UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. _____

YUNEY LORENZO LOPEZ OTERO,

Petitioners,

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;

DIRECTOR, National Benefits Center, U.S. Citizenship and Immigration Services,

Respondents.
_____/

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS AND RELATED RELIEF

The petitioner, Yuney Lorenzo Lopez Otero (hereinafter "Petitioner"), submit this petition for writ of habeas corpus and related relief and alleges as follows:

INTRODUCTION

1. Petitioner is originally from Cuba and was paroled into the United States on or around July 25, 2022.

2. Petitioner has a pending application for permanent residency, Application No. [redacted], under the Cuban Adjustment Act (CAA) after establishing physical presence in the United States for over a year.

3. However, after his arrest in July 2025 relating to an alleged theft offense in Broward County, Immigration and Customs Enforcement (ICE) agents placed him into federal custody on or around August 4, 2025. He remains in Respondents' custody to this day.

4. Upon information, knowledge, and belief, Respondents purport to detain him under 8 U.S.C. §1226(c), a mandatory detention statute, because of his pending charge for an alleged theft offense.

5. The Laken Riley Act Pub. L. 119-1, 139 Stat. 3 (2025), added a new subparagraph, 8 U.S.C. §1226(c)(1)(E), that makes detention mandatory for noncitizens who satisfy two conditions. First, the noncitizen must be "inadmissible under paragraph (6)(A) or (7) of section 1182(a) of this title[.]" 8 U.S.C §1226(c)(1)(E)(i). Petitioner has been charged as inadmissible under 1182(a)(7) for entry without a visa.

6. Second, the noncitizen must "[be] charged with, . . . [be] arrested for, . . . [be] convicted of, admit[] having committed, or admit[] committing acts which constitute the essential elements of any burglary, theft, larceny, shoplifting, or" certain violent offenses. 8 U.S.C. §1226(c)(1)(E)(ii). Under the Laken Riley Act (LRA), detention is mandatory even *if a noncitizen has not been convicted* of the enumerated offenses, so long as the noncitizen has been arrested for one of them. *See id.* Petitioner has been charged with grand theft as a third-degree felony, which would fall within the scope of the LRA.

7. Petitioner has been detained by Respondents in civil immigration custody for approximately six (6) months. As further explained *infra*, Petitioner's detention without a bond hearing violates due process because it is unreasonably prolonged.

8. Petitioner is being subjected to mandatory detention based on an unproven charge relating to an alleged theft offense. Furthermore, irrespective of the detention authority invoked by

the government, his detention has become unconstitutionally prolonged. On that basis, he asks that the Court either order his release or direct Respondents to provide a constitutionally adequate bond hearing. Petitioner also asks that this Court intervene to ensure that his petition for permanent residency is properly adjudicated and not pretextually denied on account of his confinement.

JURISDICTION

9. This action arises under the Constitution for the United States of America, the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*, title 8 of the Code of Federal Regulations, and the Administrative Procedure Act (APA), 5 U.S.C. §§ 701, *et seq.*

10. This Court has jurisdiction under 28 U.S.C. §1331 (federal question) and U.S. Const., art. I, § 9, cl. 2 (Suspension Clause). *See Boumediene v. Bush*, 553 U.S. 723, 783 (2008); This Court may grant relief pursuant to the Suspension Clause, as well as 28 U.S.C. § 1651 (All Writs Act); 28 U.S.C. §§ 2201-02 (declaratory relief); 28 U.S.C. § 2241 (habeas corpus); and 5 U.S.C. §§ 702, 706.

VENUE

11. Venue is proper in this district under 28 U. S. C. § 2241 because this is the district where the "the custodian can be reached by service of process." *Rasul* v. *Bush*, 542 U. S. 466, 478–79 (2004).

12. Petitioner is currently detained by the respondents at a DHS contract facility, BTC, in Pompano Beach, Florida.

PARTIES

13. The Field Office Director for the U.S. Immigration and Customs Enforcement (ICE) Miami Field Office is sued in her official capacity. In this capacity, he has jurisdiction over the detention facility in which the petitioner is held, is authorized to release the petitioner,

and is a legal custodian of the petitioner.

14. Kristi Noem is sued in her official capacity as the Acting Secretary of the U.S. Department of Homeland Security (DHS), the arm of the U.S. government responsible for the enforcement of the immigration laws.

15. Pamela Bondi is sued in her official capacity as the Acting Attorney General of the United States, which encompasses the Board of Immigration Appeals (BIA) and the Immigration Judges as sub-agencies of the Executive Office of Immigration Review (EOIR).

16. The Director of the National Benefits Center, U.S. Citizenship and Immigration Services is sued in his or her official capacity. In this capacity, the Director has supervisory authority over all operations of the USCIS National Benefits Center which is responsible for the adjudication of the petitioner's adjustment of status petition.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

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

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

19. 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).

20. Here, there is no reason to require exhaustion of administrative remedies, as Petitioner have 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.").

21. 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

22. Petitioner entered the United States at a port-of-entry and was paroled on July 25, 2022. See Exh. "A," Parole Stamp.

23. Petitioner has a pending application for permanent residency under the Cuban Adjustment Act with the United States Citizenship and Immigration Service (USCIS) that has been pending since April 14, 2025. See Exh. "B," I-485 Receipt Notice. He is prima facie eligible for permanent residency, but the adjudication of his application has become delayed due to Respondents' deliberate inaction.

24. The Broward County Sheriff's Office detained Petitioner on or around July 31, 2025 and charged him with grand theft as a third-degree felony. That accusation is unproven, and his criminal charge remains pending. See Exh. "C," Broward County Records.

25. On or around August 4, 2025, Petitioner was transferred to Respondents' custody, and they have detained him for approximately six (6) months as of the date of this Petition.

26. Petitioner is in removal proceedings, but the presiding immigration judge has declined to terminate his removal proceedings to allow his application for permanent residency with USCIS to proceed outside the detention and removal context. See Exh. "D," Petitioner's Motion to Terminate Removal Proceedings w/o Attachments.

27. Petitioner has been detained without the opportunity to receive an individualized bond hearing due to the mandatory detention provisions of the Laken Riley Act.

28. Petitioner is still in removal proceedings as of the date of this Petition, and although he has a hearing scheduled soon, his removal proceedings have become protracted due to the Respondents' refusal to adjudicate his residency application. See Exh. "E," Petitioner's Notice to Appear.

PETITIONER REQUESTS THAT THE COURT DIRECT RESPONDENTS TO PROVIDE A BOND HEARING UNDER THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

29. 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.

30. 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. *See id.* at 690. No such justification exists here.

31. 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 no IJ can reach those issues. Detaining a long-term Florida resident without such findings serves no legitimate regulatory goal and instead amounts to impermissible punishment

A. Petitioner Qualifies for a Bond Hearing under *SOPO v. U.S. Attorney General*

32. The Eleventh Circuit Court of Appeals' decision in *Sopo v. United States Attorney General*, 825 F.3d 1199 (11th Cir. 2016), while abrogated on other grounds, identified a non-exhaustive set of factors for determining whether a noncitizen's detention under 1226(c) has become unreasonably prolonged. These factors include: 1) the amount of time the noncitizen has been detained without a bond hearing, 2) why the removal proceedings have become protracted, 3) whether it will be possible to remove the noncitizen if a final order of removal is issued; 4) whether the noncitizen's immigration detention exceeds his time incarcerated for the underlying criminal offense; and 5) whether the facility is meaningfully different from a penal institution. *Id.* at 1217-18.

33. These factors all favor awarding habeas relief here.

34. The ***first*** factor—the length of detention without a bond hearing—favors Petitioner because he has been detained for approximately six months, the timeframe when under Sopo, detention becomes constitutionally suspect.

35. The ***second*** factor similarly favors Petitioner because the Government is predominantly responsible for the delays prolonging adjudication of his I-485 and has declined to dismiss proceedings despite his active pursuit of adjustment of status through USCIS.

36. With respect to the ***third*** factor, Petitioner does not have a final removal order, and he intends to appeal any adverse decision from the immigration court in order to await the adjudication of his permanent residency application. Therefore, this factor—which focuses broadly on the "possibility of removal" —favors him. *Dorley*, 2023 WL 3620760, at *5.

37. The ***fourth*** *Sopo* factor favors Petitioner because his "civil immigration detention exceeds the time [he] spent in prison for the crime that rendered him removable." *Sopo*, 825 F.3d at 1218. Petitioner spent approximately one (1) month in the custody of the Broward County Sheriff's Office, and has now spent nearly six months in ICE custody.

38. The ***fifth*** factor favors Petitioner because the conditions of his confinement at BTC are not "meaningfully different from a penal institution for detention." *Sopo*, 825 F.3d at 1218.

Petitioner Qualifies for a Bond Hearing Under *Mathews v. Eldridge*

39. 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.*

40. 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.

41. 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 minimal criminal history other than one pending criminal charge.

42. The risk of erroneous deprivation is extreme. The Laken Riley Act amendments have deprived him of the only procedural mechanism designed to test the necessity of his continued confinement. *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).

43. 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 with pending charges promotes fairness and efficiency.

44. Accordingly, under *Mathews*, the procedures used to detain Petitioner fail to satisfy procedural due process. Mandatory detention at this juncture constitutes a denial of any meaningful opportunity to be heard. The Government's blanket invocation of "mandatory detention" cannot substitute for constitutionally required process where he has not been convicted of the crime that forms the basis of his mandatory detention.

PETITIONER REQUESTS THE COURT DIRECT RESPONDENTS TO ADJUDICATE HIS I-485 PETITION FOR PERMANENT RESIDENCY

45. On January 20, 2024, President Donald J. Trump issued executive order 14159, titled "Protecting the American People Against Invasion," in which the President sets forth several new policies and procedures relating to the enforcement of the Immigration and Nationality Act (INA). Among other things, the EO: directs DHS and USCIS to prioritize enforcement of INA and other federal laws related to illegal entry and unlawful presence of aliens in the United States; directs the Attorney General to prioritize prosecution of criminal offenses related to the same; aims to establish Homeland Security Task Forces

in all states; states that all "sanctuary jurisdictions" will no longer receive federal funds, and, as is most relevant in this case, directs DHS to ensure the efficient and expedited removal of aliens from the United States and to construct detention facilities for aliens pending the outcome of their removal proceedings.[2]

46. On April 8, 2025, DHS began sending notices to noncitizens who legally entered the United States by use of the CBP One appointment scheduling application that their paroles had been terminated. It is currently unknown whether DHS previously terminated Plaintiff's parole.

47. Plaintiff's arrest and detention by DHS is part of a broader pattern which also threatens to undermine the processing and withhold the adjudication of Petitioner's Form I-485, Application to Register Permanent Residence or Adjust Status, in violation of law.

48. For instance, on February 14, 2025, USCIS Acting Deputy Director Andrew Davidson issued a secret memorandum placing an administrative hold on all pending benefits requests by noncitizens who were paroled into the United States under United for Ukraine (U4U) parole program, Process for Haitians, Cubans, Nicaraguans, and Venezuelans (CHNV) parole program, and Family Reunification Parole (FRP) parole program.

49. However, that memorandum was not publicly issued, and has only become available publicly through litigation in the case *Doe v. Noem*, No. 25-cv-10495, in the District Court of Massachusetts.

50. Here, considering that secret memorandum for other parole entrants, the reported cancellation of CBP One-entrants' paroles, and the plaintiff's current detention, the plaintiff has reason to believe that an adjudication hold has been placed on his I- 485 application.

51. Additionally, due to his current detention, Plaintiff is at risk of facing the issuance and effectuation of a removal order prior to the adjudication of his I-485.

52. If he is deported, he will be unable to complete his adjustment of status, given that only USCIS has jurisdiction to adjudicate his I-485 application. 8 CFR §§ 245.2; 1245.2. An application to adjust status under the CAA can only be made while inside the United States, and departing the United States, whether forcefully under an order of removal or of one's own volition, will cause the abandonment of that application. *See* USCIS Instructions for Application to Register Permanent Residence or Adjust ("You must be **physically present** in the United States to file this application.") (Emphasis original); 8 CFR § 245.2(a)(4)(ii)(A).[4]

53. Therefore, based on knowledge and information, Petitioner has reason to believe Respondents actively and unlawfully withheld the processing and the adjudication of his I-485 application last year throughout the course of his removal proceedings, to circumvent a proper decision by indirect means, i.e., his removal from the United States. *See* 5 U.S.C. § 706(1).

54. What is more, on January 6, 2026, USCIS issued a policy memorandum that arbitrarily and capriciously paused the adjudication of all benefits applications for Cuban nationals.[1]

55. Respondents are acting in bad faith by unlawfully withholding the proper processing and the adjudication of his I-485 application under the Cuban Adjustment Act, in violation of law. 5 U.S.C. § 706(1).

56. Furthermore, USCIS has delayed the processing of the petitioner's I-485 application, and this delay in processing is inherently unreasonable and unjustified given his detention, the

[1] PM-602-0194-PendingApplicationsAdditionalHighRiskCountries-20260101.pdf

prospect of deportation, and Congress' instructions as to the processing of immigration benefits and matters before executive agencies.

57. The law requires that, "[w]ith due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it." 5 U. S. C. § 555(b). With regard to immigration cases specifically, it has long been "the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application, except that [other classes of petitions not relevant here should be processed quicker]." Act of Oct. 17, 2000, Pub. L. No. 106-313, Title II, § 202, 114 Stat. 1262 (codified at 8 U. S. C. § 1571(b)).

58. Thus, Plaintiff seeks judicial redress as she has been prejudiced by the defendants' unreasonable delay in the adjudication, and by the defendants' broader scheme to unlawfully withhold or circumvent the adjudication of his Form I-485, Application to Register Permanent Residence of Adjust Status.

COUNT I:

Unlawful Use of Civil Immigration Detention for Punitive Purposes

59. The allegations in paragraphs 1-58 are realleged and incorporated herein.

60. Civil immigration detention is presumptively unconstitutional absent it authorization by a special justification enacted pursuant to an Act of Congress. *Sopo*, 825 F. 3d, at 1210 ("Under the Due Process Clause, civil detention is permissible only when there is a 'special justification' that 'outweighs the individual's constitutionally protected interest in avoiding physical restraint.' ") (citation omitted).

61. Only criminal detention, following a lawful conviction by jury trial, may be utilized

for punitive purposes.

62. Civil detention becomes punitive when it is being used for purposes that are not contemplated within the special statutory justification authorizing its use. See *Bell* v. *Wolfish*, 441 U. S. 520, 539 (1979) ("Thus, if a particular condition or restriction of pretrial detention is reasonably related to a legitimate governmental objective, it does not, without more, amount to 'punishment.' Conversely, if a restriction or condition is not reasonably related to a legitimate goal—if it is arbitrary or purposeless—a court permissibly may infer that the purpose of the governmental action is punishment that may not constitutionally be inflicted upon detainees *qua* detainees.") (citations and footnotes omitted); *In re Grand Jury Proc.*, 877 F. 2d 849, 850 (CA11 1989) ("Civil contempt is a coercive device imposed to secure compliance with a court order and if the circumstances illustrate that the sanction will not compel compliance, it becomes punishment and violates due process.") (citation omitted); *Lynch* v. *Baxley*, 744 F. 2d 1452, 1463 (CA11 1984) ("A court must decide whether the restriction is imposed to punish or whether it is simply an incident of legitimate governmental purpose. . . . Absent an express intent to punish, that determination will turn on whether the restriction appears excessive in relation to the alternative purpose assigned to it. . . . If a restriction is not reasonably related to a legitimate goal—if it is arbitrary or purposeless—a court may infer that the purpose of the government action is punishment.") (citations omitted); *United States* v. *Vasquez-Escobar*, 30 F. Supp. 2d 1364, 1365 (M.D. Fla. 1998) (ruling that improper use of civil immigration detention was unconstitutionally punitive).

63. Respondents are unlawfully and punitively using civil detention to manufacture a pretextual denial of the Petitioner's pending petition for permanent residency under the Cuban Adjustment Act.

64. Therefore, Petitioner is entitled to a writ of habeas corpus ordering that he be

immediately released from the respondents' custody.

COUNT II:

Violation of the Due Process Clause of the Fifth Amendment

65. Petitioner re-alleges and incorporates by reference paragraphs 1-58.

66. Petitioner has been subjected to detention under a statute allowing indefinite detention for persons accused, but not convicted of, a crime.

67. The Due Process Clause entitles noncitizens to due process in the course of removal proceedings. *See* U.S. Const. amend. V; *accord A.A.R.P. v. Trump*, No. 24-1177, 2025 WL 1417281, at *2 (U.S. May 16, 2025) (" '[T]he Fifth Amendment entitles aliens to due process of law in the context of removal proceedings.' ") (*quoting Trump v. J. G. G.*, 145 S.Ct. 1003, 1006 (2025) (*in turn quoting Reno v. Flores*, 507 U.S. 292, 306 (1993)).

68. The Laken Riley Act Pub. L. 119-1, 139 Stat. 3 (2025), added a new subparagraph, 8 U.S.C. §1226(c)(1)(E), that makes detention mandatory for noncitizens who satisfy two conditions. First, the noncitizen must be "inadmissible under paragraph (6)(A) or (7) of section 1182(a) of this title[.]" 8 U.S.C §1226(c)(1)(E)(i). Petitioner has been charged as inadmissible under 1182(a)(7) for entry without a visa.

69. Under the Laken Riley Act (LRA), detention is mandatory even *if a noncitizen has not been convicted* of the enumerated offenses. U.S.C. §1226(c)(1)(E)(ii). Petitioner has been charged with grand theft as a third-degree felony, which would fall within the scope of the LRA. His detention on this basis without the possibility of a bond hearing violates due process. *See Doe v. Moniz*, 800 F. Supp 3d 203 (D. Mass. 2025) (granting a bond hearing to habeas petitioner arrested for, but not convicted of, shoplifting.)

70. Petitioner has been detained by Respondents in civil immigration custody for

approximately six (6) months.

71. Petitioner is being subjected to mandatory detention based on an unproven charge relating to an alleged theft offense. Furthermore, irrespective of the detention authority invoked by the government, his detention has become unconstitutionally prolonged. Petitioner also asks that this Court intervene to ensure that his petition for permanent residency is properly adjudicated and not pretextually denied on account of his confinement.

72. The petitioner's civil detention is in violation of the due process clause of the Fifth Amendment to the Constitution for the United States of America. His detention of more than one year is unreasonably prolonged. *See Demore v. Kim,* 538 U.S. 510, 518 (2003) (identifying mandatory detention pending removal proceedings as a "brief period," lasting "roughly a month and a half in the vast majority of cases in which it is invoked, and about five months in the minority of cases in which the alien chooses to appeal.")

COUNT III:

Declaratory and Injunctive Relief to Prevent Denial or Indefinite Delay of the Petitioners' Petitions for Adjustment of Status under the Cuban Adjustment Act

73. The allegations in paragraphs 1-58 are realleged and incorporated herein.

74. Petitioner has "suffer[ed] legal wrong," and has been "adversely affected" and "aggrieved" by the actions of the respondents. 5 U. S. C. § 702.

75. To the extent that the respondents' actions aim to effect a denial of Petitioners' applications for adjustment of status, this is also "arbitrary," "capricious," "an abuse of discretion," and "otherwise not in accordance with law." § 706(2)(A).

76. As such, petitioners are entitled to injunctive and declaratory relief, § 703, to enjoin the respondents' from denying Petitioners' pending applications for permanent residency before

USCIS.

77. Respondents have failed to perform their administrative duties by arbitrarily and capriciously pausing all Cuban benefits applications across the board, pursuant to a policy memorandum issued on January 6, 2026.

COUNT IV

Petition for Writ of Mandamus

78. The allegations in paragraphs 1-58 are realleged and incorporated herein.

79. Petitioners are entitled to mandamus relief to compel a response to their pending petitions for adjustment of status because: (1) the respondents have a nondiscretionary, ministerial, clear duty to adjudicate their petitions under the Cuban Adjustment Act; (2) Petitioners have a clear right to a decision; and (3) there is no other adequate remedy available under the circumstances.

PRAYER FOR RELIEF

WHEREFORE, the petitioner prays that the Court grant the following relief:

(a) Assume jurisdiction over this matter;

(b) Set this matter for expedited consideration pursuant to 28 U.S.C. § 1657;

(c) Enter an Order to Show Cause against the respondents;

(d) Order the respondents to refrain from transferring the petitioner out of the jurisdiction of this Court during the pendency of this proceeding and while the petitioner remains in the respondents' custody;

(e) Grant petitioner a writ of habeas corpus that orders immediate release from the custody of the respondents or a constitutionally adequate bond hearing;

(f) Direct respondents to adjudicate Petitioner's pending petition for adjustment of

status;

(g) Award the petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. § 2412, and on any other basis justified under law; and

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

Dated: January 27, 2026

s/ Felix A. Montanez
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Counsel for Petitioner

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

I, Felix Montanez, am submitting this verification on behalf of the petitioner because I am the petitioners' attorney. I have discussed the events described in the petition with Petitioner's mother, his spouse, and with his immigration attorney and authorized representative. On the basis of these discussions, I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: January 27, 2025

s/Felix A. Montanez
Fla. Bar No. 012763