

**UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TEXAS
SAN ANTONIO DIVISION**

Reynaldo Morales Hamilton,
Petitioner,

v.

**Kristi Noem, Secretary, U.S. Department of
Homeland Security, Pamela Bondi, U.S.
Attorney General, Todd M. Lyons, Acting
Director of Immigration and Customs
Enforcement; Miguel Vergara, San Antonio
Field Office Director; Rose Thompson, Warden
of the Karnes City, Immigration Processing
Center,**
Respondents

Case No. 5:26-CV-00680

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. In Cuba, Petitioner, Reynaldo Morales Hamilton ("Mr. Hamilton") was considered a "Regime Opponent." He advocated for and participated in peaceful political protest to support democracy, fair elections, and free speech. In Cuba, pro-democracy activities like those in which Mr. Hamilton participated are widely and violently suppressed by the Cuban Regime, and the Cuban police act with impunity against perceived political opponents. Mr. Hamilton fled persecution and threats to his and his life because of his political opinions supporting democracy, the rule of law, and fair elections and for being labeled a "traitor" to the Cuban Regime because of these opinions. Mr. Hamilton sought refuge, specifically first a humanitarian parole upon entry, then adjustment of

status after being in the United States for the requisite time period to adjust status to legal permanent resident under the Cuban Adjustment Act.

2. Mr. Hamilton arrived in the United States on or about August 23, 2023 when he was granted entry into the United States under the Cuban, Haitian, Nicaraguan, and Venezuelan (CHNV) parole program implemented in January 2023. He was lawfully admitted into the United States as was approved under the then visa waiver program as he had a U.S. based supporter, background checks, and air travel having been the beneficiary of parole entry under this CHNV visa waiver program for Cuba. The CHNV parole program, which includes Cuba, was implemented under the immigration regulation of humanitarian parole, specifically authorized by the Secretary of Homeland Security under Section 212(d)(5)(A) of the Immigration and Nationality Act (INA) of 1952. This allowed beneficiaries from Cuba, Haiti, Nicaragua, and Venezuela with a U.S. Sponsor to enter and remain for two years in the United States.
3. Mr. Hamilton entered the United States under this CHNV regulation allowing him to be lawfully present in the United States for two years. That period of permission expired in August 2025; however, prior his parole ending, Mr. Hamilton applied for an I485 adjustment of status to USCIS and that application is current pending. Mr. Hamilton complied with the requisite time period of being physically present in the United States for a year to qualify for adjustment of status under the Cuban Adjustment Act. 26 at 8:30 a.m. See Exhibit A. (NTA issued 10/26/2024).
4. On November 18, 2025, ICE completed a routine transit stop of Petitioner and apprehended him.

5. On November 18, 2025 ICE issues a Notice to Appear dated November 18, 2025 charges Respondent with inadmissibility under § 212(a)(6)(A)(i) of the Immigration and Nationality Act ("INA") [8 U.S.C. § 1182(a)(6)(A)(i)] 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." The **"arriving alien" checkbox is unmarked**. As such, it vacates the expedited removal order. ("Section 235(b)(1) order was vacated pursuant to 8 C.F.R. 208.30") Since then, Petitioner has lived and worked in the United States, specifically Texas. Petitioner was placed in removal proceedings under section 240 of the Immigration and Nationality Act and ordered to appear before an immigration Judge. See Exhibit "A" (NTA).
6. Even so, Respondents now seek and have detained Mr. Hamilton as they seek to deport him. Respondents' interpretation of President Trump's whim and categorical determination that, notwithstanding the facts in this case, Mr. Hamilton should be detained, transferred and deported. It is unlawful to detain and deport Mr. Hamilton without providing him due process of law and individualize determination to his custody.
7. Accordingly, to vindicate Petitioner's rights, this Court should grant the instant petition for writ of habeas corpus. Mr. Hamilton ask this Court to find that Respondent's attempts to detain, transfer, and deport him are arbitrary and capricious and in violation of the law, and to issue an order preventing his transfer out of this district.

JURISDICTION

8. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. §1101 et. Seq.
9. This Court has subject matter jurisdiction over Petitioners' petition for writ of habeas corpus pursuant to 28 U.S.C §2241 (habeas corpus). The Court also has jurisdiction pursuant to 28 U.S.C §1331 (Federal Question Jurisdiction), and Article I, §9, cl.2 of the United States Constitution (Suspension Clause).
10. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. §2241 et. Seq., the Declaratory Judgement Act. 28 U.S.C. §2201 et. Seq., and the All Writs. 28 U.S.C §1651.
11. Although only the Court of Appeals has jurisdiction to review removal orders directly through a petition for review, see 8 U.S.C §§ 1252(a)(1), (a)(5), (b), District Courts have jurisdiction to hear habeas corpus claims by noncitizens challenging the lawfulness or constitutionality of their detention by ICE. See e.g. Jennings v. Rodriguez, 583 U.S. 281, 292-96 (2018); Demore v. Hyung Joon Kim, 538 U.S. 510, 516-17 (2003); Zadvydas v. Davis, 533 U.S. 678, 687-88(2001).

VENUE

12. Venue is proper in this district because the Petitioner is in Respondent's custody within this district in Karnes City, Texas, and a substantial amount of the events giving rise to this claim occurred within the district. 28 U.S.C §139(e).

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

13. 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.* 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).

14. Petitioner is “in custody” for the purpose of § 2241 because he has been released from detention subject to Respondents’ affording him a parole upon entry into the United States in August 2023; and he has been residing in Texas since that date. “[T]he Supreme Court has repeatedly held that the in-custody requirement [of 28 U.S.C. § 2241] is met where the Government restricts a petitioner’s freedom of action or movement,” including through an immigration order of supervision. See *Doe v. Barr*, 479 F. Supp. 3d 20, 26 (S.D.N.Y. 2020), citing *Jones v. Cunningham*, 371 U.S. 236 (1963) and *Spencer v. Kemna*, 523 U.S. 1, 7 (1998); see also, e.g., *Devitri v. Cronen*, 290 F. Supp. 3d 86, 90 (D. Mass. 2017) (finding the same); *Alvarez v. Holder*, 454 F. App’x 769, 772-72 (11th Cir. 2011) (same).

PARTIES

15. Petitioner Reynaldo Morales Hamilton is a 29-year-old citizen of Cuba and resident of Texas. He is resident of Texas and is present within the state of Texas as of the time of the filing of this petition. He is currently detained by ICE at the Karnes City Immigration Processing Center located in Karnes City, Texas. He has been assigned  by the Department of Homeland Security (DHS). See Exhibit “B” (Cuban Passport).

17. Respondent Kristi Noem is the Secretary of the Department of Homeland Security (DHS) and is charged with implementing the immigration laws of the United States. Secretary Noem is being sued in her official capacity.
18. Respondent Pamela Bondi is the Attorney General for the United States and is charged with overseeing the Executive Office of Immigration Review (EOIR). General Bondi is being sued in her official capacity.
19. Respondent Todd M. Lyons is the Acting Director of the Immigration and Customs Enforcement (ICE), a sub-agency of Homeland Security. It is under ICE's authority that the Petitioner is being held without bond. Acting Director Lyons is being sued in his official capacity.
20. Respondent Miguel Vergara is the Field Office Director for ICE enforcement and Removal Operations (ERO) San Antonio Field Office. It is under Respondent Vergara's order that the Petitioner is in immigration custody. Respondent Vergara is being sued in his official capacity.
21. Respondent Rose Thompson is the warden and/or immediate custodian at the Karnes City Immigration Processing Center in Karnes City, Texas. Respondent Thompson is being sued in her official capacity.
22. 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.
23. Respondent U.S. Department of Homeland Security is the federal agency that has authority over the actions of ICE and all other DHS Respondents.
24. This action is commenced against all Respondents in their official capacities.

25. Petitioner's removability is currently the subject of an administrative proceeding before the Pearsall Immigration Court.

LEGAL FRAMEWORK

26. Noncitizens in immigration proceedings are entitled to Due Process under the Fifth Amendment of the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).
27. The Immigration and Nationality Act (INA) establishes various procedures through which individuals may be detained pending a decision on whether the noncitizen is to be removed. 8 U.S.C. § 1226(a).
28. Removal proceedings described in section 240 of the INA are used to determine whether individuals, such as Petitioner, should be removed from the United States. See 8 U.S.C. § 1229a.
29. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 4253 (1979).
30. Custody determinations for individuals in 1229a removal proceedings are governed by 8 U.S.C. § 1226. Under § 1226(a), an individual may be released if he does not present a danger to persons or property and is not a flight risk. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Matter of Guerra*, 24 I&N Dec. 37 (BIA 2006).
31. Custody determinations under § 1226(a) are individualized and based on the facts presented in those cases. Unlike § 1226(c), which can provide for categorical

determinations for detention regardless of flight risk or safety risks, § 1226(a) requires a case-by-case review of the facts and circumstances.

32. Once a determination to release an individual from custody is made, the release order may be revisited when the facts or circumstances warrant revocation or reconsideration. 8 U.S.C. § 1226(b). For an individual who was once in custody, the Attorney General may take that individual back into custody by revoking the individual's release when the facts and circumstances warrant it.

33. Revocation and return to custody is authorized only based on the individualized facts and circumstances. 8 C.F.R. § 1236.1(c)(9). By regulation, revocation decisions are limited in nature and may only be made by certain authorized officials. 8 C.F.R. § 1236.1(c)(9).

FACTUAL BACKGROUND

34. The Petitioner, a resident of Texas, is a citizen of Cuba. He was born in 1996. He is lives and works in Texas. He was granted a parole under the CHNV program and was authorized to reside in the United States until August 23, 2025. He took steps to adjust status to legal permanent resident under the Cuban Adjustment Act on December 3, 2024, prior to the expiration of his parole. See Exhibit C (I485 application for Legal permanent resident filed under the Cuban Adjustment Act)

35. Petitioner has a strongly rooted belief in democracy, fair elections, free speech and the rule of law. In Cuba, his peaceful expression of these beliefs caused the Cuban government, under their Cuban Regime, [REDACTED]

[REDACTED]. Because of his political views, Petitioner was harmed and threatened at his home by [REDACTED] who labeled him a "traitor" to the Cuban



Petitioner decided to seek protection in the United States because he did not believe that he could live safely in Cuba.

36. Petitioner was informed on November 18, 2025 that removal proceeding were initiated again him and that he was being placed in removal proceedings under section 240 of the INA and he would have his first hearing before the Immigration Court in early 2026.

37. Petitioner has no criminal history.

38. On January 20, 2025, President Donald Trump issued several executive actions relating to immigration, including “Protecting the American People Against Invasion,” an executive order (EO) setting out a series of interior immigration enforcement actions. The Trump administration, through this and other actions, has outlined sweeping, executive branch-led changes to immigration enforcement policy, establishing a formal framework for mass deportation. The “Protecting the American People Against Invasion” EO instructs the DHS Secretary “to take all appropriate action to enable” ICE, CBP, and USCIS to prioritize civil immigration enforcement procedures including through the use of mass detention.

39. Petitioner is not and has never been affiliated with any criminal gangs.

40. On information and belief, Respondents have adopted a “list” or blanket policy directing ICE officials to detain certain Cuban nationals categorically regardless of the individualized facts or circumstances of the case.

41. On information and belief, Petitioner avers that Respondents began to seek out noncitizens who “looked like immigrants” in Texas in late 2025 and early 2026.

42. On or about November 18, 2025, after a routine transit stop, the Petitioner was asked to stop by DHS officers and asked regarding lawful status. As the Petitioner attempted to explain his pending application with USCIS, Petitioner was re-detained by DHS despite not committing any infraction. Petitioner's re-detention was not based on any materially changed circumstances that would now render him a flight risk or danger to the community.

43. On information and belief, Respondents have already determined under their categorical policy to detain Petitioner and then to remove him from the district by transferring him to a remote detention facility before removing him from United States soil, without considering the individualized facts and circumstances of his case.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

44. The Petitioners have exhausted their administrative remedies to the extent required by law. The Petitioner requested a bond before the IJ. At the filing of this Writ of Habeas Corpus, the bond request has not been set for hearing. It would be futile to require the Petitioners to file another request or an appeal given that the BIA has already announced its decision on the issue of bond jurisdiction in *Yajure Hurtado*.

CLAIMS FOR RELIEF

COUNT ONE

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Abuse of Discretion

Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

45. Petitioner restates and realleges all paragraphs as if fully set forth here.

46. Under the APA, a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).
47. 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)).
48. 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).
51. By categorically detaining Petitioner without consideration of his individualized facts and circumstances, Respondents have violated the APA.
49. By detaining and transferring the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial custody determinations that support the revocation of his release from custody.
50. Respondents have already considered Petitioner’s facts and circumstances and determined that he was not a flight risk or danger to the community. There have been no changes to the facts that justify this revocation of his release. The fact that Petitioner has already been granted release by Respondents under the same facts and circumstances shows that Respondents do not consider him, on an individualized basis, to be a danger to the community or a flight risk.

51. The Respondents may not deprive a person of life, liberty, or property without due process of law. U.S. Const. Amend. V. The Petitioners have a weighty liberty interest as their freedom “from government ...detention...lies at the heart of the liberty that [the Fifth Amendment] protects.” *Zavadas*, 533 U.S. at 690.
52. Individuals who have been released from custody gain a protected liberty interest in remaining free from custody, and ICE must show materially changed circumstances to justify redetention. See e.g. *Matter of Sugay*, 17 I&N at 640, *Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal 2019), *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *11(W.D. Tex. Sept. 22, 2025)(“[Once] released from immigration custody, noncitizens acquire ‘a protectable liberty interest in remaining out of custody on bond,’”); *Singh*, 2025 WL 1918679, at *6 (“Furthermore, the Supreme Court has held that, even when a statute authorizes revocation of an individual’s freedom, the individual may retain a protected liberty interest under the Due Process Clause.”).
53. To determine whether a civil detention violates a detainee’s right to due process, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976), See *Martinez v. Noem*, No. 5:25-CV-1007-JKP.2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025), The Mathews factors are (1) “the private interest that will be affected by the official action” (2) “the risk of an erroneous deprivation of such interest through the procedural safeguards” and (3) “the Government’s interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirements would entail.” *Mathews*, 424 U.S. at 335.

54. These factors all favor a determination that the Petitioner is being held without due process of law. The deprivation of their liberty interest based on *Yajure Hurtado* carries a high risk that the Petitioners' liberty is being erroneously deprived.
55. The Respondents re-detention of Petitioner more than two year and three months after his release, without prior notice, any showing of changed circumstances, or a meaningful opportunity to contest his re-detention violates the Fifth Amendment's Due Process Clause.

COUNT TWO

Violation of the Administrative Procedure Act – 5 U.S.C. § 706(2)(A)

Not in Accordance with Law and in Excess of Statutory Authority

Violation of 8 U.S.C. § 1226(b), 8 C.F.R. § 1236.1(c)(9)

56. Petitioner restates and realleges all paragraphs as if fully set forth here.
57. Under the APA, a court “shall . . . hold unlawful . . . agency action” that is “not in accordance with law;” “contrary to constitutional right;” “in excess of statutory jurisdiction, authority, or limitations;” or “without observance of procedure required by law.” 5 U.S.C. § 706(2)(A)-(D).
58. 8 U.S.C. § 1226(b) authorizes that “[t]he Attorney General at any time may revoke a bond or parole authorized under [8 U.S.C. § 1226(a)]” and rearrest a noncitizen under the initial warrant. In implementing this statutory provision, 8 C.F.R. § 1236.1(c)(9) clarifies that such revocations of release from custody may only be carried out in the “discretion of the district director, acting district director, deputy district director, assistant district director for investigations, assistant district director for detention and deportation, or officer in charge (except foreign).”

59. It is a well-established administrative principle that “agency action taken without lawful authority is at least voidable, if not void ab initio.” *L.M.-M. v. Cuccinelli*, 442 F. Supp. 3d 1, 35 (D.D.C. 2020), citing *SW General, Inc. v. NLRB*, 796 F.3d 67, 79 (D.C. Cir. 2015); see also *Hooks v. Kitsap Tenant Support Servs., Inc.*, 816 F.3d 550, 555 (9th Cir. 2016) (invalidating agency action because it was taken by unauthorized official).
60. On information and belief, Respondents have revoked or are revoking Petitioner’s prior custody determination because of their new categorical policy prepared by and implemented by unidentified government officials in Washington, not by the individual exercise of discretion required by law or by the individuals enumerated by regulation to do so.
61. Because Petitioner’s revocation of parole from custody has been made or will be categorically directed by government officials not authorized by law to make this determination, Respondents’ detention of Petitioner is not in accordance with law and in excess of statutory authority.

COUNT THREE

Violation of Fifth Amendment Right to Due Process

Procedural Due Process

62. Petitioner restates and realleges all paragraphs as if fully set forth here.
63. 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; accord *Flores*, 507 U.S. at 306.

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

65. While the government has discretion to detain individuals under 8 U.S.C. § 1226(a) and to revoke custody decisions under 8 U.S.C. § 1226(b), this discretion is not “unlimited” and must comport with constitutional due process. See *Zadvydas*, 533 U.S. at 698.

66. Here, Respondents have chosen to revoke Petitioner’s release in an arbitrary manner and not based on a rational and individualized determination of whether he is a safety or flight risk, in violation of due process. Because no individualized custody revocation has been made and no circumstances have changed to make Petitioner a flight risk or a danger to the community, Respondents’ revocation of Petitioner’s release violates his right to procedural due process.

67. The Petitioners have a clear right to a custody hearing by an IJ under 8 U.S.C § 1226(a)(2). The Respondents are detaining the Petitioner in direct violation of this statute which authorizes the IJ to grant release from custody.

68. The statute cannot be clearer and requires that the Petitioners be provided with the opportunity to present their custody redetermination case before an IJ. While the BIA reached the opposite conclusion in *Yajure Hurtado*, this interpretation is erroneous and even if it were plausible, it is not entitled to Chevron deference pursuant to the Supreme Court’s decision in *Loper Bright Enterprises v. Raimondo* 603 U.S. 369, 369

(2024) (overruling *Chevron, U.S.A. ,Inc. v. Nat. Res. Def. Council, Inc.*, 467 U.S. 837 (1984)).

69. Moreover, in *Monteon-Camargp v Barr*. The Fifth Circuit found that where the BIA announces a “new rule of general applicability” which “drastically change[s] the landscape,” retroactive application would “contravene basic presumption about our legislative system” and should in that case be disfavored unless the government can demonstrate that the advantages of retroactive application outweigh these grave disadvantages. 918 F.3d 423, 430-431 (2019). (Quoting *Matter of Diaz-Lizarrga*, 26 I&N De. 847, 849, 852, (BIA 2016). Applying *Yajure Hurtado* to individuals like Petitioner, who entered the United States without inspection years before the BIA’s decision is impermissibly retroactive. The BIA’s decision contradicts decades of statutory practice and administrative precedent, under which such individuals were detained under §1226(a) and entitled to a bond hearing. Retroactively applying *Yajure Hurtado* strips these long-established rights and imposes a new disability on past actions by rendering them ineligible for bond, contrary to settled expectations. See *Landgraf v. Usi Film Prods*, 511 U.S. 244, 265 (1994) (“As Justice Scalia has demonstrated.... ‘[e]lementary considerations of fairness dictate that individuals should have an opportunity to know what the law is and to conform their conduct; accordingly, settled expectations should not be lightly disrupted.”).

COUNT FOUR

Accardi Violation

70. In 1997, after Congress amended the INA through IIRIRA, EOIR and the then-Immigration and Naturalization Services issued an interim rule to interpret and apply

IIRIRA. Specifically, under the heading of “Apprehension, Custody, and Detention of Aliens,” the agencies explained that “[d]espite being applicants for admission, aliens who are *present without having been admitted or paroled* (formerly referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination.” 62 Fed. Reg. 10312, 10323 (emphasis added). The agencies thus made clear that individuals who had entered without inspection were eligible for consideration for bond and bond hearings before IJ under 8 U.S.C. §1226 and its implementing regulations.

71. Nonetheless, pursuant to *Yajure Hurtado*, EOIR has a policy and practice of applying §1225(b)(2) to individuals like Petitioner.
72. The application of §1225(b)(2)(A) to Petitioner unlawfully mandates his continued detention in violation of §1226(a) and its regulations at 8 C.F.R. §§236.1, 1236.1 and 1003.19, which for decades have recognized that noncitizens present without admission are eligible for a bond hearing. See *Jennings*, 583 US. At 288-29 (describing §1226 detention as relating to people “inside the United States” and “present in the country”). Such protection is not a mere regulatory grace but a baseline Due Process requirement. See *Hernandez-Lara v. Lyons*, 10 F. 4th 19, 41 (1st Cir. 2021). The only exception for such noncitizens subject to § 1226(a) is where the noncitizen is subject to mandatory detention under 8 U.S.C. §1226 (c), for certain crimes and certain national security grounds of removability. See *Demore v. Kim*, 538 U.S. 510, 512 (2003).
73. Government agencies are required to follow their own regulations. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *United States v. Heffner*, 420

F. 2d 809, 811 (4th Cir. 1969) (“An agency of the government must scrupulously observe rules, regulations, or procedures which it has established. When it fails to do so, its actions cannot stand and courts will strike it down.”). A violation of the Accardi doctrine may itself constitute a violation of the Fifth Amendment Due Process Clause, particularly when liberty is at stake. See e.g. *Sering Ceesay v. Kurzdorfer*, 781 F. Supp. 3d 137, 160 (W.D. N.Y. 2025) (citing *Rombot v. Souza*, 296 F. Supp 3d 383, 388 (D. Mass. 2017)).

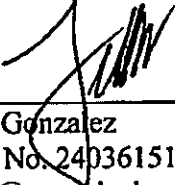
PRAYER FOR RELIEF

For the foregoing reasons, the Petitioner requests that the Respondents be cited to appear and that, upon due consideration, the Court enter an order:

- a. Assume jurisdiction over this matter;
- b. Ordering the Respondents, pursuant to 28 U.S.C. §2243, to demonstrate within three days why Petitioner’s Writ of Habeas Corpus should not be granted.
- c. Granting a Writ of Habeas Corpus finding that the Petitioners’ detention is unlawful and unconstitutional
- d. Providing declaratory relief that the Petitioners’ detention is unlawful;
- e. Ordering Petitioners’ immediate release from custody, or in the alternative, ordering Respondents to provide them a bond hearing under 8 U.S.C. §1226(a) within three days of this Court’s order, at which DHS bears the burden of proof to justify Petitioners re-detention by demonstrating, by clear and convincing evidence, materially changed circumstances rendering Petitioner’s a danger to the community or a flight risk;

- f. Issue an Order prohibiting the Respondents from transferring the Petitioner from the district without the Court's approval or Order while this Writ is pending.
- g. Awarding Petitioner's reasonable attorney fees, expenses, and costs, under the Equal Access to Justice Act, and on any other basis under law; and
- h. Granting Petitioner such other and further relief as the Court may deem just and proper.

Respectfully Submitted,



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Fax: (210) 298-5762

02/03/2026

Date

Attorney for Petitioner

VERIFICATION UNDER 28 U.S.C. §2242

Acting on behalf of the Petitioner's, I verify that the foregoing factual allegations are true and correct as required by 28 U.S.C. §2242.

/s/ Leticia Gonzalez
Leticia Gonzalez

CERIFICATE OF SERVICE

I certify that on today's date, February 3, 2026, I filed the above Verified Petition for Writ of Habeas Corpus by using the Courts CM/ECF system, which will automatically send a notice of electronic filing to Defendant's counsel.

/s/ Leticia Gonzalez
Leticia Gonzalez

Uploaded on: 01/23/2026 at 08:22:35 AM (Central Standard Time) Base City: PSD

DEPARTMENT OF HOMELAND SECURITY
NOTICE TO APPEAR

In removal proceedings under section 240 of the Immigration and Nationality Act:

Subject ID: ~~XXXXXXXXXX~~FINS #: ~~XXXXXXXXXX~~DOB: ~~XXXXXXXXXX~~File No: ~~XXXXXXXXXX~~Event No: ~~XXXXXXXXXX~~

In the Matter of:

Respondent:

REYNALDO MORALES HAMILTON

currently residing at:

(Number, street, city, state and ZIP code)

(Area code and phone number)

- ☐ You are an arriving alien.
- ☒ You are an alien present in the United States who has not been admitted or paroled.
- ☐ You have been admitted to the United States, but are removable for the reasons stated below.

The Department of Homeland Security alleges that you:

1. You are not a citizen or national of the United States;
2. You are a native of CUBA and a citizen of CUBA ;
3. You arrived in the United States at or near MIAMI, FL , on or about August 23, 2023 ;
4. You were not then admitted or paroled after inspection by an Immigration Officer.
5. You are an immigrant not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Immigration and Nationality Act;

On the basis of the foregoing, it is charged that you are subject to removal from the United States pursuant to the following provision(s) of law:

See Continuation Page Made a Part Hereof

- ☐ This notice is being issued after an asylum officer has found that the respondent has demonstrated a credible fear of persecution or torture.
- ☐ Section 235(b)(1) order was vacated pursuant to: ☐ 8CFR 208.30 ☐ 8CFR 235.3(b)(5)(iv)

YOU ARE ORDERED to appear before an immigration judge of the United States Department of Justice at:

566 VETERAN DR STE 101 PEARSALL TX US 78061

(Complete Address of Immigration Court, including Room Number, if any)

on December 23, 2025 at 09:00 AM to show why you should not be removed from the United States based on the
(Date) (Time)

charge(s) set forth above.

CRECENCIO C. CUELLAR II

Acting/Patrol Agent in Charge

(Signature and Title of Issuing Officer)

Date: November 18, 2025

COMSTOCK, TEXAS

(City and State)

EOIR - 1 of 5

Uploaded on: 01/23/2026 at 08:22:35 AM (Central Standard Time) Base City: PSD

Notice to Respondent**Warning:** Any statement you make may be used against you in removal proceedings.**Alien Registration:** This copy of the Notice to Appear served upon you is evidence of your alien registration while you are in removal proceedings. You are required to carry it with you at all times.**Representation:** If you so choose, you may be represented in this proceeding, at no expense to the Government, by an attorney or other individual authorized and qualified to represent persons before the Executive Office for Immigration Review, pursuant to 8 CFR 1003.16. Unless you so request, no hearing will be scheduled earlier than ten days from the date of this notice, to allow you sufficient time to secure counsel. A list of qualified attorneys and organizations who may be available to represent you at no cost will be provided with this notice.**Conduct of the hearing:** At the time of your hearing, you should bring with you any affidavits or other documents that you desire to have considered in connection with your case. If you wish to have the testimony of any witnesses considered, you should arrange to have such witnesses present at the hearing. At your hearing you will be given the opportunity to admit or deny any or all of the allegations in the Notice to Appear, including that you are inadmissible or removable. You will have an opportunity to present evidence on your own behalf, to examine any evidence presented by the Government, to object, on proper legal grounds, to the receipt of evidence and to cross examine any witnesses presented by the Government. At the conclusion of your hearing, you have a right to appeal an adverse decision by the immigration judge. You will be advised by the immigration judge before whom you appear of any relief from removal for which you may appear eligible including the privilege of voluntary departure. You will be given a reasonable opportunity to make any such application to the immigration judge.**One-Year Asylum Application Deadline:** If you believe you may be eligible for asylum, you must file a Form I-589, Application for Asylum and for Withholding of Removal. The Form I-589, Instructions, and information on where to file the Form can be found at www.uscis.gov/i-589. Failure to file the Form I-589 within one year of arrival may bar you from eligibility to apply for asylum pursuant to section 208(a)(2)(B) of the Immigration and Nationality Act.**Failure to appear:** You are required to provide the Department of Homeland Security (DHS), in writing, with your full mailing address and telephone number. You must notify the Immigration Court and the DHS immediately by using Form EOIR-33 whenever you change your address or telephone number during the course of this proceeding. You will be provided with a copy of this form. Notices of hearing will be mailed to this address. If you do not submit Form EOIR-33 and do not otherwise provide an address at which you may be reached during proceedings, then the Government shall not be required to provide you with written notice of your hearing. If you fail to attend the hearing at the time and place designated on this notice, or any date and time later directed by the Immigration Court, a removal order may be made by the immigration judge in your absence, and you may be arrested and detained by the DHS.**Mandatory Duty to Surrender for Removal:** If you become subject to a final order of removal, you must surrender for removal to your local DHS office, listed on the internet at <http://www.ice.gov/contact/ero>, as directed by the DHS and required by statute and regulation. Immigration regulations at 8 CFR 1241.1 define when the removal order becomes administratively final. If you are granted voluntary departure and fail to depart the United States as required, fail to post a bond in connection with voluntary departure, or fail to comply with any other condition or term in connection with voluntary departure, you must surrender for removal on the next business day thereafter. If you do not surrender for removal as required, you will be ineligible for all forms of discretionary relief for as long as you remain in the United States and for ten years after your departure or removal. This means you will be ineligible for asylum, cancellation of removal, voluntary departure, adjustment of status, change of nonimmigrant status, registry, and related waivers for this period. If you do not surrender for removal as required, you may also be criminally prosecuted under section 243 of the Immigration and Nationality Act.**U.S. Citizenship Claims:** If you believe you are a United States citizen, please advise the DHS by calling the ICE Law Enforcement Support Center toll free at (855) 448-6903.**Sensitive locations:** To the extent that an enforcement action leading to a removal proceeding was taken against Respondent at a location described in 8 U.S.C. § 1229(e)(1), such action complied with 8 U.S.C. § 1367.Upon information and belief, the language that the alien understands is SPANISH**Request for Prompt Hearing**

To expedite a determination in my case, I request this Notice to Appear be filed with the Executive Office for Immigration Review as soon as possible. I waive my right to a 10-day period prior to appearing before an immigration judge and request my hearing be scheduled.

Before:

(Signature of Respondent)

Date:

(Signature and Title of Immigration Officer)

Certificate of ServiceThis Notice To Appear was served on the respondent by me on November 18, 2025, in the following manner and in compliance with section 239(a)(1) of the Act.

- ☒ In person ☐ by certified mail, returned receipt # _____ requested ☐ by regular mail
- ☐ Attached is a credible fear worksheet.
- ☒ Attached is a list of organization and attorneys which provide free legal services.

The alien was provided oral notice in the SPANISH language of the time and place of his or her hearing and of the consequences of failure to appear as provided in section 240(b)(7) of the Act.

(Signature of Respondent if Personally Served)

THOMAS M OSTROSKY
Date: 2025.11.18 17:17:06:00

Border Patrol Agent

(Signature and Title of officer)

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Privacy Act Statement

Authority:

The Department of Homeland Security through U.S. Immigration and Customs Enforcement (ICE), U.S. Customs and Border Protection (CBP), and U.S. Citizenship and Immigration Services (USCIS) are authorized to collect the information requested on this form pursuant to Sections 103, 237, 239, 240, and 290 of the Immigration and Nationality Act (INA), as amended (8 U.S.C. 1103, 1229, 1229a, and 1360), and the regulations issued pursuant thereto.

Purpose:

You are being asked to sign and date this Notice to Appear (NTA) as an acknowledgement of personal receipt of this notice. This notice, when filed with the U.S. Department of Justice's (DOJ) Executive Office for Immigration Review (EOIR), initiates removal proceedings. The NTA contains information regarding the nature of the proceedings against you, the legal authority under which proceedings are conducted, the acts or conduct alleged against you to be in violation of law, the charges against you, and the statutory provisions alleged to have been violated. The NTA also includes information about the conduct of the removal hearing, your right to representation at no expense to the government, the requirement to inform EOIR of any change in address, the consequences for failing to appear, and that generally, if you wish to apply for asylum, you must do so within one year of your arrival in the United States. If you choose to sign and date the NTA, that information will be used to confirm that you received it, and for recordkeeping.

Routine Uses:

For United States Citizens, Lawful Permanent Residents, or individuals whose records are covered by the Judicial Redress Act of 2015 (5 U.S.C. § 552a note), your information may be disclosed in accordance with the Privacy Act of 1974, 5 U.S.C. § 552a(b), including pursuant to the routine uses published in the following DHS systems of records notices (SORN): DHS/USCIS/ICE/CBP-001 Alien File, Index, and National File Tracking System of Records, DHS/USCIS-007 Benefit Information System, DHS/ICE-011 Criminal Arrest Records and Immigration Enforcement Records (CARIER), and DHS/ICE-003 General Counsel Electronic Management System (GEMS), and DHS/CBP-023 Border Patrol Enforcement Records (BPER). These SORNs can be viewed at <https://www.dhs.gov/system-records-notices-sorns>. When disclosed to the DOJ's EOIR for immigration proceedings, this information that is maintained and used by DOJ is covered by the following DOJ SORN: EOIR-001, Records and Management Information System, or any updated or successor SORN, which can be viewed at <https://www.justice.gov/opcl/doj-systems-records>. Further, your information may be disclosed pursuant to routine uses described in the abovementioned DHS SORNs or DOJ EOIR SORN to federal, state, local, tribal, territorial, and foreign law enforcement agencies for enforcement, investigatory, litigation, or other similar purposes.

For all others, as appropriate under United States law and DHS policy, the information you provide may be shared internally within DHS, as well as with federal, state, local, tribal, territorial, and foreign law enforcement; other government agencies; and other parties for enforcement, investigatory, litigation, or other similar purposes.

Disclosure:

Providing your signature and the date of your signature is voluntary. There are no effects on you for not providing your signature and date; however, removal proceedings may continue notwithstanding the failure or refusal to provide this information.

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U.S. Department of Homeland Security

Continuation Page for Form 1862

Alien's Name
REYNALDO MORALES HAMILTONFile Number
Date
November 18, 2025

ON THE BASIS OF THE FOREGOING, IT IS CHARGED THAT YOU ARE SUBJECT TO REMOVAL FROM THE UNITED STATES PURSUANT TO THE FOLLOWING PROVISION(S) OF LAW:

212(a) (6) (A) (i) of the Immigration and Nationality Act, as amended, in that you are 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. 212(a) (7) (A) (i) (I) of the Immigration and Nationality Act (Act), as amended, as an immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.

Signature

CRECENCIO C. CUELLAR

THOMAS M OSTROFSKY
Date: 2025.11.18 17:53 -06:00


Title

Acting/Patrol Agent in Charge

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**CERTIFICATE OF SERVICE
FILINGS**

On January 23, 2026, I, Patric Lisle, served a copy of this filing and any attached pages through the EOIR Courts and Appeals System, (ECAS), and submitted a copy via email to counsel for respondent:

Leticia Gonzalez
l.gonzalez@gonzalezlawyer.com

i. p. 2

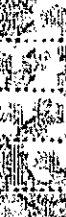
		SEXO / TYPE P		CODIGO DEL PAIS / COUNTRY CODE CUB		Nº DE PASAPORTE / PASSPORT Nº 123456789	
		APELLIDOS / SURNAME RODRIGUEZ		NOMBRE / GIVEN NAME JOSE		Nº DE IDENTIFICACION / ID Nº 123456789	
NACIONALIDAD / NATIONALITY CUBANO		FECHA DE NACIMIENTO / DATE OF BIRTH 15/01/1980		FECHA DE EMISION / DATE OF ISSUE 15/01/2010		FECHA DE VENCIMIENTO / DATE OF EXPIRY 15/01/2015	
LUGAR DE NACIMIENTO / PLACE OF BIRTH LA HABANA		LUGAR DE EMISION / PLACE OF ISSUE LA HABANA		LUGAR DE EXPIRACION / PLACE OF EXPIRY LA HABANA		LUGAR DE VENCIMIENTO / PLACE OF EXPIRY LA HABANA	
SEXO / SEX M		FIRMA DEL TITULAR / SIGNATURE 		FIRMA DEL TITULAR / SIGNATURE 			

Exhibit C

Your Cases

I-485 Application to Register Permanent Residence or Adjust Status

Receipt # 

 Remove

Case status

Case history

December 3, 2024

Case Was Updated To Show Fingerprints Were Taken

As of December 3, 2024, fingerprints relating to your Form I-485, Application to Register Permanent Residence or Adjust Status, Receipt Number  have been applied to your case. If you move, go to www.uscis.gov/addresschange to give us your new mailing address.

Current as of today at 11:11 a.m.