any violent offense, and there was no allegation of danger to the public.
18. Following this stop, Petitioner was taken into custody by U.S. Immigration and Customs Enforcement ("ICE") and transferred to Baker Correctional Institution in Sanderson, Florida, where he has remained detained since that date.
19. While in ICE custody, Petitioner was served with a Notice to Appear charging him under INA § 212(a)(6)(A)(i) as a person present in the United States without admission or parole. At the time he sought bond, the Notice to Appear had not yet been fully docketed with the Immigration Court. (Exhibit G)
20. Petitioner is not subject to mandatory detention. He has no criminal convictions, no pending criminal matters, and no conduct that would render him subject to INA § 236(c). His detention is civil in nature and discretionary.

21. Petitioner is married to a United States citizen, whom he wed in 2017. Although the couple experienced a period of physical separation due to employment circumstances and marital difficulties, they remained in contact and have since fully reconciled. Petitioner has a concrete, lawful immigration pathway through marriage-based consular processing. (Exhibit C)
22. Petitioner seeks release so that he may continue critical medical treatment, reunify with his U.S. citizen spouse, and pursue lawful immigration processing.

**B. Bond Proceedings and Lack of Jurisdiction**

23. After his detention, Petitioner timely filed a request for custody redetermination with the Immigration Court, seeking release on bond or on his own recognizance.
24. On December 18, 2025, the Immigration Judge denied the request, not based on any finding that Petitioner posed a danger to the community or a risk of flight, but solely on the ground that the Immigration Court allegedly lacked jurisdiction to consider bond.
25. As a result of this ruling, Petitioner has never received any individualized custody hearing, has never been afforded the opportunity to present evidence regarding danger or flight risk before a neutral decision-maker, and has never received any custody determination on the merits.
26. The Immigration Court's jurisdictional ruling leaves Petitioner in a posture of indefinite civil detention with no administrative mechanism through which to seek custody review.

### **C. Serious Medical Conditions and Ongoing Harm**

27. On April 17, 2024, Petitioner was the victim of a serious automobile accident through no fault of his own. He sustained significant spinal and orthopedic injuries and has remained under continuous medical care in Florida. (Exhibit B)
28. Since the accident, Petitioner has required ongoing pain management, diagnostic imaging, and interventional treatment, including injections for severe pain. His treating physicians have recommended additional surgical procedures and continued specialized care.
29. Prior to his detention, Petitioner had an active treatment plan and a scheduled medical appointment on December 5, 2025, to finalize the date of his next surgery. He was unable to attend because he was already in ICE custody.
30. Petitioner is also diabetic, placing him at heightened risk for complications and making continuity of medical care particularly critical.
31. Petitioner is represented by civil counsel in an active personal injury matter arising from the automobile accident. That case remains pending and requires his continued medical treatment, monitoring, and participation. (Exhibit B)
32. Petitioner's continued detention has interrupted his medical care, delayed necessary surgical treatment, exacerbated his pain, and placed him at risk of long-term deterioration. His confinement prevents him from accessing the specialized treatment recommended by his physicians and is causing ongoing and irreparable harm.

## **VI. EXHAUSTION**

33. Petitioner sought bond before the Immigration Court. Relief was denied on jurisdictional grounds.
34. Exhaustion is therefore satisfied or excused as futile.

## **VII. CLAIMS FOR RELIEF**

### **COUNT I**

#### **Fifth Amendment Due Process – Detention Without Any Custody Hearing**

35. Civil immigration detention is constitutional only when it is reasonably related to a legitimate regulatory purpose and accompanied by adequate procedural safeguards. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003).
36. At a minimum, due process requires an individualized determination of whether detention is necessary to prevent danger to the community or risk of flight. *Zadvydas*, 533 U.S. at 690–91; *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).
37. Petitioner is detained without any custody hearing, without any opportunity to present evidence, and without any neutral decision-maker evaluating whether his continued detention is justified.
38. The Immigration Judge expressly declined to exercise bond jurisdiction, leaving Petitioner in civil detention with no mechanism for custody review at all.

39. A statutory regime that authorizes potentially indefinite civil detention without any individualized hearing violates the Due Process Clause of the Fifth Amendment. *Zadvydas*, 533 U.S. at 690; *Jennings v. Rodriguez*, 138 S. Ct. 830, 851 (2018) (constitutional challenges to prolonged detention remain available).
40. Petitioner's continued detention without a custody hearing therefore violates procedural due process.

## **COUNT II**

### **Prolonged and Arbitrary Civil Detention – Substantive Due Process**

41. Even where civil detention is initially lawful, it becomes unconstitutional when it is excessive, unreasonable, or arbitrary in relation to its non-punitive purpose. *Zadvydas*, 533 U.S. at 690; *Bell v. Wolfish*, 441 U.S. 520, 539 (1979).
42. Civil immigration detention is justified only to ensure appearance at proceedings and to protect the community. *Demore*, 538 U.S. at 523.
43. Petitioner has been detained since November 24, 2025, without any custody hearing, without any finding of dangerousness or flight risk, and without any foreseeable mechanism for review.
44. Where detention is untethered from any individualized assessment and continues without procedural protection, it becomes punitive in effect and violates substantive due process. *Zadvydas*, 533 U.S. at 690; *Foucha*, 504 U.S. at 80.
45. Petitioner's prolonged detention, under a regime that provides no custody hearing at all, is arbitrary, excessive, and unconstitutional.

### **COUNT III**

#### **Medically Inappropriate and Punitive Civil Detention**

46. Civil detainees are entitled to conditions of confinement that do not amount to punishment and that meet basic standards of medical care. *Bell v. Wolfish*, 441 U.S. at 535; *Youngberg v. Romeo*, 457 U.S. 307, 315–16 (1982).
47. The government violates due process when it acts with deliberate indifference to serious medical needs of civil detainees. *Estelle v. Gamble*, 429 U.S. 97, 104 (1976); *City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244 (1983).
48. Petitioner suffers from serious accident-related injuries requiring surgery and is diabetic, placing him at heightened medical risk.
49. Continued detention has interfered with necessary treatment and continuity of care, and places Petitioner at substantial risk of deterioration, complications, and permanent harm.
50. Under these circumstances, Petitioner's continued civil detention is excessive in relation to any regulatory purpose, constitutes impermissible punishment, and violates the Due Process Clause of the Fifth Amendment.

### **VIII. RELIEF REQUESTED**

Petitioner respectfully requests that this Court:

- A. Issue a Writ of Habeas Corpus;
- B. Order Petitioner's immediate release under reasonable conditions;
- C. Alternatively, order the Government to provide an immediate individualized custody/bond

hearing before a neutral adjudicator, with the burden on the Government;

D. Grant such other relief as is just and proper.

Respectfully submitted,

Dated: January 27, 2026

**/s/Lorena Brasil**

Attorney for Petitioner

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**/s/ Raquel Tinker**

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Petitioner

(Pro hac vice forthcoming)

**\*\*\*Petitioner Verification to be supplemented.**

Petitioner is currently detained at Baker Correctional Institution in Sanderson, Florida, approximately three hours from counsel's office. Because of the urgency of this filing and the logistical constraints of detention, Petitioner has not yet been able to execute the verification page. Counsel is in the process of obtaining Petitioner's signed verification and will promptly supplement this Petition upon receipt.

**VERIFICATION PURSUANT TO 28 U.S.C. § 2242**

I represent Petitioner, Francisco Garnelo-Reyes , and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 27th day of January, 2025.

**/s/Lorena Brasil**

Lorena Brasil, Esq.

FBN: 1049012

**/s/ Raquel Tinker**

Raquel Tinker, Esq.

Bar No.: 362850 (California)