

**MIDDLE DISTRICT OF FLORIDA
FORT MYERS, FLORIDA**

PABLO GOMEZ,

Petitioner

v.

Case No. 2:26-cv-00103-SPC-DNF

PAM BONDI, Attorney General of the
United States;
KRISTI L. NOEM, Secretary,
Department of Homeland Security;
TODD LYONS, Acting Director,
U.S. Immigration and Customs
Enforcement; DAREN MONGALIN,
Director of the Executive Office for
Immigration Review (EOIR); GARRETT
J. RIPA, Field Office Director - Miami
ERO; KEVIN GUTHRIE, Executive
Director, Florida Division of Emergency
Management (FDEM) and Unknown
Warden, South Florida Detention Center,

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Mr. Pablo Gomez (“Petitioner” or “Mr. Gomez”) was born in Cuba and entered the United States in 1969 at the age of 5 years old. As a child, he was granted Legal Permanent Resident (“LPR”) status.

2. Based on criminal charges from his youth, his LPR status was revoked in 1997. While in prison, he received a final order of removal in 2001.

3. Respondents were unable to deport him, and he was paroled in or around 2004. Respondents have been unable to deport Petitioner since this time. He has attended all Immigration and Customs Enforcement (“ICE”) check-ins and complied with all immigration requirements since he was paroled.

4. On December 12, 2025, Mr. Gomez was on his way to work with his colleagues when they were all detained in their vehicle without probable cause. The Respondents then took him into custody, and he has remained in immigration detention ever since.

5. Mr. Gomez has been denied the opportunity to go before an immigration judge, and his case remains closed in the Executive Office for Immigration Review (“EOIR”). Therefore, he is unable to file a motion for custody redetermination.

6. Mr. Gomez is currently detained at the South Florida Detention Center (otherwise known as “Alligator Alcatraz”) (“SFDC”). Petitioner was taken into

custody on December 12, 2025, and initially held by the Department of Homeland Security (“DHS”) at Dania Beach Station, which Customs and Border Protection operates, and then transferred to SFDC for three days.

7. Mr. Gomez initially filed a Petition for Habeas Corpus on January 27, 2026. (Doc. 1). The Court denied this Petition without prejudice based on a lack of signature on January 30, 2026. (Doc. 2).

8. After Mr. Gomez filed his initial petition, on or about February 6, 2026, Respondents transferred him to Port Isabel Detention Center in Texas for approximately one week. Then, Respondents transferred him to Coastal Bend Detention Center within Texas, where he remained until being sent back to SFDC on or around February 14, 2026, where he remains today.

9. The Constitution protects Mr. Gomez—and every other person present in this country—from arbitrary liberty deprivations, and guarantees due process of law. While the government’s power over immigration is broad, it “is subject to important constitutional limitations.” *Zadvydas v. Davis*, 533 U.S. 678, 695 (2001). “Freedom from bodily restraint has always been at the core of the liberty protected by the Due Process Clause from arbitrary governmental action.” *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992).

10. Respondent’s unlawful stop and arrest violate the Fourth Amendment of the Constitution, making his detention unlawful fruit of the initial unlawful stop.

11. Further, Respondents' re-detention of Mr. Gomez without notice of parole revocation or justification, and without a bond hearing to determine whether his detention is necessary to prevent danger or address flight risk, violates his Fifth Amendment due process rights against arbitrary and unjust deprivations of liberty, without any process to contest the reasonableness of detention, and the INA. *Carmona v. Ripa*, No. 2:25-cv-1128-SPC-DNF, 2025 U.S. Dist. LEXIS 260293, at *13 (M.D. Fla. Dec. 17, 2025); *see also* 8 CFR 212.5(e)(2) (setting forth notice requirements for revoking parole when "neither humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States").

12. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released. In addition, to preserve this Court's jurisdiction, Petitioner also requests that this Court order the government not to transfer him outside of the District or deport him for the duration of this proceeding.

JURISDICTION

13. Petitioner is in the physical custody of Respondents. He is detained at SFDC.

14. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

15. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

16. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493–500 (1973), venue lies in the United States District Court for the Middle District of Florida, the judicial district in which Petitioner is currently detained.

17. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle District of Florida.

REQUIREMENTS OF 28 U.S.C. § 2243

18. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause “forthwith,” unless a petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return “within three days unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.*

19. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . 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) (emphasis added). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

20. Petitioner is originally from Cuba and was released from immigration detention on parole. Despite his compliance with all conditions of release, Respondents have held him in immigration detention since December 12, 2025, after an unlawful stop and arrest.

21. Respondent, the unknown warden of SFDC. In this capacity, he/she is responsible for the facility and maintains custody of Petitioner. As such, the warden is Petitioner’s immediate custodian and is responsible for Petitioner’s detention. Respondent maintains an office and regularly conducts business in this district. Respondent is named in his official capacity. The exact name of the warden of SFDC is not available via publicly available information.

22. Respondent Kevin Guthrie is the Director of the Florida Division of Emergency Management, who oversees the Facility. In this capacity, he is responsible for the facility and maintains custody of Petitioner. As such, Mr. Guthrie is Petitioner’s immediate custodian and is responsible for Petitioner’s

detention. Respondent Guthrie maintains an office and regularly conducts business in this district. Respondent Guthrie is named in his official capacity.

23. Respondent Garrett Ripa serves as the Miami Field Office Director of ICE's Enforcement and Removal Operations Division, overseeing the Facility. In this capacity, he is responsible for the administration of immigration laws and the execution of immigration enforcement and detention policy within ICE's Miami Area of Responsibility. As such, Mr. Garcia is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. Respondent Garcia maintains an office and regularly conducts business in this district. Respondent Garcia is named in his official capacity.

24. Respondent Todd Lyons is the Acting Director of ICE. As the Senior Official Performing the Duties of the Director of ICE, he is responsible for the administration and enforcement of the immigration laws of the United States. He is legally responsible for any effort to detain Petitioner and is thus a custodian of Petitioner. Respondent Lyons is named in his official capacity.

25. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. In that capacity and through her agents, Respondent Noem is responsible for the administration and enforcement of immigration laws pursuant to Section 103(a) of the Immigration and Nationality Act (INA), 8 U.S.C. § 1103(a) and oversees ICE, which is responsible for Petitioner's detention.

Respondent Noem regularly transacts business in this district. She has ultimate custodial authority over Petitioner, and as such is his custodian. Respondent Noem is named in her official capacity.

26. Respondent Pamela Bondi is the Attorney General of the United States. In that capacity and through her agents, she is responsible for the administration of the immigration laws pursuant to Section 103(g) of the INA, 8 U.S.C. § 1103(g). The Attorney General delegates this responsibility to the Executive Office for Immigration Review (EOIR), a component agency of the Department of Justice (DOJ), which in turn operates the immigration court system. Respondent Bondi is named in her official capacity.

27. Respondent Daren Margolin is the Director of the Executive Office for Immigration Review (EOIR). In that capacity and through his agents, he is responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings. Respondent Margolin is named in his official capacity.

LEGAL FRAMEWORK

28. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects.” *Zadvydas*, 533 U.S. at 690; *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (defining freedom from physical detention as “the most

elemental of liberty interests”). Even those who face significant constraints on their liberty or those over whose liberty the government wields significant discretion retain a protected interest in their liberty. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (“The fact that a decision-making process involves discretion does not prevent an individual from having a protectable liberty interest.”), citing *Young v. Harper*, 520 U.S. 143, 150 (1997).

29. The Fifth Amendment to the U.S. Constitution prescribes at least two types of protection for noncitizens in removal proceedings: substantive and procedural due process.

30. Procedural due process requires the government to provide specific protections to ensure fairness and prevent arbitrary deprivation of liberty. The “essence” of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time. *See e.g., Mathews v. Eldridge*, 424 U.S. 319, 348 (1976); *Zinermon v. Burch*, 494 U.S. 113, 127 (1990) [“[T]he Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property.”]. The Due Process Clause safeguards these protections even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d 671, 683 (D.C. Cir. 2017) (citing *Young*, 520 U.S. at 152 (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973)

(same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972)

(same, in parole context).

31. While ICE has the initial discretion to detain or release individuals with final orders of removal should deportation prove impossible, after that individual is released from custody, the government's release decision creates "an implicit promise" that liberty "will be revoked only if [they] fail[] to live up to the . . . conditions [of release]." *Morrissey*, 408 U.S. at 482. Noncitizens released from Respondents' custody thus have a protected liberty interest in remaining out of custody. *See Ortega*, 415 F. Supp. 3d at 969 ("Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have a liberty interest in remaining out of custody on bond."); *Arellano v. Ripa*, No. 26-20044-CIV, 2026 U.S. Dist. LEXIS 13005, at *9 (S.D. Fla. Jan. 23, 2026); *Salcedo Aceros v. Kaiser*, No. 25-CV-06924-EMC (EMC), 2025 WL 2637503 (N.D. Cal. Sept. 12, 2025); *Guzman v. Andrews*, No. 25-cv-1015, 2025 WL 2617256 at *6 (E.D. Cal. Sept. 9, 2025); *Zhu v. Genalo*, No. 1:25-CV-06523, 2025 WL 2452352, at *5 (S.D.N.Y. Aug. 26, 2025); *Pinchi v. Noem*, No. 5:25-cv-5632, — F.Supp.3d —, 2025 WL 2084921 (N.D. Cal. July 24, 2025). Re-detention "without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment." *Lopez v. Sessions*, No. 18 Civ.

4189, 2018 WL 2932726, at *12 (S.D.N.Y. June 12, 2018); *Rosado*, 2025 WL 2337099 at *12 (concluding that noncitizens released from custody are entitled to notice and a hearing before the government re-detains them); *Patel v. Tindall*, 2025 WL 2823607 at *5 (W.D. Ky. Oct. 3, 2025) (same).

32. The Due Process Clause also requires a pre-deprivation hearing when one's interest in freedom from detention and the risk of erroneous deprivation outweigh the minimal cost to the government of providing such a hearing. In *Mathews v. Eldridge*, the Court set out a three-part test to determine what procedures are constitutionally required when a protected interest is at stake. 424 U.S. at 335. Under the *Mathews* test, the Court considers: 1) the private interests that will be affected by the official action; 2) the risk that this interest will be erroneously deprived and the probable value of additional or substitute procedural safeguards; and 3) the government's interest in acting without these safeguards. *Id.* Due process requires the government to identify some interest beyond its own administrative practices to justify depriving an individual of his liberty without any pre-deprivation protections. *Hurd*, 864 F.3d at 684 (holding that re-detention after pre-parole conditional supervision requires a pre-deprivation hearing); *Gagnon*, 411 U.S. at 778 (same, in probation context); *Morrissey*, 408 U.S. at 482 (1972) (same, in parole context).

33. Courts apply the *Mathews*’ factors to evaluate procedural due process challenges to immigration detention. *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022); *Miranda v. Garland*, 34 F.4th 338, 368–69 (4th Cir. 2022); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 27–28 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020). Applying those factors to noncitizen petitioners facing re-detention because of Respondents’ changed policies, courts have concluded that due process requires a pre-deprivation hearing. *See Patel*, 2025 WL 2823607 at *5–6; *Rosado*, 2025 WL 2337099 at *12; *Pinchi*, 2025 WL 2084921, at *4–5.

34. Substantive due process requires that all forms of civil detention, including immigration detention, bear a “reasonable relation” to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738, (1972); U.S. Const. amend. V. The Supreme Court has recognized only two legitimate government interests in civil immigration detention: addressing flight risk and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *Demore v. Kim*, 538 U.S. 510, 519–20, 527–28 (2003).

35. The regulations similarly authorize ICE to release a noncitizen if that individual can “demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons” and that the noncitizen is “likely to appear for any future proceeding.” 8 C.F.R. § 1236.1(c)(8). “Release

[therefore] reflects a determination by the government that the noncitizen is not a danger to the community or a flight risk.” *Saravia v. Sessions*, 280 F. Supp. 3d 1176, 1176 (N.D. Cal. 2017), *aff’d sub nom.*, *Saravia for A.H. v. Sessions*, 905 F.3d 1137 (9th Cir. 2018). Absent changed circumstances, Respondents lack any legitimate interest in depriving a released noncitizen of their liberty, and re-detention would violate substantive due process. *See Valencia Zapata v. Kaiser*, No. 25-CV-07492-RFL, 2025 WL 2741654, at *12 (N.D. Cal. Sept. 26, 2025).

FACTS

36. Petitioner has lived in the United States since 1969. He entered the United States in 1969 at the age of 5 years old with his family, fleeing political persecution following the Cuban Revolution.

37. As a child, he was granted Legal Permanent Resident status.

38. Petitioner made mistakes and struggled with addiction issues as a young man, leading to a narcotics charge. He was convicted of this charge, and subsequently, his LPR status was revoked in 1997.

39. While in prison, Respondent DHS issued a final order of removal in 2001.

40. However, after Petitioner was released from prison, Respondents were unable to deport him to Cuba due to the political situation in that country.

Respondents then paroled Petitioner in or around 2004, finding he was not a danger to the community nor represented a risk of flight.

41. Since this time, Petitioner has attended all ICE check-ins and met all immigration requirements since he was paroled. He has had no other criminal charges or arrests.

42. Petitioner and his wife have lived their lives peacefully and without incident until late last year. On December 12, 2025, Petitioner was on his way to work with his colleagues when they were all detained in their vehicle without probable cause. The Respondents then took Petitioner into custody, and he has remained in immigration detention ever since.

43. Respondent has been denied the opportunity to go before an immigration judge, and his case remains closed in EOIR. Therefore, Petitioner is unable to file a motion for custody redetermination.

44. Petitioner is currently detained at the South Florida Detention Center.

45. Petitioner was initially detained at the Dania Beach Station in Florida, which Customs and Border Protection operates, and then quickly transferred to SFDC for three days.

46. After Petitioner filed his initial Petition, on or about February 6, 2026, Respondents transferred him to Port Isabel Detention Center in Texas for approximately one week. He was then sent back to SFDC, where he remains today.

47. Petitioner initially filed a Petition for Habeas Corpus on January 27, 2026 (Doc. 1). The Court denied this Petition without prejudice based on a lack of signature on January 30, 2026. (Doc. 2).

CLAIMS FOR RELIEF

Count I — Fourth Amendment: Unreasonable Seizure / Arrest Without Probable Cause

48. Petitioner incorporates Paragraphs 1-47 herein.

49. The Supreme Court has long held that the Fourth Amendment protects against unreasonable seizures and that arrests absent a warrant generally must be supported by probable cause. *See, e.g., Gerstein v. Pugh*, 420 U.S. 103, 111–12 (1975); *United States v. Watson*, 423 U.S. 411, 417–18 (1976).

50. In the immigration context, the basic rule holds: to detain someone, a government actor must have some objective factual basis (probable cause or its equivalent) to support the seizure. *See Arizona v. United States*, 567 U.S. 387, 407 (2012) (“As a general rule, it is not a crime for a removable alien to remain present in the United States . . . If the police stop someone based on nothing more than possible removability, the usual predicate for an arrest is absent.”).

51. Petitioner alleges that ICE arrested and seized Petitioner without probable cause in violation of the Fourth Amendment.

Count II — Fifth Amendment: Deprivation of Due Process

52. Petitioner incorporates Paragraphs 1-47 herein.

53. 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.’” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also Gabrius v. Dep't of Homeland Sec.*, No. 24-22680-CIV, 2024 U.S. Dist. LEXIS 224171, at *11 (S.D. Fla. Sep. 9, 2024).

54. Petitioner alleges that continued detention without a meaningful prompt judicial or neutral review and without adequate process to test the validity of the arrest/detention violates substantive and procedural due process under the Fifth Amendment.

Count II — Fifth Amendment: Deprivation of Due Process

55. Petitioner incorporates Paragraphs 1-47 herein.

56. Petitioner alleges that Respondents lack statutory authority to detain Petitioner under the circumstances alleged, and that detention is not authorized by 8 U.S.C. §§ 1225, 1226, or 1231 as applied to the facts here.

57. Respondents failed to provide any notice or justification for revoking his parole after twenty-two years. Pursuant to the INA, Respondents shall revoke parole in cases such as Petitioner (wherein he has not violated any order of probation or failed to meet any immigration obligations), only when “neither

humanitarian reasons nor public benefit warrants the continued presence of the alien in the United States” and at that point “parole shall be terminated upon written notice.” 8 C.F.R. § 212.5 (e)(2)(i). No such justification or notice exists in this case.

58. Petitioner has not been afforded a meaningful opportunity to challenge his detention or demonstrate that he is neither a flight risk nor a danger to the community, nor that any circumstances exist to warrant his redetention.

59. Petitioner asserts that exhausting all administrative remedies is unnecessary and serves no purpose because the conclusion of the administrative process can be readily presumed and would not provide for an adequate remedy, especially as Petitioner’s case is closed with EOIR and he has no ability to file for relief, such as a custody redetermination. *See Puga v. Assistant Field Office Dir.*, No. 25-24535-CIV, 2025 U.S. Dist. LEXIS 203222, at *6 (S.D. Fla. Oct. 15, 2025 (“Generally, exhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile”).

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Order that Petitioner shall not be transferred outside the Middle District of Florida while this habeas petition is pending;

- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner;
- e. Declare that Petitioner's detention is unlawful;
- f. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act ("EAJA"), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- g. Grant any other and further relief that this Court deems just and proper.

DATED this 20th of February, 2026.

Respectfully submitted,

/s/ Katherine H. Blankenship
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I, Katherine H. Blankenship, am submitting this verification on behalf of Petitioner because I am his attorney. I have conferred with Mr. Pablo Gomez and also reviewed the administrative record of his case as his counsel acting before the agency. Based on this review, 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 this 20th of February, 2026.

Respectfully submitted,

/s/ Katherine H. Blankenship

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