UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

CASE NO. 26-20781-CIV-ALTONAGA

DENIS CABRERA RODRIGUEZ,

Petitioner,

v.

KELIE WALKER, in her official capacity as Field Office Director of U.S. Immigration and Customs Enforcement Miami Field Office;

CHARLES PARRA, in his official capacity as Assistant Field Office Director, Krome North Service Processing Center;

KRISTI NOEM, in her official capacity as the Secretary of the U.S. Department of Homeland Security;

TODD M. LYONS, in his official capacity as Senior Official Performing the Duties of Director of U.S. Immigration and Customs Enforcement;

PAMELA BONDI, in her official capacity as Acting Attorney General of the United States.

Respondents.
_____/

AMENDED PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Denis Cabrera Rodriguez, submits this amended petition for writ of habeas corpus and related relief[1] and alleges as follows:

[1] The Petitioner files this Amended Petition in response to the Court's Order [ECF No. 5].

INTRODUCTION

1. Petitioner, Denis Cabrera Rodriguez, is from Cuba and entered the United States on October 18, 2022. He was detained a few days at the border, and the U.S. Department of Homeland Security (DHS or Department) served the petitioner with a Notice to Appear (NTA) by U.S. postal mail on January 19, 2023.

2. On or about May 12, 2023, Petitioner filed a Form I-589, Application for Asylum and Withholding of Removal with the Executive Office of Immigration Review, Miami Immigration Court. On October 5, 2023, the Petitioner attended his first master calendar hearing at the Miami Immigration Court as set forth in his NTA. On that date, he was reset for an additional Master Hearing on October 16, 2026.

3. While awaiting further adjudication of his asylum application, he received an employment authorization document, maintained steady employment, and filed his taxes. He confronted the hurdle of not speaking English headfirst by working in the hospitality industry in restaurants in South Florida to learn the English language. Most recently he was working at a car dealership as a salesman. He has complied with the Alien Registration Act requirements and has no history of failing to appear for any immigration-related appointments or proceedings. He has demonstrated compliance with all immigration-related obligations.

4. On approximately October 25, 2025, Denis' fiancée, Olga Janet Soto Chumpitaz, suffered a mental health crisis after being involuntarily hospitalized under the Baker Act and subsequently released. He called 911 for help, and when emergency services arrived, they arrested Petitioner and placed him in criminal custody for alleged domestic violence. The criminal case was not pursued and was finalized with a No Action disposition. However, instead of being

released, Petitioner was then arbitrarily detained by Immigration and Customs Enforcement (ICE) and placed into federal custody.

5. As a result of the aforementioned, a 33-year-old young man with no criminal convictions remains detained at Krome North Processing Center, in Miami, Florida, where he is approaching three months of incarceration separated from his family. As further explained *infra*, Respondents lacked the authority to arrest and detain him under the Immigration and Nationality Act (INA), its implementing regulations, and the Constitution. He files this habeas petition seeking his immediate release from custody.

JURISDICTION & VENUE

6. This Court has subject matter jurisdiction under Art. I § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

7. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

8. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is currently detained in this district and division and events or omissions giving rise to this action occurred in this district and division.

PARTIES

9. Petitioner, Denis Cabrera Rodriguez, is a native and citizen of Cuba and asylum applicant who is currently detained at Krome North Processing Center, in Miami, Florida.

10. Respondent Kelie Walker is the Field Office Director for the ICE Miami Field Office. In that capacity, she is charged with overseeing Krome, which is owned by ICE and

operated by a contractor, and has the authority to make custody determinations regarding individuals detained there. Therefore, Respondent Walker is the immediate custodian of Petitioner. She is sued in her official capacity.

11. Respondent Charles Parra is the Assistant Field Office Director for Krome North Service Processing Center. In that capacity, he is charged with overseeing Krome, which is owned by ICE and operated by a contractor, and has the authority to make custody determinations regarding individuals detained there. Therefore, Respondent Parra is the immediate custodian of Petitioner. He is sued in his official capacity.

12. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). She supervises ICE, an agency within DHS that is responsible for the administration and enforcement of immigration laws, and she has supervisory responsibility for and authority over the detention and removal of non-citizens throughout the United States. Secretary Noem is the ultimate legal custodian of Petitioner. Respondent Noem is sued in her official capacity.

13. Respondent Todd Lyons is the Acting Director of U.S. Immigration and Customs Enforcement (ICE). In that capacity he is responsible for overseeing the day-to-day operations of ICE, which includes the administration of detention, arrest, and removal activities across the United States. Director Lyons is the ultimate legal custodian of Petitioner. Respondent Lyons is sued in his official capacity.

14. Respondent Pam Bondi is the Attorney General of the United States. As the Attorney General, she oversees the Executive Office for Immigration Review (EOIR), including all immigration judges (IJs) and the BIA. Respondent Bondi is sued in her official capacity.

LEGAL BACKGROUND

A. Detention During Removal Proceedings

15. Section 1229a of Title 8 of the U.S. Code (Section 240 of the INA) describes the primary process through which the government seek to remove non-citizens from the United States. It specifies that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be . . . removed from the United States." 8 U.S.C. § 1229a(a)(3).

16. To initiate removal proceedings against a non-citizen under Section 1229a, the Government must issue the non-citizen an NTA. 8 U.S.C. § 1229(a)(1). Most non-citizens go through removal proceedings from outside detention. But ICE is increasingly detaining non-citizens during their removal proceedings.

17. Section 1226 of Title 8 of the U.S. Code (Section 236 of the INA) is the default provision that governs the arrest and detention of non-citizens pending removal proceedings. It states that "on a warrant issued by the Attorney General,[2] a[] [non-citizen] may be arrested and detained pending a decision on whether the [non-citizen] is to be removed from the United States" 8 U.S.C. § 1226(a). Non-citizens arrested upon a warrant and in ongoing removal proceedings are eligible to seek bond from an IJ. *Id.* § 1226(a)(2).

18. A separate provision governs the detention of people who seek admission to the United States at the border. It states that "in the case of a [non-citizen] who is an applicant for admission, if the examining immigration officer determines that a [non-citizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the non-citizen shall be detained for a

[2] In 2003, the Immigration and Naturalization Service (INS) within the Department of Justice (DOJ) became what is now ICE, which is housed within DHS. Therefore, some statutory references to the "Attorney General," like this one, now refer to the Secretary of DHS.

proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A). IJs do not have jurisdiction to grant bond for such "applicant[s] for admission," though DHS retains the discretion to release such non-citizens on a specific type of parole "for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

19. No exhaustion is statutorily required for the petitioner's habeas claims because "Section 2241 itself does not impose an exhaustion requirement," *Santiago-Lugo v. Warden*, 785 F. 3d 467, 474 (CA11 2015).

20. Regardless, "[w]here Congress does not say there is a jurisdictional bar, there is none." *Santiago-Lugo v. Warden*, 785 F.3d 467, 473 (11th Cir. 2015). The fact that it did not limit courts' subject matter jurisdiction to decide unexhausted § 2241 claims compels the conclusion that any failure of [the respondent] to exhaust administrative remedies is not a jurisdictional defect." *Id.* at 474.

21. In the absence of a statutorily mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision that rests soundly within the broad discretion. of district courts. *See J.N.C.G. v. Warden, Stewart Detention Ctr.*, No. 4:20-CV- 62-MSH, 2020 WL 5046870, at *3 (M.D. Ga. Aug. 26, 2020) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144 (1992)); *see also Richardson v. Reno*, 162 F.3d 1338, 1374 (11th Cir. 1998); *Yahweh v. U.S. Parole Comm'n*, 158 F. Supp. 2d 1332, 1341 (S.D. Fla. 2001).

22. Here, there is no reason to require exhaustion of administrative remedies, as Petitioner has no meaningful alternative to habeas relief, and has already requested bond from the immigration court. *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001) ("[A] petitioner need not exhaust their administrative remedies where the administrative remedy will not provide relief commensurate with the claim."); *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982)

("[E]xhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile[.]"). In light of the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), exhaustion would be futile because the outcome of the administrative process can be reasonably anticipated and would not constitute an adequate remedy. *Alvarez Puga v. Assistant Field Office Director, Krome North Service Processing Center et al.*, No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025).

23. Accordingly, Petitioner urgently seeks and is entitled to habeas relief because he has no meaningful opportunity to challenge the constitutionality of his detention through any available administrative process. *See Boumediene*, 553 U.S. 723, 783 (2008).

STATEMENT OF FACTS

24. Petitioner entered the United States without inspection or parole on October 18, 2022. *See* Exh. "A," Mr. Cabrera Rodriguez's Notice to Appear (January 19, 2023). On October 5, 2023, the Petitioner attended his master calendar hearing at the Miami Immigration Court.

25. On May 5, 2023, Petitioner timely filed his Form I-589, Application for Asylum and Withholding of Removal. *See* Exh. "B," Mr. Cabrera Rodriguez's Form 797C, Asylum Receipt Notice (May 5, 2023). Petitioner also intended to file an Application for Adjustment of Status under the Cuban Adjustment Act. In the interim, while waiting for his upcoming master hearing which was scheduled for October 15, 2026, the Petitioner continued to contribute meaningfully to his community. He maintained steady employment with an employment authorization document, filed his taxes and otherwise demonstrated compliance with all immigration-related obligations. He has complied with the Alien Registration Act requirements and has no history of failing to appear for any immigration-related appointments or proceedings.

26. On approximately October 25, 2025, Denis' fiancée, Olga Janet Soto Chumpitaz, suffered a mental health crisis after being involuntarily hospitalized under the Baker Act and subsequently released. He called 911 for help, and when emergency services arrived, they arrested Petitioner and placed him in criminal custody for alleged domestic violence. The criminal case was not pursued and was finalized with a No Action disposition. However, instead of being released, Petitioner was then arbitrarily detained by Immigration and Customs Enforcement (ICE) and placed into federal custody.

27. On January 26, 2025, an Immigration Judge denied his request for bond because the Immigration Judge found he had "no jurisdiction" to hear bond requests or grant bond to aliens present in the United States without admission and in removal proceedings, based on the plain language of 8 U.S.C. 1225(b)(2)(A)) pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228 (BIA 2025). *See* Exh. "C," IJ Bond Denial Order (January 26, 2026).

28. In support of his bond motion, Petitioner had submitted copious evidence of his ability to pay bond, his stable South Florida housing and his steady employment in South Florida. All indicating he would not be a danger to society nor a flight risk. *See* Exh."D," Supporting Documentation of Petitioner's Request for Bond.

29. Petitioner has compelling family and community ties in the United States. Petitioner began dating his now fiancée during high school in Cuba. After she moved to the United States and became a naturalized U.S. citizen, fate reunited them again, and they have been dating and living together for three years in South Florida. They have been engaged to be married since early 2025. Petitioner also maintains close relationships with members of his church, Iglesia Rescate, as well as close friends from Cuba who have become United States Citizens or Legal

Permanent Residents after fleeing persecution in Cuba. His godmother and godfather are also naturalized U.S. citizens who Denis assists as a part time employee.

30. Petitioner has maintained a delicate balance of caring for his loved ones with caring for his own physical wellbeing. Petitioner suffers from serious and chronic Type 1 diabetes, a condition which requires constant medical care and monitoring. *See* Exh."E," Petitioner's Medical Records. At age ten, he was diagnosed and it was not until he came to the United States he was finally able to receive adequate medical treatment for his condition via an insulin pump in 2024. The insulin pump was prescribed for ketoacidosis and bouts of dizziness from which he suffers.

31. The first day Denis was in ICE custody, he was taken for urgent care treatment and diagnosed with hyperglycemia and high risk of heart attack. *See id.* Since then, he was again hospitalized for syncope and hyperglycemia, and has been taken almost every single day to the inhouse infirmary at the detention facility for various grievous symptoms, including high blood pressure, gum damage, the loss of his toe nail, prescribed special needs forms for food and diet, nausea, and continued elevated blood pressure while being detained. *See id.* He is also getting constant cramps for which the medical staff at the facility have prescribed Gabapentin. *See id.*

32. Petitioner had never fainted, been diagnosed with high risk of heart attack, needed to take Gabapentin or had high blood pressure ever in his life before being detained. Nor had he ever needed to seek emergency care for his diabetes since living in Cuba under communism. The limited and inconsistent access to necessary medications in detention poses a serious and immediate threat to his health.

33. Amnesty International has spotlighted Petitioner's case through its Urgent Action Network, a global human rights mechanism reserved for cases involving imminent risk of serious harm. *See* Exh. "F," Amnesty International Urgent Action Report on Petitioner's Detention. An

article published by Closer to the Edge, an independent investigative news platform, details Petitioner's medical emergencies while in ICE custody and the risks posed by his continued detention given his chronic Type 1 diabetes. *See* Exh."G," Closer to the Edge Article Concerning Petitioner's Detention.

34. Petitioner remains detained at the Krome North Processing Center, in Miami, Florida, and is in removal proceedings, as of the date of this petition.

ARGUMENT

A. Petitioner's Continued Detention Is Unlawful Because He Is Not Subject to Mandatory Detention Under 8 U.S.C. § 1225(b)(2)

35. Petitioner contends that Respondents have unlawfully subjected him to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2), despite the fact that he was apprehended inside the United States after having entered without inspection and being classified as such in his NTA. As a result, Respondents have deprived him of his liberty without due process, contrary to the Fifth Amendment and the INA.

36. At the Petitioner's bond hearing in the Immigration Court, DHS asserted that Petitioner is properly detained under § 1225(b)(2) and that DHS therefore lacks authority to release him on bond. The Immigration Judge found that because § 1225(b)(2) mandates detention until the conclusion of removal proceedings, Petitioner's custody is lawful and the Court lacks jurisdiction to review it. Petitioner disputes these contentions and submits that his detention falls squarely within the scope of § 1226(a), which provides for discretionary detention and permits release on bond or conditional parole pending completion of removal proceedings.

37. The IJ's January 26, 2026 Order relies on the BIA decision *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which district courts across the country have rejected to follow. *See e.g., Barrera v. Tindall*, No. 3 :25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept.

19, 2025); *Zumba v. Bondi*, No. 25-CV-14626-KSH-, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Lopez-Campos*, No. 2:25-CV12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV07492-RFL, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025). This Court should also continue to decline to follow *Matter of Yajure Hurtado*, whose interpretation of § 1225 is at odds with the text of § 1225 and § 1226, is inconsistent with earlier BIA decisions, and renders superfluous the recent Laken Riley Act amendments to § 1226(c).

38. Specifically, the Chief United States District Judge Cecilia M. Altonaga, issued a decision in *Alvarez Puga*, rejecting the Respondents' reliance on *Matter of Yajure Hurtado*. In that decision, the Court explained:

> "Respondents' reliance on the BIA's decision in *Matter of Yajure Hurtado* — rejecting the argument that a noncitizen who entered the United States without inspection and has resided here for years is not 'seeking admission' under section 1225(b)(2)(A) — is also misplaced. The Court need not defer to the BIA's interpretation of law simply because the statute is ambiguous. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024) ("[C]ourts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous." (alteration added)). As explained, the statutory text, context, and scheme of section 1225 do not support a finding that a noncitizen is 'seeking admission' when he never sought to do so. Additionally, numerous courts that have examined the interpretation of section 1225 articulated by Respondents — particularly following the BIA's decision in *Matter of Yajure Hurtado* — have rejected their construction and adopted Petitioner's. … For these reasons, the Court finds that section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A). Petitioner is entitled to an individualized bond hearing as a detainee under section 1226(a)."

Alvarez Puga v. Assistant Field Office Director, Krome North Service Processing Center et al., No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025).

39. This case turns on the statutory distinction between § 1226(a) and § 1225(b)(2) of the INA. Section 1226(a) governs the arrest and detention of noncitizens already present in the United States pending removal proceedings, while § 1225(b)(2) governs the detention of noncitizens arriving at the border or ports of entry. In enacting these provisions, Congress expressly

recognized the greater due process rights of noncitizens residing within the United States as compared to those of "arriving" noncitizens. *See* H.R. REP. 104-469, pt. 1, at 163–66 ("an alien present in the U.S. has a constitutional liberty interest to remain in the U.S."), citing *Knauff v. Shaughnessy*, 338 U.S. 537 (1950).

40. Consistent with this statutory framework, immigration agencies and courts have long applied § 1226(a)—not § 1225(b)(2)—to noncitizens apprehended inside the United States who were not seeking admission at the border. *See Maldonado v. Feely*, No. 25-cv-01542-RFB-EJY (D. Nev. Sept. 17, 2025) ("Despite being applicants for admission, aliens who are present without admission or parole will be eligible for bond and bond redetermination... inadmissible aliens, except for arriving aliens, have available to them bond redetermination hearings before an immigration judge, while arriving aliens do not.") (citing *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)).

41. Nonetheless, on July 8, 2025, DHS issued a notice instructing ICE officers to detain all noncitizens "who have not been admitted" under § 1225(b)(2), regardless of where they were apprehended. *See* ICE Memo: *Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025). The Notice purports to eliminate bond eligibility for such individuals, directing that they "may not be released from ICE custody except by INA § 212(d)(5) parole."

42. This expansive interpretation contradicts the statutory text, legislative history, and consistent judicial authority in multiple circuits. *See, e.g.*, *Merino v. Noem*, No. 25-cv-23845 (S.D. Fla. Oct. 15, 2025), *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Bautista v. Santacruz*,

No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025). Each of these courts rejected DHS's position and held that noncitizens residing in the United States when taken into custody are detained under § 1226(a) and therefore entitled to a bond hearing.

43. Petitioner, who has lived in the United States since 2022 and entered the United States without inspection, is therefore not properly classified as an "arriving alien." His detention under § 1225(b)(2) is unlawful. Because § 1226(a) governs his custody, Petitioner is entitled to a custody redetermination and to consideration for bond based on individualized factors. The government's continued reliance on § 1225(b)(2) to deny bond violates both the statute and Petitioner's constitutional right to due process.

B. Petitioner's Continued Detention Violates His Substantive and Procedural Due Process Rights

44. The Fifth Amendment guarantees that no person shall be deprived of life, liberty, or property without due process of law. U.S. CONST. amend. V. This protection extends to all persons within the United States—citizens and noncitizens alike—regardless of immigration status. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Because Petitioner has been detained for an extended period without a meaningful opportunity to seek release, his detention offends both procedural and substantive due process.

45. Civil immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has made clear that there are only two plausible purposes for immigration detention: ensuring a non-citizen's appearance at his removal proceedings and/or preventing danger to the community. *Zadvydas*, 533 U.S. at 690. Indeed, where civil detention "is of potentially *indefinite* duration," courts have "also demanded that the

dangerousness rationale be accompanied by some other special circumstance." *Id.* If immigration detention is not reasonably related to one of these purposes, it is essentially punitive and therefore violative of the Due Process Clause. *See id.*

46. To determine whether the Government's procedures satisfy procedural due process, courts apply the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022). Under *Mathews*, courts consider: (1) the private interest affected by the government action; (2) the risk of erroneous deprivation of that interest through existing procedures and the probable value of additional safeguards; and (3) the government's interest, including administrative or fiscal burdens of additional process. *Mathews*, 424 U.S. at 335. Each of these factors strongly favors Petitioner.

47. First, the Petitioner's liberty interest is undoubtedly substantial. Freedom from physical constraint is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Petitioner has been detained for almost a month without any individualized assessment of flight risk or danger despite his long residence in the United States, family ties, and lack of any disqualifying criminal record because the IJ refused to consider those factors, finding he lacked jurisdiction to set bond.

48. Second, the risk of erroneous deprivation is extreme. The IJ's refusal to even consider bond, based on DHS's position that Petitioner is subject to "mandatory detention" under §1225(b)(2), deprived him of the only procedural mechanism designed to test the necessity of his continued confinement. This result effectively transformed the bond hearing into an empty formality, denying Petitioner a meaningful opportunity to contest his detention. Courts have consistently held that procedures which categorically foreclose individualized review of detention violate due process. *See Günaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154 (D. Minn. May

21, 2025) (describing DHS's unilateral detention authority as creating "not just a risk, but a likelihood" of erroneous deprivation).

49. Third, the Government's interests are adequately protected by the individualized bond determination procedure already contemplated by §1226(a). As the Ninth Circuit recognized in *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017), "the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future proceedings can be reasonably ensured by less restrictive conditions." Far from imposing any undue burden, allowing bond hearings for noncitizens apprehended inside the United States promotes fairness and efficiency.

50. Accordingly, under *Mathews*, the procedures used to detain Petitioner fail to satisfy procedural due process. The IJ's refusal to exercise jurisdiction, based solely on DHS's misclassification of Petitioner as subject to §1225(b)(2), constituted a denial of any meaningful opportunity to be heard. The Government's blanket invocation of "mandatory detention" cannot substitute for constitutionally required process.

51. Even apart from procedural deficiencies, Petitioner's continued confinement violates substantive due process. Government detention is constitutionally permissible only when it occurs in a criminal context with robust procedural protections, or in civil circumstances where a "special justification" outweighs the individual's liberty interest. *Zadvydas*, 533 U.S. at 690. No such justification exists here.

52. Petitioner's confinement is purely civil and ostensibly intended to ensure his presence for removal proceedings. Yet the Government has offered no individualized justification for his ongoing detention, no finding that he poses a danger or flight risk, because the IJ never

reached those issues. Detaining a long-term Florida resident without such a finding serves no legitimate regulatory goal and instead amounts to impermissible punishment.

53. Respondents rely on *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025), to argue that the IJ lacked jurisdiction to consider bond because Petitioner is "an arriving alien" detained under §1225(b)(2). That reliance is misplaced. As discussed *supra*, Petitioner was apprehended well inside the United States, after residing here for several years. He is therefore properly detained under §1226(a), which provides for discretionary release on bond. The BIA's decision in *Yajure-Hurtado* cannot override Congress's clear statutory distinction between §1225(b)(2) (governing those seeking admission at the border) and §1226(a) (governing those already present in the United States).

54. By adopting DHS's erroneous interpretation, the IJ effectively denied Petitioner any opportunity for an individualized bond determination. This denial renders his continued detention arbitrary, indefinite, and unconstitutional. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025) (holding that detention of noncitizens apprehended within the U.S. under §1225(b)(2) violates due process and exceeds statutory authority).

55. Because Petitioner's detention falls under §1226(a), he is entitled to a prompt and meaningful bond hearing at which the Government bears the burden to justify continued detention by clear and convincing evidence. The IJ's refusal to conduct such a hearing, and DHS's misapplication of *Yajure-Hurtado*, violated the Due Process Clause of the Fifth Amendment.

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT
Substantive Due Process

56. The Supreme Court has found that the "Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 682.

57. Immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527. Petitioner has been detained for almost a month without any individualized custody determination. At his initial bond hearing, the Immigration Judge declined to exercise jurisdiction, citing *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025), and therefore refused to assess whether Petitioner posed a danger or flight risk. As a result, Petitioner remains confined without any finding that his detention is necessary to serve a legitimate regulatory purpose. Such unexamined and indefinite detention bears no reasonable relation to ensuring appearance at removal proceedings or protecting public safety.

58. By categorically denying Petitioner the opportunity for individualized review, Respondents have transformed a civil regulatory scheme into punitive confinement in violation of substantive due process. The Fifth Amendment forbids detention that is arbitrary, excessive in relation to its purpose, or unsupported by individualized justification. *See Zadvydas*, 533 U.S. at 690. Because Petitioner has never been found to be a danger or flight risk, and because Respondents have provided no special justification for continued incarceration, his detention is not reasonably related to its purpose and thereby violates his due process rights.

COUNT II

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

Procedural Due Process

59. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals' due process rights.

60. Petitioner has been denied any meaningful process to challenge his confinement. Although the Immigration Court scheduled a bond hearing, the Immigration Judge declined jurisdiction and refused to consider release, citing *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025). As a result, Petitioner was never afforded an individualized determination of whether he poses a danger or flight risk. Respondents' application of *Matter of Yajure-Hurtado* and the resulting refusal to hold a bond hearing violate the procedural component of the Due Process Clause of the Fifth Amendment.

COUNT III

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a)

No Authority to Detain

61. 8 U.S.C. § 1226(a) authorizes immigration detention only during pending removal proceedings. Respondents' reliance on § 1225(b)(2) to deny Petitioner a bond hearing and to classify him as subject to mandatory detention is contrary to the plain language and structure of the INA, as well as its legislative history and judicial interpretation.

62. Because Petitioner is not subject to mandatory detention, Respondents lack authority to detain him without providing a meaningful opportunity for release on bond. Continued confinement under § 1225(b)(2) exceeds the government's statutory authority and violates both the INA and the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Respondents not transfer

Petitioner outside of the jurisdiction of the U.S. District Court for the Southern District of Florida during the pendency of this petition;

c. Declare that Respondents' actions or omissions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution and/or the Immigration and Nationality Act;

d. Order Respondents to provide Petitioner with a prompt and constitutionally adequate bond hearing before An Immigration Judge with jurisdiction under 8 U.S.C. § 1226(a), at which the Government bears the burden of proving by clear and convincing evidence that continued detention is justified;

e. In the alternative, order Petitioner's immediate release from custody if a bond hearing is not held within seven (7) days of this Court's order;

f. Grant any other further relief this Court deems just and proper.

Respectfully submitted,

Dated: February 23, 2026

/s/ Ana Ionescu

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VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney. I have discussed with the Petitioner the events described in this Amended Petition. Based on those discussions, I hereby verify that the statements made in this Amended Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted, Dated: February 23, 2026

/s/ Elizabeth Amaran

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CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I filed this Amended Petition for Writ of Habeas Corpus and all attachments using the CM/ECF system, which will send a notice of electronic filing (NEM) to all counsel of record.

Respectfully submitted,

Dated: February 23, 2026

/s/ Ana Ionescu

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