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

Carlos Gabriel Martinez Santander.)

Petitioner,)

v.)

Matthew Mordant, Warden,)
Immigration Detention Center at)
Florida Soft Side South,)
Todd M. Lyons, Acting)
Director of Orlando Field Office, U.S)
Immigration and Customs Enforcement;)
Kristi Noem, Secretary of the)
U.S. Department of Homeland Security;)
and **Pam Bomdi** Attorney General of the)
the United States, in their official capacities,)

Respondents.)
_____)

Case No. _____

HABEAS CORPUS

**ORAL ARGUMENT
REQUESTED**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner is a native and citizen of Venezuela who entered the United States **lawfully**, has no final order of removal, and no criminal record.
2. The sole statutory authority under which Respondents may detain Petitioner is 8 U.S.C. § 1226(a).
3. Petitioner has a pending application for Asylum and Withholding of Removal. Notably, he also had a Temporary Protective Status (“TPS”), and he remained on TPS until it was recently cancelled for all Venezuelans. Petitioner is the beneficiary of a pending Form I-130, Petition for Alien Relative, filed by his U.S. Citizen mother.
4. Petitioner challenges his warrantless apprehension and detention as a violation of the Immigration and Nationality Act (INA) and the Due Process Clause of the Fifth Amendment.
5. As discussed below, the absence and or delay of an individualized custody determination, the medical risks posed by detention, and the government-caused delays, Petitioner’s continued detention under § 1226(a) is unreasonable and violates due process.
6. Petitioner respectfully requests that this Court grant him a Writ of Habeas Corpus and order Respondents to release him from custody. Petitioner seeks habeas relief under 28 U.S.C. 2241, which is the proper vehicle for

challenging civil immigration detention. *Zadvydas v. Davis*, 533 U.S. 678, 687-88 (2001).

JURISDICTION

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*
8. This Court has jurisdiction to consider this Petition. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et. seq.* This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, clause 2 of the United States Constitution (the Suspension Clause).
9. This Court may grant relief pursuant to 28 U.S.C. § 2241 *et. seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

10. Venue is proper in the Middle District because a substantial part of the events giving rise to these claims occurred and continue to occur in this district.
11. Venue is also proper under 28 U.S.C. § 2241 because Petitioner is detained within this district.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the Respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*
13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a swift and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963).

PARTIES

14. **Petitioner** is a 33-year-old native and citizen of Venezuela who *lawfully* entered the United States and timely sought asylum. He is currently detained at the Immigration Detention Center at the South Florida Soft-Sided Facility in Ochopee, Florida. The State of Florida has named the facility “Alligator Alcatraz.”

15. **Respondent Matthew Mordant** is the Warden of South Florida Soft-Sided Facility (Collier County, FL) and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Mordant is a legal custodian of Petitioner.

16. **Respondent Todd Lyons** is sued in his official capacity as the Acting Director of the Orlando Field Office of U.S. Immigration and Customs Enforcement. Respondent Lyons is a legal custodian of Petitioner and has authority to release him.

17. **Respondent Kristi Noem** is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (“Department”). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act, and oversees the U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner’s

custody. Respondent Noem is a legal custodian of Petitioner.

18. **Respondent Pam Bondi** is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she exercises statutory and supervisory authority over the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the Board of Immigration Appeals. Respondent Bondi a legal custodian of Petitioner.

FACTUAL ALLEGATIONS

19. Petitioner is a 33-year-old father of two minor children, who *lawfully* entered the United States in February 2020. Petitioner timely filed an application for asylum with the U.S. Citizenship and Immigration Services (“USCIS”). Petitioner's asylum application has been pending since July 28, 2020. While waiting for his asylum interview, circumstances in Venezuela worsened.

20. In August 2021, Petitioner applied for Temporary Protected Status (“TPS”), which USCIS approved. Although Petitioner had been under TPS since March 2023, the protection ended in November 2025.¹

21. Petitioner is the beneficiary of a pending Form I-130, Petition for Alien

¹ See Termination of the 2021 Designation of Venezuela for Temporary Protected Status, 90 Fed. Reg. 43225 (Sept. 8, 2025).

Relative, filed by his United States citizen mother, F.S.

22. Petitioner has no criminal history, no active warrants, and no prior orders of removal. However, on January 17, 2026, Petitioner was apprehended by Immigration and Customs Enforcement (“ICE”) at the Port Canaveral while waiting to provide Uber services for tourists.
23. Petitioner has a valid employment authorization and a valid Florida driver's license. Again, Petitioner has no criminal record nor was he engaging in criminal acts at the time of his *warrantless* arrest and detention.
24. Petitioner suffers from Hypertensive Chronic Disease with stage 1 through stage 4 chronic kidney disease. Since his detention, his hypertension has been uncontrolled.
25. Petitioner has several long-term medical conditions that require regular medical care and careful monitoring. He has **chronic kidney disease** caused by high blood pressure. Petitioner’s kidneys are already damaged and can worsen if his blood pressure is not properly controlled. As such, Petitioner has an ongoing risk of further kidney decline. He also has dangerously elevated blood fats and severe obesity, conditions that significantly increase his risk of heart and kidney complications.
26. While in custody in Central Florida, Petitioner repeatedly reported his symptoms to detention staff to no avail. Below is a timeline of Petitioner’s

blood pressure readings and symptoms since his apprehension and detention.

Central Florida Detention Facilities

- A. January 17, 2026: Blood pressure exceeded 200.
- B. January 18, 2026: Persistently elevated blood pressure with headaches.
- C. January 19, 2026: Blood pressure remained above 200 despite medication, with severe headaches and nausea.
- D. January 20, 2026: Continued elevation with purple discoloration of the hands, tachycardia, headaches, and sharp, throbbing eye pain.

South Florida Soft-Sided Facility South

- E. January 26, 2026: Blood pressure 146/90 and flu symptoms. He was provided medication at the nursery.
- F. January 27, 2026: Blood pressure 152/102 and Tylenol medication for flu symptoms

16. According to the National Library of Medicine, an acute elevation in blood pressure where systolic pressure exceeds 180 mm Hg or diastolic pressure exceeds 120 mm Hg is a severe medical condition known as “Hypertensive Crisis” that could lead to life-threatening organ injuries.

17. Additionally, Petitioner experiences substantial musculoskeletal impairments, including a herniated lumbosacral intervertebral disc, lumbar facet arthropathy, and neuroforaminal stenosis of the lumbar spine, all of which contribute to chronic pain, limited mobility, and functional impairment. He also suffers from traumatic arthropathy of the right knee, further restricting his ability to ambulate and perform daily activities without pain.

18. Continued detention under § 1226(a) serves no legitimate governmental purpose where detention itself exacerbates a life-threatening medical condition. In these circumstances, detention is unreasonable, excessive, and unconstitutional—especially where less restrictive alternatives are available and have not been meaningfully considered.
19. ICE detention standards require timely access to appropriate medical care, including physician evaluation and treatment of chronic conditions. Petitioner symptoms indicate a potentially life-threatening condition, yet the Government has not provided adequate care to Petitioner during his detention.
20. Petitioner does not pose a flight risk nor a danger to the community. Petitioner has a compelling interest to remain in Florida. He maintains robust community ties in central Florida through stable employment, residence, and family ties. Petitioner's immediate and extended family reside in Orange County, Florida, including his two United States citizen minor children, fiancée, mother, stepfather, and brother.
21. Petitioner has two U.S. citizen children, one of which has a language disorder requiring ongoing speech therapy. S.M. relies solely on Petitioner to attend the required speech therapy. S.M. requires continued training and instruction for total communication (gestures, signs, word approximations) to indicate his wants and needs. Petitioner's presence and active participation is fundamental

for the long-term success of his child's treatment.

22. Recently, Petitioner learned through a paternity test that he is the biological father of a minor child, L.P. Petitioner's continued detention prevents him from complying with a court-ordered child support obligation and from taking steps to meet his parental responsibilities.

23. Petitioner has pending immigration relief, including asylum and a family-based pathway upon marriage to his fiancé A.R., a U.S. Citizen and a local elementary school teacher.

24. Petitioner has consistently complied with all requirements imposed by the Department, including timely filing of applications, payment of required fees, and attendance at mandatory biometric appointments. His compliance record demonstrates that he does not present a risk of flight and does not pose a danger to the community.

25. Despite not posing a danger to the community and not posing a flight risk, multiple bond requests have been rejected and or remain pending.

26. On or about January 20, 2026, F.S., Petitioner's mother requested a bond before ICE via CeBONDS. ICE updated Carlos' bond status to "Not Releasable."

27. Similarly, on January 21, 2026, A.R. Petitioner's fiancé requested an ICE bond. According to the response from an official government email, Carlos'

bond status changed showing “Not Releasable.”

28. Counsel for Petitioner submitted two bond requests to the Orlando Immigration Court.

29. On January 23, 2026, the Orlando Immigration Court rejected Petitioner's Motion for Bond. According to the Immigration Judge, “Orlando Immigration Court does not have jurisdiction over Orange County Jail. If [Petitioner] is detained in Baker County Jail or Baker Correctional Institute, please refile with the information of the detention center.”

30. On or about January 24, 2026, Respondents relocated Petitioner to the South Florida Detention Facility.

31. On January 27, 2026, the Orlando Immigration Court rejected Petitioner's Motion for Bond for a second time. According to the Immigration Judge, “[T]he information of the exact location of the respondent is necessary to schedule the hearing at the correct hearing location. Orlando Immigration Court does not have jurisdiction over Orange County Jail.”

32. On January 27, 2026, Counsel for Petitioner submitted a bond request before the Miami Immigration Court. The request remains pending as of the filing of the instant petition.

33. Since Petitioner's warrantless apprehension, Respondents have repeatedly transported Petitioner to and from various federal and state facilities including

but not limited to the Orange County Jail, the Orlando ICE Field Office, and the South Florida Detention Facility.

34. Respondents' repeated transfers have caused concrete prejudice. The frequent relocation of Petitioner directly contributed to jurisdictional confusion regarding bond authority, depriving Petitioner of meaningful access to custody review. As a result, Petitioner's continued detention is not merely prolonged, but arbitrary in application, in violation of due process.
35. Moreover, each relocation forces counsel not only to expend valuable time and resources simply to *find* the client, re-establishing a secure line of communication, but also compels counsel to immediately assess the potential for a jurisdictional conflict.
36. Counsel for the Petitioner must also "plan" for the possibility of needing to apply for *pro hac vice* admission in the new, unknown jurisdiction, or, in the most extreme and prejudicial circumstances, contemplate the ethical necessity of withdrawal if admission is impossible or unduly delayed.
37. The continuous uncertainty caused by Petitioner's relocation undermines the consistency and continuity required for effective legal representation.

LEGAL FRAMEWORK

38. 8 U.S.C. § 1226(a) "authorizes the Government to detain certain aliens

already in the country pending the outcome of removal proceedings[.]” *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Section 1226(a) provides additional safeguards, including the right to an individualized bond hearing. *Id.* at 306 (“Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.”) (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)).

39. The “equitable and flexible nature of habeas relief” affords district courts significant discretion over the appropriate remedies for violations of law and the Constitution.² This Court should order a remedy that fully addresses the statutory and constitutional violations in this case and is efficient to administer. *Carafas v. LaVallee*, 391 U.S. 234, 238 (1968) (the habeas statute “does not limit the relief that may be granted to discharge of the applicant from physical custody. Its mandate is broad with respect to the relief that may be granted”).

40. Release is the customary remedy in habeas proceedings. *See* 28 U.S.C. § 2243 (the habeas shall “dispose of the matter as law and justice require.”); *Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) (finding “that the traditional function of the writ is to secure release from illegal custody”). Courts across

² *Velasco Lopez v. Decker*, 978 F.3d 842, 855 (2d Cir. 2020); *see also Schlup v. Delo*, 513 U.S. 298, 319 (1995) (“[H]abeas corpus is, at its core, an equitable remedy”).

the country agree as well.³

41. Release is the only appropriate remedy for the constitutional violations in this case, including the lack of pre-deprivation notice or individualized review before Petitioner's arrest, which cannot be remedied by a post-deprivation hearing. *See Qasemi v. Francis*, No. 25-cv 10029, 2025 WL 3654098 at *14, (S.D.N.Y. Dec. 17, 2025) (a bond hearing would not be an adequate remedy for the due process violations in petitioner's sudden arrest and detention); *Crespo Tacuri v. Genalo*, No. 25-cv-06896, 2026 WL 35569, at *7 (E.D.N.Y. Jan. 6, 2026) (ordering release, finding that post-deprivation review cannot remedy the due process violation of detaining petitioner with no process or individualized assessment); *Moctezuma Macias v. Henkey*, No. 1:25-CV-00741-BLW, 2026 WL 18809, at *5 (D. Idaho Jan. 2, 2026) (given that the government's repeated use of unlawful detention policies across the

³ *See, e.g., Munoz Materano v. Arteta*, 2025 WL 2630826, at *20 (S.D.N.Y. Sept. 12, 2025) (ordering immediate release); *Chipantiza Sisalema v. Francis*, 2025 WL 1927931, at *4 (S.D.N.Y. July 13, 2025) (same); *Rueda Torres v. Francis*, No. 25-cv-8408, 2025 WL 3168759, at *6 (S.D.N.Y. Nov. 13, 2025) (same); *Cifuentes v. Soto*, No. 25-cv-18029, 2025 WL 3771380, at *4 (D.N.J. Dec. 31, 2025) (same); *Gonzalez Centeno v. Lowe*, No. 3:25-cv-2518, 2026 WL 94642, at *4 (M.D. Pa. Jan. 13, 2026) (same); *Feisal O. v. Noem*, No. 26-cv-81, 2026 WL 92857, at *3 (D. Minn. Jan. 13, 2026) (same); *Garcia Covarrubias v. Holston*, No. 2:25-cv-02445, 2026 WL 25970, at *4 (D. Nev. Jan. 5, 2026) (same); *Kenzhebaev v. Noem*, No. 1:25-cv-1786, 2025 WL 3737975, at *9 (W.D. Mich. Dec. 29, 2025) (same); *Kobilov v. Neill*, No. 26-cv-0058, 2026 WL 73475, at *3 (E.D. Pa. Jan. 8, 2026) (same, finding a bond hearing unnecessary where there was no record indication petitioner was a danger or flight risk); *Ortega-Aguirre v. Noem*, No. 4:25-cv-04332, 2025 WL 3684697, at *4 (S.D. Tex. Oct. 10, 2025) (same); *Bumbila Iza v. Arnott*, No. 6:25-cv-3392, 2026 WL 67152, at *5 (W.D. Mo. Jan. 8, 2026) (same); *see also Mata Velasquez v. Kurzdorfer*, --- F. Supp. 3d ---, No. 25-cv-493, 2025 WL 1953796 (W.D.N.Y. July 16, 2025) (ordering release and that petitioner could not be re-detained without a pre-deprivation hearing); *Gil v. Warden, Otay Mesa Det. Ctr.*, No. 3:25-cv-03279, 2025 WL 3675153, at *4 (S.D. Cal. Dec. 17, 2025) (same); *Sekhon v. Warden of Golden State Annex Det. Facility*, No. 1:25-cv-1692, 2026 WL 74151, at *4 (E.D. Cal. Jan. 9, 2026) (same).

country, causing petitioners to “sit in jail waiting for a judicial decision,” the court would order immediate release instead of causing additional delay through a bond hearing).

42. This Court has routinely granted habeas relief to noncitizens detained under 8 U.S.C. § 1226(a) where the government has failed to provide an individualized custody determination, by ordering Respondents to conduct a prompt bond hearing or release the petitioner if such hearing is not provided within a short, court-imposed deadline.

43. Alternatively, the habeas court can hold its own custody hearing and determine whether the government can prove by clear and convincing evidence that Petitioner must remain in custody, or whether he may be released on recognizance, an appropriate bond considering his ability to pay, or supervised release.

44. The Court's own custody hearing is a more cost-efficient remedy—especially for the taxpayer—than ordering an immigration judge to conduct a hearing, which may lead to additional enforcement proceedings and delays before the unlawful detention in this case is remedied.⁴

⁴ See *L.G.M. v. LaRocco*, 788 F.Supp.3d 401, 405-07 (E.D.N.Y. 2025) (ordering a bond hearing held by the habeas court, as this would be more efficient than delegating the task to the agency and ensure proper constitutional oversight); *Flores-Powell v. Chadbourne*, 677 F.Supp.2d 474-78 (D. Mass. 2010) (granting petition and discussing at length habeas court's equitable power, which includes power to hold its own bail hearing); see also *Santos v. Lowe*, No. 1:18-CV-1553, 2020 WL 4530728, at *4 (M.D. Pa. Aug. 6, 2020) (finding that habeas court-ordered bond hearing was not individualized and did not comport with due process, and granting motion to enforce to hold

45. A bond hearing by an immigration judge (IJ) is not the most appropriate or efficient use of this court's equitable authority. Recent actions by ICE attorneys and immigration judges during and after habeas court-ordered bond hearings have necessitated enforcement proceedings across the country, creating significant extra work for the court and the parties while petitioners' unlawful detention continues.

46. In the last year, ICE has frequently appealed the IJ's grant of bond to the Board of Immigration Appeals (BIA) and invoked the "automatic stay" regulation, 8 C.F.R. § 1003.19(i)(2). This stay, which keeps the petitioner detained despite an IJ bond grant, was rarely invoked in prior years but has now become common. Dozens of habeas courts have ruled that the automatic stay violates due process and have had to order Respondents to allow a petitioner to post his bond.⁵

47. In other cases, ICE has applied onerous electronic GPS ankle monitors or

the c"'s own bond determination); *Ramirez v. Watkins*, No. 10-cv-126, 2010 WL 6269226, at *19-20 (S.D. Tex. Nov. 3, 2010), *rep. and rec not reached*, (S.D. Tex. Dec. 8, 2010) (dismissing case as moot) (recommending the habeas court conduct its own bail inquiry, as it would be more efficient, ensure supervision over any compliance issues, and avoid further proceedings).

⁵ See, e.g., *Otilio B.F. v. Andrews*, No. 1:25-cv-01398, 2025 WL 3152480, at *11 (E.D. Cal. Nov. 11, 2025) (finding the automatic stay likely violates due process); *M.P.L. v. Arteta*, No. 25-cv-5307, 2025 WL 3288354, at *7 (S.D.N.Y. Nov. 25, 2025) (same, noting that "at least 50 district court decisions across the United States in the last 6 months alone" have found that's use of the automatic stay provision violates or likely violates due process, and collecting cases at n.6); *Guasco v. McShane*, No. 1:25-cv-1650, 2025 WL 3270201, at *2 (M.D. Pa. Nov. 24, 2025) (noting that other habeas courts have "assailed the Government's practice of acting both as the prosecution and the judge in making a unilateral and unreviewed decision as to detention") (internal citation omitted).

other unnecessary conditions of release that neither the habeas court nor the immigration court ordered, requiring additional litigation.⁶

48. Still other cases have left habeas courts unclear whether Respondents intend to comply with the court's orders to hold a bond hearing at all.⁷ Specifically, government counsel in the Southern District of New York have often asserted that an immigration court bond hearing is an appropriate remedy, citing *Romero Perez v. Francis*, No. 25-cv-8112, 2025 WL 3110459 (S.D.N.Y. Nov. 6, 2025).

49. However, *Romero Perez* demonstrates why such bond hearings are often futile. In *Romero Perez*, notwithstanding the court's order that a burden-shifted bond hearing be held within seven days, the immigration judge refused to hold a hearing on the merits, denying bond on a lack of jurisdiction.

⁶ See *Diahn v. Lowe*, No. 1:24-cv-1936, 2026 WL 84576, at *5 (M.D. Pa. Jan. 12, 2026) (ordering ICE to remove ankle monitor it had unilaterally imposed after IJ granted bond without further conditions); *Orellana Juarez v. Moniz*, 788 F. Supp. 3d 61, 70 (D. Mass. 2025) (same, finding this presented a “real constitutional risk” and defeated the purpose of neutral third-party review of custody); *Menjivar Sanchez v. Wofford*, No. 1:25-CV 01187, 2025 WL 3089712, at *9 (E.D. Cal. Nov. 5, 2025) (same, in preliminary injunction context); *N- N- v. McShane*, No. 25-cv-5494, 2025 WL 3143594, at *4 (E.D. Pa. Nov. 10, 2025) (finding imposition of an ankle monitor, check-ins, and travel restrictions, which the IJ did not order in setting bond, violated due process and the *Accardi* doctrine).

⁷ See, e.g., *Gomez Rodriguez v. Noem*, No. 2:25-cv-01115, 2025 WL 3771268, at *2 (M.D. Fla. Dec. 31, 2025) (noting that “[i]n other cases before this Court, the respondents have claimed they cannot direct the EOIR when to conduct a bond hearing,” and ordering release if the government does not comply); *Khogiani v. Raycraft*, No. 25-cv-13744, 2025 WL 3753532, at *4 (E.D. Mich. Dec. 29, 2025) (noting the government’s argument that given the “overwhelming caseload” in the immigration courts, it likely could not comply with an order to hold a bond hearing within five days, but re-setting a short deadline anyway given the petitioner’s five months of unlawful detention); *Vargas v. Bondi*, No. 25-cv 1023, 2025 WL 3300446, at *5 (W.D. Tex. Nov. 12, 2025), *report and recommendation adopted*, No. 25-cv-1023, 2025 WL 3300141 (W.D. Tex. Nov. 26, 2025) (recommending immediate release, in part because respondents argued that “if this Court ordered a hearing, it would require the immigration judge to do that which, in light of BIA precedent, the judge would not believe he had any authority to do”).

See No. 25- cv-8112, ECF No. 31 (Nov. 10, 2025) (first motion to enforce).

50. After Petitioner filed an emergency motion to enforce, the immigration judge held a second hearing and granted bond. ICE then immediately invoked the automatic stay provision to bar the Petitioner's release. *Id.*, ECF No. 33 (Nov. 13, 2025) (second motion to enforce). Only after the second emergency motion was filed did ICE withdraw the automatic stay and permit release. *Id.*, ECF No. 34 (status update).

51. Notably *Romero Perez* is not an isolated incident, as many cases have presented the same ICE actions or immigration judge resistance to implementing the court's orders.⁸

52. To avoid a wasteful round of enforcement proceedings—or even two—while unlawful detention continues, this court should grant release or hold any bail hearing itself.

⁸ *See Diahn*, 2026 WL 84576, at *2 (explaining that petitioners had filed two motions to enforce, first when ICE invoked the automatic stay after the IJ granted bond, and second when ICE withdrew the stay but placed a painful ankle monitor on the petitioner that the IJ had not ordered); *M.P.L.*, 2025 WL 3288354, at *1 (granting motion to enforce where DHS invoked automatic stay after habeas court-ordered bond hearing); *J.M.P. v. Arteta*, No. 25-cv-4987, 2025 WL 2984913, at *2 (S.D.N.Y. Oct. 23, 2025) (finding DHS's use of multiple “one-sided” stay mechanisms to prevent release after habeas-court ordered bond hearing violated due process, and granting motion to enforce); *O.F.C. v. Almodovar*, No. 25-cv-9816, 2026 WL 74262, at *16 (S.D.N.Y. Jan. 9, 2026) (expressing concern that at oral argument, government counsel refused to guarantee that in a court-ordered bond hearing, ICE would not invoke the automatic stay or argue that the IJ lacked jurisdiction to set bond; either action “would render the Court's intended relief illusory”); *Pedroso de Oliveira v. Freden*, No. 6:25-CV-6663 2025 WL 3554686, at *1 (W.D.N.Y. Dec. 11, 2025) (granting motion to enforce where “the IJ wholly failed to follow the Court's directions to require Respondents to bear the clear and convincing evidence burden of proof at the bond hearing, nor did the IJ even attempt to consider alternatives to detention.”); *Mathon v. Searls*, 623 F. Supp. 3d 203, 208 (W.D.N.Y. 2022) (granting motion to enforce and ordering immediate release after the IJ did not hold DHS to his habeas court-ordered burden of proof or properly consider alternatives to detention, and thus “failed to provide him with the bond hearing to which he was constitutionally entitled”).

CLAIMS FOR RELIEF

COUNT ONE

VIOLATION OF FIFTH AMENDMENT RIGHT TO DUE PROCESS

37. Petitioner alleges and incorporates by reference paragraphs 1 through 52 above.

38. Petitioner's continued detention violates his right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.

COUNT TWO

VIOLATION OF IMMIGRATION AND NATIONALITY ACT AND CONSTITUTION

39. Petitioner alleges and incorporates by reference paragraphs 1 through 52 above.

40. Petitioner's continued detention violates the Immigration and Nationality Act and the Constitution.

41. The regulations at 8 C.F.R. §§ 236.1(d)(1) and 1236.1(d)(1) require that aliens detained under § 1226(a) receive bond hearings at the outset of detention, which Respondents have delayed and or failed to provide, thus rendering the detention unlawful under the statute and regulations.

42. Petitioner's detention under § 1226(a) is unreasonable given his medical condition.

COUNT THREE

43.If Petitioner prevails, Petitioner requests attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully request that this Court:

1. Assume jurisdiction over this matter;
2. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted;
3. Issue a writ of habeas corpus ordering Respondents to release Petitioner on his own recognizance or under parole, a low bond or reasonable conditions of supervision show;
4. Alternatively, issue a Writ of Habeas Corpus requiring Respondents to provide a prompt, individualized bond hearing before a neutral adjudicator, at which:
 - a. the Government bears the burden of proof,
 - b. the burden is met by clear and convincing evidence, and
 - c. the adjudicator considers conditions of release as an alternative to continued detention;

5. Award Petitioner reasonable attorney's fees and costs under the Equal Access to Justice Act; and
6. Grant any other relief which this Court deems just and proper.

DATED: January 27, 2026

Respectfully Submitted,
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Carlos Gabriel Martinez Santander, 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 27 day of January, 2026.

s/Arlene M. Vellón,

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