

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

Case No. 26-CV-60214-DMM

ALBERTO VERDERA MILIAN filed by  
Next Friend YENNIFER CRUZ MILIAN,

Petitioner,

v.

WARDEN, Broward Transitional  
Center, *et al.*

Respondents.

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**RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE**

Respondents by and through the undersigned Assistant United States Attorney hereby file its Response to the "Order Show Cause - 28 U.S.C. § 2241" [DE 7] and request that the Petition for Writ of Habeas Corpus (the "Petition) be denied, stating in support thereof, as follows:

**I. INTRODUCTION**

Petitioner, Alberto Verdera Milian's ("Petitioner") Petition is filed on his behalf by Next Friend, Yennifer Cruz Milian. [DE 1]. In the Petition, it is asserted that Petitioner appeared for a scheduled ICE check-in and "without explanation, probable cause, or a judicial warrant, ICE agents confiscated all of Petitioner's documents and placed him under arrest." [DE 1, p. 2]. Petitioner's detention is characterized as an unreasonable arrest in violation of the Fourth Amendment and Fifth Amendment Due Process clause. [DE 1, p. 2]. The Petitioner's claims are factually grounded in the conditions of confinement, all of which is an improper subject for habeas. More significantly, the Petition fails to address what detention authority is applicable to the present

case. It is Respondents' position that Petitioner is lawfully detained pursuant to 8 U.S.C. § 1225(b)(2)(A), which is also consistent with the Board of Immigration Appeal's ("BIA") decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).<sup>1</sup> See also *Morales v. Noem et al.*, No. 25-62598-CIV SINGHAL, (S.D. Fla. Jan. 29, 2026)). Accordingly, the Petition should be denied.

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<sup>1</sup> Respondents recognize that adverse district court decisions from the Southern District of Florida have been issued with respect to this argument but maintain and preserve their position for appellate purposes. See, e.g., *Aguilar Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at \*3, 8 (S.D. Fla. Oct. 15, 2025) ("§ 1226(a), not § 1225(b)(2), governs Petitioner's detention"); *Gil-Paulino v. Sec'y of the U.S. Dep't of Homeland Sec.*, 25-24292-CIV-WILLIAMS, ECF No. 41 (S.D. Fla. Oct. 10, 2025) ("§ 1226 governs Petitioner's detention"); *Hernandez Alvarez v. Acting Warden Roger Morris*, et al., Case No. 25-24806-CIV-WILLIAMS, ECF No. 6 (S.D. Fla. Oct. 27, 2025) (agreeing with petitioner that "detention is governed by 8 U.S.C. § 1226(a), which allows for the release of noncitizens on bond . . . not § 1225(b)(2), applicable to noncitizen "applicant[s] for admission" to the United States.); *Cerro Perez v. Parra*, et al., Case No. 25-24820-CIV-WILLIAMS, ECF No. 9 (S.D. Fla. Oct. 27, 2025) (same); *Alvarez Puga v. Assistant Field Office Director Krome*, et al., No. 25-24535-CIV-ALTONAGA (S.D. Fla. Oct. 15, 2025) (concluding that "prudential exhaustion requirements are excused for futility" and finding that "section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A)"); *Zamora Policarpo v. Parra*, Case No. 25-25236-CIV-COHN, ECF No. 8 (S.D. Fla. Dec. 22, 2025) (finding good cause to excuse Petitioner's failure to exhaust administrative remedies where it is evident the BIA will reject Petitioner's request for a bond hearing or release and that Petitioner is subject to detention under § 1226(a) and entitled to a bond hearing before an immigration judge); *Duvalon Boffill*, et al., Case No. 25-25179-CIV-BECERRA, ECF No.9 (Nov. 20, 2025) (concluding that jurisdiction is not barred by 8 U.S.C. § 1252, exhaustion was not required, and that the petitioner's detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)); *Ocampo Fernandez v. Ripa*, No. 25-24981-CIV-LEIBOWITZ, ECF No. 17 (S.D. Fla. Nov. 25, 2025) (declining to follow BIA order in *Hurtado* and holding that "Petitioner is detained pursuant to Section 1226 and is therefore entitled to a bond hearing"); *Espinal Encarnacion v. ICE Field Office Director*, et al., Case No. 25-61898-CIV-DAMIAN, ECF No. 29 (Dec. 23, 2025) ("this Court finds that 8 U.S.C. § 1226(a) and its implementing regulations govern Petitioner's detention, and not Section 1225(b)"); *Ocegueda Gonzalez v. Noem*, et al., Case No. 25-62261-CIV-MIDDLEBROOKS/AGUSTIN-BIRCH, ECF No. 25 (Dec. 23, 2025) ("Having concluded that Petitioner's detention is governed by 8 U.S.C. § 1226(a), Petitioner is entitled to an individualized bond hearing before an immigration judge."); *Acosta v. Ripa*, et. al., Case No. 25-62360-CIV-DIMITROULEAS, ECF No. 19 at 7 (S.D. Fla. Dec. 26, 2025) ("§ 1226(a) and its implementing regulations govern Petitioner's detention, not § 1225(b)(2)(A)"); and *Fuentes Granados v. Secretary of Homeland Security*, Case No. 26-60020-CIV-SMITH, ECF No. 7 (S.D. Fla. Jan. 27, 2026) ("Petitioner is being unlawfully detained due to his improper classification as "an alien who is an applicant for admission" pursuant to 8 U.S.C. § 1225(b)(2)(A)[;] . . .Petitioner's proper classification is a detainee pursuant to 8 U.S.C. § 1226(a)").

## II. FACTUAL AND PROCEDURAL BACKGROUND

Petitioner is a native and citizen of Cuba who last entered the United States without inspection on June 17, 2022. Ex. 1, Form I-213 dated November 16, 2025. On the same day he illegally entered the United States, he was encountered and apprehended by Customs and Border Protection (CBP). *See* Ex. 2, Declaration of Deportation Officer (Declaration), ¶ 7. On June 19, 2022, he was released on his own recognizance. *See* Ex. 3, Form I-220A, Order of Release on Recognizance (OREC). Petitioner's release on his own recognizance was conditioned upon him complying with certain terms, including that he report for any hearing or interview as directed by the Department of Homeland Security (DHS) or the immigration court; that he periodically report in person to the ICE ERO Miramar Sub Office when scheduled; that he not violate any laws; that he not move without first obtaining written permission from ICE; and that he assist DHS in obtaining any necessary travel documents. *Id.*

On June 18, 2022, DHS issued a Notice to Appear (NTA) charging Petitioner with inadmissibility under INA § 212(a)(6)(A)(i), as amended, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *See* Ex. 4, NTA.

On July 25, 2024, Petitioner appeared at a master calendar hearing at the Miami Immigration Court. *See* Ex. 2, Declaration ¶ 11. At the hearing, he was given his advisals and time to seek representation. *Id.*

On November 16, 2025, Petitioner appeared at his OREC check-in and taken into ICE custody. *See* Ex. 1, Form I-213; Ex. 5, Form I-200, Warrant for Arrest of Alien, dated November 16, 2025. On December 2, 2025, removal proceedings were transferred to the immigration court at Broward Transitional Center (BTC). *See*, Ex. 2, Declaration, ¶ 13.

On December 10, 2025, Petitioner appeared at a master calendar hearing at BTC. *See*, Ex. 2, Declaration, ¶ 14. At the hearing, he was given his advisals and given time to seek representation. *Id.*

Petitioner requested a custody redetermination hearing before the immigration court on two occasions. *See* Ex. 2, Declaration, ¶ 15. On December 17, 2025, the Immigration Judge denied Petitioner's first request for bond, finding that the court did not have jurisdiction to review DHS's custody determination pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. 6, Immigration Judge Order denying bond, dated December 17, 2025. Petitioner did not appeal the bond order to the Board of Immigration Appeals. *See* Ex. 2, Declaration, ¶ 17. Petitioner filed his second request for a custody redetermination on December 20, 2025. *Id.* at ¶ 18. The Immigration Judge denied the second request on February 4, 2026, finding again that the court did not have jurisdiction to review DHS's custody determination pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). *See* Ex. 7, Immigration Judge Order denying bond, dated February 4, 2026.

Petitioner is scheduled for a master calendar hearing on March 2, 2026 at the BTC Immigration Court. *See* Ex. 8, Notice of Hearing, dated January 22, 2026. To date, Petitioner remains in ICE custody at BTC. *See* Ex. 9, Detention History.

### III. ARGUMENT

#### **A. Petitioner is an Applicant for Admission subject to Detention pursuant to 8 U.S.C. § 1225(b)(2)(A) and discretionary detention under § 1226(a) is Inapplicable which was Clarified in the BIA's Decision in *Matter of Yajure Hurtado*.**

“As with any question of statutory interpretation, [the] analysis begins with the plain language of the statute.” *Jimenez v. Quarterman*, 555 U.S. 113, 118 (2009) (citing *Lamie v. U.S. Tr.*, 540 U.S. 526, 534 (2004)). Section 1225(a)(1) defines an “applicant for admission” as an “alien

present in the United States who has not been admitted or who arrives in the United States (whether or not at a designated port of arrival . . . ) . . . .” 8 U.S.C. § 1225(a)(1); *see Matter of Velasquez-Cruz*, 26 I&N Dec. 458, 463 n.5 (BIA 2014) (“[R]egardless of whether an alien who illegally enters the United States is caught at the border or inside the country, he or she will still be required to prove eligibility for admission.”).

By its very definition, the term “applicant for admission” includes two categories of aliens: (1) arriving aliens and (2) aliens present without admission. *See Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 (2020) (explaining that “an alien who tries to enter the country illegally is treated as an ‘applicant for admission’”); *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) (“Congress has defined the concept of an ‘applicant for admission’ in an unconventional sense, to include not just those who are expressly seeking permission to enter, but also those who are present in this country without having formally requested or received such permission . . . .”); *Matter of E-R-M- & L-R-M-*, 25 I&N Dec. 520, 523 (BIA 2011) (stating that “the broad category of applicants for admission . . . includes, *inter alia*, any alien present in the United States who has not been admitted”). An arriving alien is defined, in pertinent part, as “an applicant for admission coming or attempting to come into the United States at a port-of-entry [(“POE”)] . . . .” 8 C.F.R. §§ 1.2, 1001.1(q).

All aliens who are applicants for admission “shall be inspected by immigration officers.” 8 U.S.C. § 1225(a)(3); *see also* 8 C.F.R. § 235.1(a) (“Application to lawfully enter the United States shall be made in person to an immigration officer at a U.S. [POE] when the port is open for inspection . . . .”). An applicant for admission at a United States POE “must present whatever documents are required and must establish to the satisfaction of the inspecting officer that the alien is not subject to removal . . . and is entitled, under all of the applicable provisions of the

immigration laws . . . to enter the United States.” 8 C.F.R. § 235.1(f)(1); *see also* 8 U.S.C. § 1229a(c)(2)(A) (explaining that an applicant for admission has the burden to establish that he or she is clearly and beyond doubt entitled to be admitted and is not inadmissible under 8 U.S.C. § 1182 in removal proceedings pursuant to § 1229a). “An alien present in the United States who has not been admitted or paroled or an alien who seeks entry at other than an open, designated [POE] . . . is subject to the provisions of [8 U.S.C. § 1182(a)] and to removal under [8 U.S.C. § 1225(b)] or [8 U.S.C. § 1229a].” 8 C.F.R. § 235.1(f)(2).

Petitioner is a native and citizen of Cuba who last entered the United States without inspection on or about June 17, 2022. *See* [DE 1-1, p. 19]. Petitioner is an alien present in the United States without admission or parole and, consequently, an applicant for admission. *See id.* The recently published decision issued by the BIA in *Matter of Yajure Hurtado* is instructive here. In *Matter of Yajure Hurtado*, the BIA rejected the alien’s argument that “because he has been residing in the interior of the United States for almost 3 years . . . he cannot be considered as ‘seeking admission.’” 29 I&N Dec. at 221. The BIA determined that this argument “is not supported by the plain language of the INA” and creates a “legal conundrum.” *Id.* If the alien “is not admitted to the United States (as he admits) but he is not ‘seeking admission’ (as he contends), then what is his legal status?” *Id.* (parentheticals in original). The BIA’s decision is consistent not only with the plain language of § 1225(b)(2), but also with the Supreme Court’s decision in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), and subsequent caselaw post *Jennings*. Specifically, in *Jennings*, the Supreme Court explained that § 1225(b) applies to all applicants for admission, noting that the language of § 1225(b)(2) is “quite clear” and “unequivocally mandate[s]” detention. 583 U.S. at 300, 303.

Similarly, relying on *Jennings* and the plain language of §§ 1225 and 1226(a), the Attorney General, in *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), recognized that §§ 1225 and 1226(a) do not overlap but describe “different classes of aliens.” 27 I&N Dec. at 516. The Attorney General also held—in an analogous context—that aliens present without admission or parole who are placed into expedited removal proceedings are detained under § 1225 even if later placed in § 1229a removal proceedings after establishing a credible fear of persecution or torture. *Id.* at 518-19; *see also* 8 U.S.C. 1225(b)(1)(B)(ii) (providing that if an alien subject to expedited removal demonstrates a credible fear of persecution or torture, the alien “shall be detained” for further consideration of an asylum application in § 1229a removal proceedings).

Additionally, in *Matter of Q. Li*, 29 I&N Dec. 66 (BIA 2025), the BIA held that an alien who unlawfully entered the United States between POEs, was arrested and detained without a warrant while arriving, and was previously released from DHS custody pursuant to an 8 U.S.C. § 1182(d)(5)(A) parole is detained under § 1225(b) upon re-detention. 29 I&N Dec. at 70-71. This ongoing evolution of the law makes clear that all applicants for admission in various procedural postures are subject to detention under § 1225(b). *Cf. Niz-Chavez v. Garland*, 593 U.S. 155, 171 (2021) (stating that “no amount of policy-talk can overcome a plain statutory command”); *see generally Florida v. United States*, 660 F. Supp. 3d 1239, 1275 (N.D. Fla. 2023) (explaining that “the 1996 expansion of § 1225(b) to include illegal border crossers would make little sense if DHS retained discretion to apply § 1226(a) and release illegal border crossers whenever the agency saw fit”). *Florida’s* conclusion “that § 1225(b)’s ‘shall be detained’ means what it says and . . . is a mandatory requirement . . . flows directly from *Jennings*.” *Florida*, 660 F. Supp. 3d at 1273.

**B. Petitioner is an Applicant for Admission in 8 U.S.C. § 1229a Removal Proceedings and as such his Detention Pursuant to 8 U.S.C. § 1225(b)(2)(A) is Proper.**

As applicants for admission, both arriving aliens and aliens present without admission may be removed from the United States by, *inter alia*, expedited removal procedures under § 1225(b)(1) or removal proceedings before an immigration judge under § 1229a; §§ 1225(b)(1), (b)(2)(A). *See Jennings*, 583 U.S. at 287 (describing how “applicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)”). For aliens amenable to expedited removal, immigration officers have discretion to apply expedited removal under § 1225(b)(1) or to initiate removal proceedings before an immigration judge under § 1229a. *See also Matter of Q. Li*, 29 I&N Dec. 66, 68 (BIA 2025) (“DHS may place aliens arriving in the United States in either expedited removal proceedings under [8 U.S.C. § 1225(b)(1)], or full removal proceedings under [8 U.S.C. § 1229a].” (citations omitted)).

There is no question that Petitioner was neither admitted nor paroled into the United States. *See* [DE 1-1, p. 19]. Therefore, Petitioner is an applicant for admission, as defined by § 1225(a)(1), was determined to not be clearly and beyond a doubt entitled to be admitted, and remains in § 1229a removal proceedings, thus subjecting Petitioner to detention under § 1225(b)(2)(A). Under § 1225(b)(2)(A), “an alien who is an applicant for admission” “*shall be detained* for a proceeding under [8 U.S.C. § 1229a]” “if the examining immigration officer determines that [the] alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added); 8 C.F.R. § 235.3(b)(3) (providing that an alien placed into § 1229a removal proceedings in lieu of expedited removal proceedings under 8 U.S.C. § 1225 “shall be detained” pursuant to § 1225(b)(2)). As the Supreme Court observed in *Jennings*, nothing in § 1225(b)(2)(A) “says anything whatsoever about bond hearings.” 583 U.S. at 297. There is also no

textual basis for arguing that § 1225(b)(2)(A) applies only to arriving aliens as no provision therein refers to “arriving aliens,” or limits that paragraph to arriving aliens. Where Congress means for a rule to apply only to “arriving aliens,” it uses that specific term of art or similar phrasing. *See, e.g.*, 8 U.S.C. §§ 1182(a)(9)(A)(i), 1225(c)(1).

**C. Section 1226 does Not Impact the Detention Authority that Governs with respect to Applicants for Admission in Removal proceedings.**

Section 1226(a) is the applicable detention authority for aliens who have been admitted and are subject to removal proceedings under § 1229 and this does not impact the directive in § 1225(b)(2)(A) that “if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceedings under [8 U.S.C. § 1229a],” § 1225(b)(2)(A). Petitioner is unlawfully in the United States, and he has not been admitted or paroled to remain here. [DE 1-1, p. 19]. As the Supreme Court explained, § 1226(a) “applies to aliens already present in the United States” and “creates a default rule for those aliens by permitting—but not requiring—the [Secretary] to issue warrants for their arrest and detention pending removal proceedings.” *Jennings*, 583 U.S. at 289, 303; *Q. Li*, 29 I&N Dec. at 70; *see also M-S-*, 27 I&N Dec. at 516 (describing 8 U.S.C. § 1226(a) as a “permissive” detention authority separate from the “mandatory” detention authority under 8 U.S.C. § 1225).

Generally, such aliens may be released on bond or their own recognizance, also known as “conditional parole.” 8 U.S.C. § 1226(a); *Jennings*, 583 U.S. at 303, 306. Section 1226(a) does not, however, confer the *right* to be released on bond; rather, both DHS and immigration judges have broad discretion in determining whether to release an alien on bond as long as the alien establishes that he or she is not a flight risk or a danger to the community. *See* 8 C.F.R. §§ 236.1(c)(8), 1236.1(c)(8); *Matter of Guerra*, 24 I&N Dec. 37, 39 (BIA 2006); *Matter of Adeniji*,

22 I&N Dec. 1102 (BIA 1999). Further, bond issued under § 1226(a) may be revoked at any time. *See* 8 U.S.C. § 1226(b); *see also* 8 CFR 1236.1(c)(9). Lastly, to interpret § 1225(b)(2)(A) as not applying to all applicants for admission would render it meaningless. As explained above, Congress expanded § 1225(b) in 1996 to apply to a broader category of aliens, including those aliens who crossed the border illegally. There would have been no need for Congress to make such a change if § 1226(a) was meant to apply to aliens present without admission.

**D. Applicants for Admission may Only be Released from Detention on an 8 U.S.C. § 1182(d)(5) Parole.**

DHS has the exclusive authority to temporarily release on parole “any alien applying for admission to the United States” on a “case-by-case basis for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5); *see* 8 C.F.R. § 212.5(b). In *Jennings*, the Supreme Court placed significance on the fact that § 1182(d)(5) is the specific provision that authorizes temporary release from detention under § 1225(b). 583 U.S. at 300.

Parole, like an admission, is a factual occurrence. *See Hing Sum*, 602 F.3d at 1098; *Matter of Roque-Izada*, 29 I&N Dec. 106 (BIA 2025) (treating whether an alien was paroled as a question of fact). The parole authority under 8 U.S.C. § 1182(d)(5) is “delegated solely to the Secretary of Homeland Security.” *Matter of Castillo-Padilla*, 25 I&N Dec. 257, 261 (BIA 2010); *see* 8 C.F.R. § 212.5(a). Thus, neither the BIA nor immigration judges have authority to parole an alien into the United States under § 1182(d)(5). *Castillo-Padilla*, 25 I&N Dec. at 261; *see also Matter of Arrabally and Yerrabelly*, 25 I&N Dec. 771, 777 n.5 (BIA 2002) (indicating that “parole authority [under 8 U.S.C. § 1182(d)(5)] is now exercised exclusively by the DHS” and “reference to the Attorney General in [8 U.S.C. § 1182(d)(5)] is thus deemed to refer to the Secretary of Homeland Security”). Moreover, because DHS has exclusive jurisdiction to parole an alien into the United States, the manner in which DHS exercises its parole authority may not be reviewed by an

immigration judge or the BIA. *Castillo-Padilla*, 25 I&N Dec. at 261; *see Matter of Castellon*, 17 I&N Dec. 616, 620 (BIA 1981) (noting that the BIA does not have authority to review the way DHS exercises its parole authority).

**E. Petitioner's Attempts to Raise a Challenge to the Conditions of his Confinement are not a Proper Subject for Habeas.**

It is well established that a § 2241 petition is not the appropriate vehicle for challenging conditions of confinement. *See Vaz v. Skinner*, 634 F. App'x. 778, 781 (11th Cir. 2015); *see also Mackey v. United States*, No. 21-13094, 2022 WL 17830252, at \*2 (11th Cir. Dec. 21, 2022) (explaining that claims challenging the conditions of confinement fall outside the core of habeas corpus). Nonetheless, the Petition centers around what has been described as an “inhumane transfer” from Miramar facility to the detention center as “Alcatraz”; prolonged exposure to extreme cold; deplorable conditions at Alcatraz; food deprivation; poor hygiene; severe psychological harm/disorientation, inadequate medical treatment; coercion, threats, as well as retaliation associated with refusal to sign deportation documents.” *See* [DE 1, p. 2]. Petitioner alleges that neglect continues at BTC, but the medical records suggest otherwise.

When an extensive medical intake was conducted on November 25, 2025, Petitioner was asked how he felt, and he stated, “good”. Ex. 10, Medical Records, p. 33. On December 26, 2025, he complained of limited hearing in his left ear. *Id.* at p. 14. Petitioner also indicated that his left ear itched and felt moist. *Id.* at 13. On December 29, 2025, Petitioner still complained of his left ear itching but denied any loss of hearing. *Id.* at 11. No other complaints were raised at this time. On December 31, 2025, Petitioner was seen by medical because of his request for reading glasses due to the trouble he was experiencing in reading small print. *Id.* at 7. By January 7, 2026, Petitioner's left ear was normal upon examination, but he complained of cold like symptoms, and did not appear in any distress. *Id.* at 1, 3.

Even if Petitioner could establish a constitutional violation, he would not be entitled to the relief he seeks because release from custody is not an available remedy for a conditions-of-confinement claim. *Vaz*, 643 Fed. Appx. At 781 (internal citations omitted). Further, Petitioner's allegations were investigated pursuant to the 2025 Performance-Based National Detention Standards sections 4.1, 4.3, 4.4, and 7.2. Ex. 2, Declaration, ¶ 21. The allegations were determined to be unfounded. *Id.* As such, Petitioner's claims in this regard should not be entertained by the Court.

**F. Petitioner's Fourth and Fifth Amendment Rights have not been Violated.**

"The only relief available on habeas corpus is immediate release or discharge from the custody complained of," *Simmons v. United States*, 437 F.2d 156, 157 (5th Cir. 1971), and courts have long recognized that an unlawful arrest, by itself, doesn't warrant release, *see, e.g., Williams v. Sec'y, Dep't of Corr.*, 2019 WL 2717202, at \*4 (M.D. Fla. June 28, 2019) (Jung, J.) ("[A] Fourth Amendment violation during arrest does not by itself warrant habeas relief." (citation omitted)). Petitioner also asserts that civil immigration detention may not be punitive and conditions amounting to punishment violate due process. [DE 1, p. 2-3]. Once more, Petitioner's argument is based on the conditions of confinement which cannot be reviewed for purposes of habeas corpus proceedings. *See Vaz*, 634 Fed. Appx. at 781; *see also Mackey*, 2022 WL 17830252, at \*2. Moreover, the Court should reject these arguments because "detention during deportation proceedings is a constitutionally valid aspect of the deportation process." *See Demore v. Kim*, 538 U.S. 510 (2003). Additionally, an individualized bond hearing need not be conducted to determine individualized flight risk; instead, detention may be mandated to combat flight. *See id.* at 538 U.S. at 528.

IV. **CONCLUSION**

Based upon the foregoing, the Petition should be denied as detention is lawful under § 8 U.S.C. § 1225(b)(2).

Dated: February 4, 2026

Respectfully submitted,

**JASON A. REDING QUIÑONES**  
**UNITED STATES ATTORNEY**

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that on this 4th day of February, 2026, I electronically filed the foregoing document with the Clerk of Court using CM/ECF. I also certify that the foregoing document is being placed in the mail to Plaintiff and Next Friend at the addresses provided in the Service List below.

By: /s/ Jeanette M. Lugo  
Assistant United States Attorney

**SERVICE LIST**

Alberto Verdera Milian, *Pro Se*

A#

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