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Attorney for Petitioner

**IN THE UNITED STATES DISTRICT  
COURT FOR THE SOUTHERN DISTRICT OF  
FLORIDA**

	)	
Sandro Rodriguez Brito,	)	
Petitioner	)	PETITION FOR WRIT
	)	OF HABEAS CORPUS
v.	)	
	)	CASE No: 1:26cv20704
GARRETT J. RIPA, Miami Field Office	)	
Director, Immigration and Customs	)	
Enforcement and Removal Operations (ICE/	)	
ERO); U.S. Immigration and Customs	)	
Enforcement; KRISTI NOEM, Secretary of	)	
the Department of Homeland Security; U.S.	)	
Department of Homeland Security (DHS);	)	
PAMELA BONDI, Attorney General of	)	
the United States, and TODD LYONS, Director,	)	
Immigration and Customs Enforcement.	)	
	)	
Respondents	)	

**PETITION FOR WRIT OF HABEAS CORPUS**

## INTRODUCTION

Petitioner, Sandro Rodriguez Brito, who will be referred as “Petitioner” from hereon in, is a citizen of **Cuba** who Respondents have detained at the Florida Soft Side South Detention Center (AKA, Alligator Alcatraz) since **January 12, 2026**.

Petitioner is a Cuban national who opposes the Cuban government and has fled for his life to the United States of America. Petitioner was paroled into the United States on or about May 13, 2022 by Respondents. The Petitioner has an application for adjustment of status pending before United States Citizenship and Immigration Services (“USCIS”). Petitioner’s detention is no longer reasonably related to its statutory purpose.

In addition, Petitioner was unlawfully denied bond because the immigration Judge stated that he did not have jurisdiction citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner was fishing without a fishing license and kept a fish that was undersized on October 4 2025. The petitioner was given a fine and charged under 379.401.2B1. The Petitioner later received a warrant dated January 2, 2026 and went to the police department on January 10, 2026 and was then detained. 379.401.2B1 is a second-degree misdemeanor that is normally punishable with a simple fine, but in the Petitioner’s case it has landed him in detention for almost a month. Petitioner has a clear path to residency because he entered with a parole and is eligible for Cuban Adjustment. Respondent is keeping the Petitioner detained for the sole purpose of coercing him into signing his own deportation with a lengthy detention. Petitioner is likely to face many additional months in detention, and therefore, Petitioner seeks relief from this Court that would allow Petitioner to challenge their lengthy and unconstitutional detention.

## **JURISDICTION**

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et. seq.

2. This court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

3. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et. seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et. seq., the All-Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

4. This Court has jurisdiction under 28 U.S.C. 2241, art. I, § 9, cl. 2 of the United States Constitution (“Suspension Clause”) and 28 U.S.C. § 1331, as Petitioner is presently in custody under color of authority of the United States and such custody is in violation of the U.S. Constitution, laws, or treaties of the United States. This Court may grant relief pursuant to 28 U.S.C. § 2241, and the All-Writs Act, 28 U.S.C. § 1651.

## **VENUE**

5. Venue is proper because Petitioner is in Respondents’ custody located within the Jurisdiction of the **Southern District of Florida**. Venue is further proper because a substantial part of the events or omissions giving rise to Petitioner’s claims occurred in this District, where Petitioner is now in Respondent’s custody. 28 U.S.C. § 1391(e).

## **PARTIES**

6. Petitioner is a citizen of Cuba who most recently arrived in the United States on or about May 12, 2003. Petitioner has been in custody of the Department of

Homeland Security (DHS) since January 12, 2025. Petitioner has sought relief from removal in Petitioner's immigration court case and in addition has applied for Adjustment of Status under the Cuban Adjustment ACT with USCIS.

7. Respondent Garrett J. Rippa is the Acting Director of the Miami Field Office of Enforcement and Removal Operations, U.S. Immigration and Customs Enforcement (,"ICE") Department of Homeland Security. As such, Mr. Garret J. Rippa is Petitioner's immediate custodian. He is named in his official capacity.

8. Respondent Todd Lyons is the acting director of U.S. Immigration and Customs Enforcement, and he has authority over the actions of Respondent Garret J. Rippa and ICE in general. Respondent Lyons is a legal custodian of Petitioner.

9. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and has authority over the actions of all other DHS Respondents in this case, as well as all operations of DHS. Respondent Noem is a legal custodian of Petitioner and is charged with faithfully administering the immigration laws of the United States.

10. Respondent Pamela Bondi is the Attorney General of the United States, and as such has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States.

11. Respondent Department of Homeland Security (DHS) is the federal agency responsible for implementing and enforcing the INA, including the detention of noncitizens.

12. Respondent U.S. Immigration Customs Enforcement is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including the arrest, detention, and custody status of non-citizens.

#### EXHAUSTION

13. Petitioner argues any appeal to the BIA would be futile considering a September 5, 2025, BIA decision where the BIA adopted DHS's interpretation of the INA as mandating detention without bond for millions of noncitizens who reside in the U.S. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA's decision held that immigration judges lack jurisdiction to hold bond hearings or grant bond to all individuals charged with entering the country without inspection. *Id.*

14. The Court should find administrative exhaustion would be futile. *See Vasquez- Rodriguez v. Garland*, 7 F.4th 888, 896 (9th Cir. 2021) ("where the agency's position appears already set and recourse to administrative remedies is very likely futile, exhaustion is not required."). BIA decisions are binding on immigration judges, and *Hurtado* thus precludes an IJ from finding jurisdiction over noncitizens like Petitioner to hold a custody redetermination hearing. Therefore, judicial intervention enjoining Respondents from preventing Petitioner from having a bond hearing pursuant to the holding in *Hurtado* is necessary to enable Petitioner to avail himself of his administrative remedies.

15. Additionally, an appeal with the BIA would unduly extend the Petitioner's detention.

16. Therefore, the Court should consider the merits of the Petition.

### FACTUAL BACKGROUND

17. Petitioner is a citizen of Cuba. [REDACTED]

[REDACTED] and fled to the United States for protection.

18. Petitioner entered the United States on or about May 12, 2022, at or near Del Rio, Texas. Petitioner was then paroled by Respondents into the United States under Section 212 (d)(5) on or about May 13, 2022.

19. Petitioner was arrested on January 10, 2026. Petitioner was stopped by Florida Wildlife officers on October 4, 2025 while he was fishing. Petitioner kept a fish that was undersized and was fishing without a license. The petitioner was given a fine and charged under 379.401.2B1 and Petitioner paid the fine. The Petitioner later received a warrant dated January 2, 2026 for the undersized fish and went to the police department on January 10, 2026 and was then detained. Petitioner was detained on January 10, 2026, and then transferred to ICE custody on January 12, 2026, and has been detained since. This is the Petitioner's first offense and he has no other criminal record.

20. Petitioner applied for Adjustment of Status under Cuban Adjustment with USCIS on or about July 21, 2022.

21. According to *Public Law 89-732- NOV. 2, 1966*, any alien who is a native or citizen of Cuba who has been inspected, and admitted or paroled into the United States may adjust status. Additionally, the applicant must have continuous physical presence in the U.S for one year and one day from the date of his arrival. Petitioner meets these requirements and is thus eligible to Adjust via the Cuban Adjustment Act.

22. On January 27, 2026, the Petitioner had a bond hearing and the immigration judge denied the bond motion stating that he did not have jurisdiction based

on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

## **CLAIMS FOR RELIEF**

### **COUNT ONE**

#### **Violation of Fifth Amendment Right to Due Process**

##### **Procedural Due Process**

23. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

24. The Due Process Clause of the Fifth Amendment to the U.S. Constitution prohibits the federal government from depriving any person of “life, liberty, or property, without due process of law.” U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

25. Immigration detention is only permissible where it bears a “reasonable relation to the purpose for which the individual was committed.” *Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690. Those purposes are limited: preventing flight and protecting the community. *Demore v. Kim*, 538 U.S. 510, 528 (2003).

26. Due process requires that government action be rational and non-arbitrary. *See U.S. v. Trimble*, 487 F.3d 752, 757 (9th Cir. 2007).

27. The INA envisions three basic forms of detention for noncitizens in removal proceedings. First, detention for noncitizens in regular, non-expedited removal proceedings. *See* 8 U.S.C. § 1226(a), (c). Individuals in § 1226(a) detention are entitled to a bond hearing at the outset of their detention, while noncitizens who have committed certain crimes are subject to mandatory detention. *See id.* § 1226(c).

28. Neither community protection nor flight risk applies to the Petitioner, and therefore, the detention no longer bears a reasonable relation to the purpose for which it was committed. *See Jackson v. Indiana*, 406 U.S. 715, 738 (1972); *Zadvydas*, 533 U.S. at 690. The Petitioner is following the law and pursuing his application for Adjustment of Status under the Cuban Adjustment Act. The Petitioner is not being detained because they are a flight risk or because they are a danger to society. The Petitioner has only one charge and it was simply for fishing without a license and keeping a fish that was undersized. This is not a violent offense and there is no reason to believe that he will pose a threat the community. This is a second-degree misdemeanor that is normally punishable with a simple fine, but because of Petitioner's immigration status he has been held at a detention center for almost a month. The Petitioner is also not a flight risk because he has a clear path to Residency via the Cuban Adjustment Act. Additionally, Petitioner has family in the U.S who have written letters in support of the Petitioner in his Bond hearing. He is also gainfully employed and has a CDL license for driving heavy rigs and has a fiancée who is a U.S. Citizen. The Respondents are detaining the Petitioner for the sole purpose of coercing him into signing his own deportation order. The Respondents hope to achieve this by inducing fear, exhaustion, and psychological trauma on the Petitioner so that he may sign his deportation.

29. In addition, the Petitioner is being detained and in the process of removal simply to meet the current administration's quota for removals rather than a real legal or administrative purpose, due to the fact that the Petitioner has a clear path to Residency through the Cuban Adjustment Status. Additionally, Petitioner has significant ties to the community and has no criminal charges for violent crimes.

30. Under the three-part test of *Mathews*, 424 U.S., the balance overwhelmingly favors Petitioner. Petitioner's interest in liberty and family unity is paramount; the Government's blanket detention policy under *Yajure Hurtado* creates an extreme risk of erroneous deprivation by denying Petitioner any opportunity to demonstrate eligibility for release; and the Government's interest in ensuring appearance can be served by far less restrictive means. Accordingly, due process requires an individualized bond hearing under § 1226(a).

31. These cumulative actions render his detention even more constitutionally suspect, as they reflect punitive conduct rather than civil processing.

## **COUNT TWO**

### **Violation of Eight Amendment**

32. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

33. The Petitioner has been detained for a simple offense that is normally punished with a fine. Excessive punishment is a violation of the Eighth Amendment to the Constitution and, in the instant case, the Petitioner was punished harshly by being detained for almost a month (and counting, as of the date of this Petition) simply for keeping a fish that is undersized and fishing without a license. Petitioner being in Detention for nearly a month held in horrible conditions is cruel and unusual punishment for the minor crime that the Petitioner committed.

34. It is unconstitutional and a violation to punish someone for their status. In *Robinson v. California*, 370 U.S. 660(1962), it was held that a person cannot be punished because of their status or condition. In the instant case, the Petitioner was punished for his

status /condition which is that of an immigrant.

### COUNT THREE

#### **Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A), the Immigration and Nationality Act – 8 U.S.C. § 1226, and Federal Regulations**

#### **Not in Accordance with Law and in Excess of Statutory Authority Unlawful Detention**

35. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

36. Under the Administrative Procedures Act (APA), a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

37. An action is an abuse of discretion if the agency “entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise.” *Nat’l Ass’n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass’n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

38. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

39. By detaining the Petitioner categorically, Respondents have abused their discretion because, since the agency made its initial determination to parole Petitioner into the United States, on information and belief, there have been no changes to Petitioner’s facts or circumstances that support detention. Respondents have violated the INA, implementing regulations, and the APA.

40. On information and belief, Respondents have made no finding that Petitioner is a danger to the community.

41. On information and belief, Respondents have made no finding that Petitioner is a flight risk because, in fact, Petitioner has family ties, a U.S citizen fiancée located in the U.S., and is gainfully employed.

#### **COUNT FOUR**

##### **Violation of 8 U.S.C. § 1226(a) Unlawful Denial of Bond Hearings**

42. Petitioner herein incorporates all allegations and facts set forth in the paragraphs above.

43. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to noncitizens residing in the United States who are subject to the grounds of inadmissibility because they previously entered the country without being admitted. Such noncitizens are detained under § 1226(a), unless they are subject to another detention provision, such as § 1225(b)(1), § 1226(c), or § 1231.

44. The application of § 1225(b)(2) to Petitioner violates the Immigration and Nationality Act.

#### **PRAYER FOR RELIEF**

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

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 within three (3) days;
3. Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;

4. Issue a Writ of Habeas Corpus ordering the Respondents to release Petitioner from custody; hold a hearing if warranted; determine that Petitioner's detention is not justified because the government has not established by clear and convincing evidence that petitioner presents a risk of flight or a danger to the community in light of the available alternatives;
5. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the court's approval;
6. Declare that Petitioner's continued detention is unconstitutional and unlawful, as it is not reasonably related to any valid purpose of immigration detention and violates the Fifth Amendment guarantee of due process;
7. Declare that Petitioner's continued detention is unconstitutional and unlawful, as it is not reasonably related to any valid purpose of immigration detention and violates the Eight Amendment protection from Cruel and Unusual Punishment;
8. Declare that Respondents' conduct violates the Administrative Procedure Act, 5 U.S.C. §§ 702 and 706, as arbitrary, capricious, and not in accordance with law;
9. In the alternative, should the Court determine that immediate release is not warranted, order Respondents to provide Petitioner an individualized bond hearing before an impartial immigration judge within 14 days, at which the government bears the burden to justify continued detention by clear and convincing evidence;
10. Award reasonable attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and
11. Grant such other and further relief as the Court deems just and proper.

DATED: February 2, 2026.

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