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UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

MIGUEL ANGEL AGUIRRE RODRIGUEZ,

Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the Department of Homeland Security; **PAMELA BONDI**, in her official capacity as Attorney General of the United States; **TODD LYONS**, in his official capacity as Acting Director and Senior Official Performing the Duties of the Director of U.S. Immigration and Customs Enforcement; **GARRETT RIPA,** in his official capacity as Field Office Director of the Miami Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations; **E.K. CARLTON**, in his official capacity as Warden of the of the Miami Federal Detention Center

Respondents.

Case No. ________________

MOTION FOR TEMPORARY RESTRAINING ORDER

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INTRODUCTION

Petitioner, Miguel Angel Aguirre Rodriguez, is a husband, father of three U.S. citizen children, and a citizen of Mexico who has lived in the United States for more than thirty-one (31) years, building his family, home, and livelihood here. He has pursued his claims for relief diligently and in good faith, including an application for Cancellation of Removal under INA § 240A(b). Petitioner has no criminal history, no record of violent conduct, and has complied with every requirement imposed by the Department of Homeland Security (DHS) and the immigration court.

On October 13, 2025, DHS apprehended Petitioner in Florida and subsequently transferred him to the Miami Federal Detention Center, where he remains detained under the supervision of the Miami Field Office of Enforcement and Removal Operations. DHS issued Petitioner a Form I-200 Warrant of Arrest and placed him in ordinary § 240 removal proceedings.

Despite Petitioner's eligibility for custody consideration under section 236 of the Immigration and Nationality Act (INA), DHS has classified him as subject to mandatory detention under section 235 of the INA, relying on Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), thereby preventing him from obtaining any bond consideration. Petitioner contests this characterization, explaining that DHS's account of his apprehension is both factually disputed and legally insufficient to deprive him of access to custody review.

Petitioner is a member of the Bond Eligible Class certified in Maldonado Bautista v. Santacruz. Nonetheless, DHS continues to detain him and has refused to provide him with any

individualized custody determination, asserting that the declaratory judgment in Maldonado Bautista is not controlling and that detention is mandatory under Matter of Yajure Hurtado.

Despite this, DHS continues to detain Petitioner indefinitely and has refused to provide him with any individualized custody determination. His removal proceedings remain pending before the Miami Krome Immigration Court, with hearings currently scheduled. Yet no statutory, constitutional, or regulatory basis exists for his continued confinement. His detention—civil in name but punitive in effect—has become arbitrary, indefinite, and wholly unsupported by any individualized finding of flight risk or danger.

Petitioner suffers irreparable harm each day he remains detained. The government's refusal to provide him with a meaningful custody review contravenes the Immigration and Nationality Act, 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment, and fundamental constitutional protections governing civil detention. He therefore seeks immediate judicial intervention.

For these reasons, Petitioner respectfully requests that this Court: (1) enjoin Respondents from transferring him outside this District while this action is pending; (2) direct Respondents to provide him with a constitutionally adequate custody determination, including consideration for release on bond under § 1226(a), before a neutral Immigration Judge within three days at which DHS bears the burden of proof; and (3) grant such other and further relief as law and justice require.

STATEMENT OF FACTS

Petitioner repeats and incorporates by reference each Statement of Facts contained in the Petition for Writ of Habeas Corpus as if fully set forth herein.

I. HABEAS RELIEF

To obtain habeas corpus relief, a petitioner must demonstrate that he is "in custody in violation of the Constitution or laws or treaties of the United States." See 28 U.S.C. § 2241(c)(3). This Court has habeas corpus jurisdiction to consider the statutory and constitutional grounds for immigration detention that are unrelated to a final order of removal. See Demore v. Kim, 538 U.S. 510, 517–18 (2003).

II. DETENTION AUTHORITY UNDER THE INA

The Immigration and Nationality Act ("INA") establishes three principal statutory bases for the detention of noncitizens in removal proceedings. First, 8 U.S.C. § 1226(a) authorizes the discretionary detention of noncitizens placed in standard removal proceedings under 8 U.S.C. § 1229a. Individuals detained under § 1226(a) are entitled to an individualized custody determination before an Immigration Judge and may seek release on bond or conditional parole. See 8 C.F.R. §§ 1003.19(a), 1236.1(d). By contrast, noncitizens falling within certain enumerated criminal categories are subject to mandatory detention under § 1226(c).

Second, the INA authorizes mandatory detention of certain arriving or recently arrived noncitizens placed in expedited removal or other admission-related proceedings under 8 U.S.C. § 1225(b). Individuals encountered at or near the border are deemed "applicants for admission," 8 U.S.C. § 1225(a)(1), and must demonstrate that they are "clearly and beyond a doubt" entitled to be admitted. Id. § 1225(b)(2)(A). Those who cannot make such a showing "shall be detained" pending resolution of their cases, unless temporarily paroled under § 1182(d)(5)(A).

Third, individuals subject to a final order of removal fall under the post-order detention scheme set forth in 8 U.S.C. § 1231(a)–(b), which authorizes detention only for a period reasonably necessary to effectuate removal. Sections 1226(a) and 1225(b)(2) were enacted through the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), while § 1226(c) was most recently amended by the Laken Riley Act in 2025.

Under this statutory framework, Petitioner's custody arises under § 1226(a). He is in standard § 240 removal proceedings before the Miami Krome Immigration Court in Florida, has no criminal history, and is not subject to any final order of removal. DHS issued him a Form I-200 Warrant of Arrest, placing him squarely within the discretionary custody authority of § 1226(a), not mandatory detention. Nothing in § 1226(a) authorizes prolonged or indefinite detention of a noncitizen who poses no danger or flight risk; civil detention must remain reasonably related to the government's limited purposes of ensuring appearance and protecting public safety. See Jennings v. Rodriguez, 138 S. Ct. 830 (2018); Demore v. Kim, 538 U.S. 510, 528–31 (2003).

Despite this statutory scheme, DHS has invoked the Board of Immigration Appeals' decision in Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), to argue that Immigration Judges lack jurisdiction to conduct bond hearings for individuals who DHS asserts were apprehended "shortly after entry." Relying on that interpretation, DHS has taken the position that Petitioner is subject to mandatory detention and is categorically ineligible for any custody consideration, despite his placement in § 240 proceedings, his service of a Form I-200 warrants, and his eligibility for custody redetermination under 8 C.F.R. §§ 1003.19(a), 1236.1(d).

This position effectively deprives Petitioner—and similarly situated individuals—of the statutory and regulatory protections that Congress and the Executive have long provided to noncitizens in § 240 proceedings. It results in prolonged detention with no individualized

assessment of necessity, contrary to the INA's structure and purpose and inconsistence with constitutional limits on civil confinement. Accordingly, Petitioner's continued detention falls outside the narrow detention authority conferred by the INA, which requires individualized custody review and prohibits arbitrary or indefinite detention—protections that Petitioner has been categorically denied.

STANDARD OF REVIEW

Temporary restraining orders and preliminary injunctions are evaluated under the same standard in federal courts within the Fifth Circuit. Under the framework established by the Supreme Court in Winter v. Natural Resources Defense Council, Inc., 555 U.S. 7, 20 (2008), a movant must demonstrate a likelihood of success on the merits, a likelihood of suffering irreparable harm in the absence of preliminary relief, that the balance of equities tips in the movant's favor, and that an injunction is in the public interest. See also Valley v. Rapides Parish School Bd., 118 F.3d 1047, 1051 (5th Cir. 1997) (reciting the same four-factor test). A TRO is warranted where, as here, the petitioner faces ongoing constitutional violations and unlawful detention that threaten immediate, irreparable injury for which no adequate remedy exists at law.

ARGUMENTS

I. PETITIONER HAS ESTABLISHED A LIKELIHOOD OF SUCCESS ON THE STATUTORY DETENTION.

A. Petitioner's Prolonged Detention Without Bond Hearing Is Unlawful Under the INA.

The Immigration and Nationality Act ("INA") authorizes civil immigration detention only when it serves a legitimate statutory purpose: ensuring appearance at future proceedings or protecting public safety. Zadvydas v. Davis, 533 U.S. 678, 690 (2001); Clark v. Martinez, 543 U.S. 371, 381 (2005). When detention ceases to advance those purposes or becomes arbitrary or indefinite, it exceeds the government's statutory authority.

Petitioner has now been detained for several months without any individualized determination regarding the necessity of his confinement. He was served with a Form I-200 arrest warrant and placed in standard § 240 removal proceedings, making his detention subject to the discretionary framework of 8 U.S.C. § 1226(a). Petitioner has no criminal history, does not pose a danger to the community, and has consistently complied with the requirements imposed by DHS and the Miami Krome Immigration Court. Despite these facts, he has been denied consideration for release on bond or any individualized custody determination and remains confined at the Miami Federal Detention Center in Miami, Florida.

This prolonged detention violates not only the INA's limits on civil confinement but also the declaratory judgment issued in Maldonado Bautista v. Santacruz, which held that class members like Petitioner are detained under § 1226(a) and may not be denied consideration for release on bond. Yet DHS and EOIR have refused to recognize Petitioner's statutory right to a bond hearing, thereby placing him outside the detention authority authorized by Congress.

Because Petitioner's detention no longer serves any legitimate governmental interest and directly contravenes binding judicial authority, it has become arbitrary, excessive, and unlawful under the INA.

B. DHS's Reliance on a Jurisdictional Technicality Has Deprived Petitioner of a Custody Review Mechanism.

DHS asserts that Petitioner is subject to mandatory detention under § 1225(b) of the INA based on disputed allegations that he was apprehended "shortly after entry." That assertion is contradicted by the government's own actions: Petitioner was served with a Form I-200 Warrant of Arrest and placed in § 240 removal proceedings before the Miami Krome Immigration Court, which are governed by § 1226(a). Under these circumstances, jurisdiction over the bond lies with the Immigration Judge. See 8 C.F.R. §§ 1003.19(a), 1236.1(d).

Nevertheless, DHS has relied on Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), to reclassify Petitioner as an "arriving alien" and to assert that the Immigration Court lacks jurisdiction to consider custody, notwithstanding his placement in § 240 proceedings and service of a Form I-200 warrant. This categorical approach—grounded entirely in DHS's untested characterization of his apprehension—has deprived Petitioner of any mechanism to seek release. He cannot request a bond hearing before the Immigration Judge, and DHS has declined to consider parole or other discretionary custody options.

This bureaucratic reclassification has placed Petitioner in administrative limbo: he is treated as an "arriving alien" for detention purposes but as a § 240 respondent for removal purposes. The statute does not authorize DHS to deny him access to a custody review process by manipulating jurisdictional labels. This misclassification is contrary to the INA, the governing regulations, and established precedent requiring individualized assessments of custody.

C. Continued Detention Violates Petitioner's Fifth Amendment Right to Due Process

The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law, a protection that extends to all persons within the United States regardless of immigration status. Zadvydas, 533 U.S. at 693; Landon v. Plasencia, 459 U.S. 21, 32 (1982). Petitioner's prolonged detention—without any individualized custody determination and based solely on a disputed jurisdictional classification—violates these core constitutional protections.

The Supreme Court has emphasized that "[f]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects." Zadvydas, 533 U.S. at 690 (quoting Foucha v. Louisiana, 504 U.S. 71, 80 (1992)). Applying the three-part balancing test of Mathews v. Eldridge, 424 U.S. 319, 335 (1976), Petitioner's due process claim easily prevails.

First, the private interest at stake—freedom from physical confinement—is among the most fundamental recognized in constitutional law.

Second, the risk of erroneous deprivation is extraordinarily high given DHS's unilateral reclassification and its position that Petitioner is categorically ineligible for custody review, which has prevented any evaluation of Petitioner's actual danger or flight-risk profile.

Third, the government's interest in maintaining custody is minimal here, as Petitioner has no criminal history, substantial community ties developed over more than three decades in the United States, and has complied with every requirement imposed upon him. Because the government has provided no constitutionally adequate procedure to review the lawfulness or necessity of Petitioner's detention, his continued confinement violates the Due Process Clause. At a minimum, due process requires a prompt and constitutionally adequate custody determination, including consideration for release on bond under § 1226(a), before a neutral adjudicator at which

DHS bears the burden of establishing, by clear and convincing evidence, that continued detention is necessary.

II. PETITIONER WILL SUFFER IRREPARABLE HARM UNLESS THE COURT ISSUES A TEMPORARY RESTRAINING ORDER.

Under Winter v. Natural Resources Defense Council, 555 U.S. 7 (2008), Petitioner must demonstrate that he will suffer irreparable harm in the absence of immediate injunctive relief. In the immigration detention context, courts have consistently recognized that ongoing, unlawful deprivation of physical liberty constitutes irreparable harm as a matter of law. See Rodriguez v. Robbins, 804 F.3d 1060, 1080–81 (9th Cir. 2015), rev'd on other grounds sub nom. Jennings v. Rodriguez, 138 S. Ct. 830 (2018); R.I.L-R v. Johnson, 80 F. Supp. 3d 164, 191 (D.D.C. 2015) ("the deprivation of physical liberty for even one day constitutes irreparable harm"). Petitioner's continued confinement—despite the absence of any individualized custody review—inflicts exactly the sort of harm that the Winter standard contemplates.

Petitioner has been detained for several months at the Miami Federal Detention Center in Miami, Florida, a secure civil detention facility whose conditions closely resemble those of a penal institution. He is deprived of freedom of movement, placed under strict institutional control, separated from his support network, and subjected to continuous monitoring. Every additional day of confinement deepens the constitutional injury he suffers from being denied access to any individualized custody determination or meaningful opportunity to challenge the legality of his detention.

Courts have recognized that "[p]rolonged detention without an individualized determination of dangerousness or flight risk inflicts irreparable injury on detainees." Sajous v.

Decker, 2018 WL 2357266, at 12 (S.D.N.Y. May 23, 2018). The harm here is neither hypothetical nor remote; it is ongoing, acute, and directly attributable to Respondents' refusal to provide Petitioner with a custody determination. See also Leal-Hernandez v. Noem, No. 1:25-cv-02428, 2025 WL 327685, at 37 (D. Md. Aug. 24, 2025) (finding irreparable harm where petitioner remained detained without any lawful process or review).

Petitioner's continued incarceration has also caused significant emotional and psychological harm. His declaration and supporting records reflect escalating anxiety, depression, insomnia, and fear stemming from the uncertainty of his circumstances, separation from family, and the stressful, punitive conditions of confinement. Such mental and emotional injuries cannot be undone after the fact, nor can they be compensated monetarily. As recognized in similar contexts, "every day of detention is another day of lost liberty that cannot be recovered." Hernandez v. Sessions, 872 F.3d 976, 994 (9th Cir. 2017).

The public interest likewise favors immediate intervention. Preventing constitutional violations is always in the public interest. Melendres v. Arpaio, 695 F.3d 990, 1002 (9th Cir. 2012). Allowing DHS to continue detaining Petitioner indefinitely without lawful authority or individualized review undermines the integrity of the immigration system and erodes public confidence in the rule of law. Accordingly, Petitioner has demonstrated irreparable harm of the highest order. Immediate judicial intervention is necessary to prevent further unlawful deprivation of liberty and to ensure compliance with the statutory and constitutional safeguards governing civil detention.

III. <u>THE BALANCE OF HARMS WEIGHS IN FAVOR OF PETITIONER</u>

The final two Winter factors—the balance of equities and the public interest—strongly favor granting injunctive relief. Where the government is a party, these factors merge. Nken v. Holder, 556 U.S. 418, 435 (2009). Together, they require the Court to consider whether the harm to Petitioner from continued detention outweighs any harm to the government arising from his release or from providing a prompt and constitutionally adequate custody determination, and whether such relief advances or undermines the public interest.

Here, the equities tilt sharply in Petitioner's favor. Every additional day of confinement inflicts a profound deprivation of liberty and exacerbates the psychological and emotional harm that Petitioner has already suffered during his months-long incarceration at the Miami Federal Detention Center in Miami, Florida. Petitioner has no criminal history, poses no danger to the community, and has consistently complied with every requirement imposed by DHS and the Immigration Court. His continued detention serves no legitimate purpose under the Immigration and Nationality Act ("INA") and directly contradicts the government's stated interest in detaining only those who present a genuine risk of flight or public safety threat.

By contrast, the government faces minimal—if any—harm if relief is granted. Releasing Petitioner under reasonable supervision or providing him with a constitutionally adequate bond hearing does not impede any lawful enforcement objective. As courts have observed, "[t]he government suffers no harm when it is required to adhere to the Constitution." O'Donnell v. Harris County, 892 F.3d 147, 155 (5th Cir. 2018). Administrative convenience cannot justify prolonged, unlawful detention that exceeds statutory authority or violates constitutional protections.

The public interest also strongly favors Petitioner. The public has an overriding interest in ensuring that immigration detention is conducted lawfully, in accordance with due process, and only for legitimate statutory purposes. See Zadvydas v. Davis, 533 U.S. 678, 690 (2001) (warning

that indefinite civil detention "would raise serious constitutional concerns"); Beltran v. Smith, 458 F. Supp. 3d 1139, 1145 (D. Colo. 2020) (ordering release where detention no longer served INA objectives). Upholding constitutional safeguards for individuals in civil immigration custody reinforces the integrity of the justice system and affirms that the government must operate within the bounds of law and necessity.

Balancing these considerations, both the equities and the public interest weigh decisively in favor of Petitioner's release or, at a minimum, a prompt and constitutionally adequate custody determination by a neutral adjudicator. Granting relief will prevent further irreparable harm to Petitioner and promote the public's compelling interest in ensuring that the government complies with statutory and constitutional constraints governing civil detention.

CONCLUSION

For the reasons set forth above, Petitioner Miguel Angel Aguirre Rodriguez has demonstrated a clear likelihood of success on the merits of his claims, will suffer irreparable harm in the absence of immediate relief, and has shown that the balance of equities and the public interest overwhelmingly favor granting a temporary restraining order. His continued detention—without any individualized custody determination or meaningful judicial review—violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment.

Accordingly, Petitioner respectfully requests that this Honorable Court:

1. Enjoin Respondents and their agents from transferring Petitioner outside the jurisdiction of this Court while this matter is pending;
2. Direct Respondents to provide him with a constitutionally adequate custody determination, including consideration for release on bond under 8 U.S.C. § 1226(a),

before a neutral Immigration Judge within three (3) days, at which the government bears the burden of proving, by clear and convincing evidence, that continued detention is necessary; and

3. Grant such other and further relief as the Court deems just and proper.

Dated: February 5, 2026

Respectfully Submitted,

/s/Caridad Acosta
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, MIGUEL ANGEL AGUIRRE RODRIGUEZ, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for TRO are true and correct to the best of my knowledge.

Dated: February 5, 2026

/s/Caridad Acosta
Caridad Acosta, Esq

CERTIFICATE OF SERVICE

I hereby certify that on February 5, 2026, I filed the foregoing petition for TRO electronically through the CM/ECF system, which caused all parties or counsel to be served by electronic means as more fully reflected on the Notice of Electronic Filing.

Dated: February 5, 2026

/s/Caridad Acosta
Caridad Acosta, Esq