

IN THE UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA

**ROBERTO PAVON RAMIREZ,**

Petitioner,

v

CASE NO.

**DIRECTOR, U.S. Department of Homeland Security (“DHS”) Immigration and Customs Enforcement (“ICE”) Enforcement and Removal Operations (“ERO”) Miami Field Office; ACTING DIRECTOR, U.S. DHS ICE; SECRETARY, DHS; and U.S. ATTORNEY GENERAL;**

JUDGE

Respondents.

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**VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS**  
**PURSUANT TO 28 U.S.C. § 2241**

The Petitioner, ROBERTO PAVON RAMIREZ, by and through undersigned counsel, brings the instant Petition for Writ of Habeas Corpus, pursuant to 28 USC § 2241, and as grounds therefor states as follows:

**I. INTRODUCTION**

1. The Petitioner is a native and citizen of Cuba. *See* Exh. 1 (Notice to Appear) (NTA) dated January 17, 2026).

2. The Petitioner was residing in Miami, Florida with friends and family until on or about January 18, 2026, when the Petitioner was taken into custody by the Department of Homeland Security (DHS) Immigration & Customs Enforcement (ICE) Enforcement and Removal Operations (ERO). He was held for four days and three nights in a “hold” room with

approximately 20 other individuals at the Miramar Sub Office of ICE ERO, contrary to ICE Detention Standards.

3. At present, the Petitioner is in the Respondents' physical custody at the Broward Transitional Center, an immigration detention center under the Respondents' and their agents' direct control within this district. *See* Exh. 2 (copy of ICE Online Detainee Located dated February 6, 2026).

4. The Petitioner respectfully requests, *inter alia*, that: (1) this Honorable Court issue an Order to Show Cause (OSC pursuant to 28 USC § 2243 directing the Respondents to file a return within three days of the Order directing the Respondents to show cause why the Court should not grant the Writ of Habeas Corpus; (2) issue an order forbidding the Respondents from moving or otherwise transferring the Petitioner from the Southern District; (3) Issue a Writ of Habeas Corpus declaring that the statutory basis for the Petitioner's continued detention is contrary to 8 USC § 1226(a), and that 8 USC § 1225(b)(2)(A) does not apply to Petitioner; (4) Issue a Writ of Habeas Corpus declaring that the Respondents detention of the Petitioner violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution; (5) Grant temporary and permanent injunctive relief requiring the Respondents to release the Petitioner from custody.

5. This action arises under the United States Constitution and the Immigration and Nationality Act ("INA"), 8 U.S.C. §§ 1101 *et seq.*, as the Petitioner challenges his detention as a violation of: the Due Process Clause of the Fifth Amendment of the U.S. Constitution; the INA and regulations thereunder.

6. In addition, addition, this Honorable Court has jurisdiction over this complaint under: 28 U.S.C. § 2241 (power to grant Writ of Habeas Corpus); the All Writs Act, 28 U.S.C. § 1651; 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1346 (United States Defendant).

7. This Honorable Court may grant relief pursuant to 28 U.S.C. § 2241 and the All Writs Act, 28 U.S.C. § 1651.

## II. PARTIES

8. Petitioner, ROBERTO PAVON RAMIREZ, has resided in the United States since on or about November 9, 2023. Prior to his detention he was residing in Miami, Florida. He is currently detained at the Broward Transitional Center (BTC).

9. The Miami Field Office Director is sued in his official capacity as the ICE director of the Miami Office of Enforcement and Removal Operations (ICE ERO), including general oversight of BTC, and is the legal custodian of the Petitioner.

10. Respondent Acting Director for ICE is the Acting Director for ERO and oversees the agency's removal operations nationwide and has authority over the actions of Miami ICE ERO. ICE is the federal agency responsible for custody decisions relating to non-citizens charged with being removable from the United States, including arrest, detention and custody status of non-citizens. In his official capacity he is a legal custodian of the Petitioner.

11. Petitioner brings suit against the Respondent DHS Secretary of the Department of Homeland Security (DHS) because DHS is the federal agency that has authority over the actions and operations of ICE and all other DHS respondents. In her official capacity, Respondent DHS Secretary is a legal custodian of the Petitioner and is charged with faithfully administering the immigration laws of the United States.

12. Respondent, Attorney General of the United States, has authority over the Department of Justice and is charged with faithfully administering the immigration laws of the United States through the Executive Office for Immigration Review (EOIR), the agency that

administers the immigration courts and conduct custody redetermination (bond) hearings and removal proceedings. *See* 8 U.S.C. § 1103.

13. This action is commenced against all respondents in their official capacities.

### **III. JURISDICTION AND VENUE**

14. This court has subject matter jurisdiction under 28 USC § 2241 (habeas corpus), 28 USC § 1331 (federal question) and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

15. Petitioner is detained at BTC. Venue is proper in this district because Respondents are Petitioner's immediate custodian and/or Petitioner is under their control, and under 28 USC § 1391(e)(1) because Respondents are officers of United States agencies.

### **IV. STATEMENT OF THE FACTS**

16. The Petitioner was invited to the United States through the Implementation of a Parole Process for Cubans as provided in 88 Fed. Register 1266 (January 9, 2023).

17. This program was created with the intention of enhancing border security by reducing the number of Cuban nationals entering the United States while providing for the safe entry and orderly entry for such individuals. *See, i.e.* 88 Fed. Register 1266, 1267 (January 9, 2023). The main eligibility criteria for the program required applicants to establish that they had a U.S. based financial supporter with lawful status who would provide financial support for the duration of the parole period; they had to pass a rigorous national security and public safety vetting process; and, they had travel to the United States at their own expense.

18. The grant of parole under this program was for a temporary period of up to two years with the expectation that, during the two-year period, such individuals would seek "humanitarian relief or other immigration benefits, including adjustment of status pursuant to the

Cuban Adjustment Act, Public Law 89-732, 80 Stat. 1161 (1966)” (hereinafter CAA) *Id.*, at 1268.

19. Petitioner was able to obtain a sponsor and pass rigorous national security and public safety vetting processes. Accordingly, he was paroled into the United States on November 9, 2023 at no expense to the government. *See* Exh. 3 (Record of Petitioner’s Parole with “CHP” (Cuban Humanitarian Parole) Class of Admission).

20. According to the parole document, Petitioner’s parole was valid through November 7, 2025.<sup>1</sup>

21. After a year and a day, the Petitioner timely filed an application for adjustment of status pursuant to the CAA with United States Citizenship and Immigration Services (USCIS) on November 22, 2024. (Exh. 4). He subsequently filed an application for employment authorization on or about April 17, 2025, Category C09, based on his pending application for adjustment of status. (Exh. 5).<sup>2</sup>

22. Petitioner has never been arrested or charged with any criminal offenses either in the United States, Cuba or anywhere else in the world.

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<sup>1</sup> On the other hand, DHS categorically terminated the parole status of certain nationals, including Cubans, Haitians, Nicaraguans and Venezuelans (CHNV) who had been paroled into the United States pursuant to a humanitarian parole program, effective April 24, 2025. *See* Termination of Federal Parole Processes for Cubans, Haitians, Nicaraguans, and Venezuelans, 90 Fed Reg. 13611 (March 25, 2025). *But see* *Svitlana Doe, et al., v Noem*, 1:25-cv-10495 (D. Mass) which challenged this categorical termination, and which remains pending to date.

<sup>2</sup> Both applications remain pending to date, outside of USCIS processing times. *See* USCIS Historical National Median Processing Time (in Months) for All USCIS Offices for Select Forms by Fiscal Year, available at <https://egov.uscis.gov/processing-times/history.php>. Nevertheless, based upon information and belief, USCIS stopped processing the Petitioner’s applications in or about December 11, 2025. *See* USCIS Policy Memorandum Hold and Review of all Pending Asylum Applications and all USCIS Benefit Applications Filed by Aliens from High-Risk Countries, December 2, 2025 available at [PM/602-0197-Pending-applications/HighRisk-countries-20251202.pdf](https://www.uscis.gov/policy-manual/part-2-0197-Pending-applications/HighRisk-countries-20251202.pdf). *See also* Termination of Family Reunification Parole Processes for Colombians, Cubans, Ecuadorians, Guatemalans, Haitians, Hondurans, and Salvadorans, 90 Fed. Reg 58032 (Dec. 15, 2025)

23. On January 15, 2025, and based upon information and belief, the Petitioner was encountered by agents from the Florida Department of the Lottery who went to the Petitioner's family member's home for reasons unrelated to the Petitioner. Upon Petitioner's arrival, the agents requested his identification and prevented the Petitioner from entering the home, not even to use the bathroom. They contacted ICE. However, when ICE did not appear after two hours, they drove the Petitioner to the ICE ERO Suboffice in Miramar, Florida where the Petitioner was taken into custody.

24. Petitioner was detained at the Miramar Suboffice in a "hold" room for over four days and three nights, with approximately twenty other individuals, contrary to ICE Standards. *See* Immigration & Customs Enforcement, Nationwide Hold Room Waiver, June 24, 2025 (Exh. 6). *See also* U.S. Immigration & Customs Enforcement 2025 National Detention Standards, Standard 2.5, available at <https://www.ice.gov/doclib/detention-standards/2025/nds2025.pdf>.

25. He was thereafter transferred to the Broward Transitional Center where he remains to date.

26. A warrant was issued to the Petitioner indicating he was being taken into custody "as authorized by section 236 of the Immigration & Nationality Act." *See* Exh 7. (Warrant of Arrest of Alien).

27. He was also issued a Notice to Appear where he is charged as an alien present in the United States who has not been admitted or paroled. Moreover, he is alleged as being subject to removal under 8 U.S.C. § 1182(a)(7)(A)(i)(I) as an immigrant not in possession of a valid entry document. *See* Exh. 1.

28. As a result of the foregoing, the Petitioner remains in ICE custody to date.

## V. LEGAL BACKGROUND

29. The Immigration and Nationality Act (INA) prescribes three basic forms of detention for the vast majority of noncitizens in removal proceedings.

30. First, 8 USC § 1226 authorizes the detention of noncitizens in standard removal proceedings before an Immigration Judge. *See* 8 USC § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention. *See* 8 CFR §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention. *See* 8 USC § 1226(c).

31. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 USC § 1225(b)(1) and for other recent arrivals seeking admission referred to in 8 USC § 1225(b)(2).

32. Finally, the INA provides for detention of noncitizens who have been ordered removed. *See* 8 USC § 1231(a)(b).

33. The instant cause involves the detention provisions enumerated at §§ 1226(a) and 1225(b)(2).

34. The statutory framework of 8 USCS § 1225 applies to noncitizen "arriving aliens," who present themselves at the border or a port of entry for inspection and are actively "seeking admission" and have not been admitted or paroled into the United States.

35. By contrast, 8 U.S.C. § 1226, governs the arrest and detention of those "already in the country" pursuant to a warrant issued by the Attorney General. Under this discretionary provision, DHS may (1) continue to detain the noncitizen; (2) release the noncitizen on bond; or (3) release the noncitizen on conditional parole. 8 U.S.C. 1226(a)(1)-(3). While the arresting

officer makes an initial custody determination, noncitizens may appeal that determination in a bond hearing before an immigration judge. *See generally* 8 C.F.R. 1236.1(d).

36. These two provisions are mutually exclusive. *Jennings v Rodriguez*, 583 U.S. 281, 288-89 (2018).

37. Once a noncitizen is paroled into the United States and their parole has expired, they are no longer “seeking admission” under 8 U.S.C. § 1225 because they are already physically present in the United States. *Cabrera Martinez v Marich, et al.*, 25-cv-1110-LJV, 2025 WL 3771228 (December 31, 2025). As such, they are no longer an “arriving alien,” and they do not fall under the mandatory detention provisions of 8 USCS § 1225(b)(1) upon the expiration of their parole. Instead, they are subject to the discretionary detention framework of 8 USCS § 1226(a), which governs the detention of noncitizens already present in the United States pending removal proceedings. *See Qasemi v Francis*, 25-cv-10029 (S.D.N.Y. December 17, 2025); *Cabrera Martinez v Marich, et al.*, 25-cv-1110-LJV, 2025 WL 3771228 (December 31, 2025); *see also Puga v Assistant Field Office Director Krome, et al.*, 25-cv-24535-civ-Altonaga (S.D. Fla. Oct 16, 2025).

38. Although the Petitioner was initially paroled into the United States, his parole expired either in April 2025 or in November 2025. *See n. 1, supra*. At the time he was taken into custody, he was not at the border or port of entry and was no longer actively “seeking admission.” Rather, he was already physically present in the United States. While he is an “applicant for admission” he is not “arriving in the United States.” He was not “seeking admission” at the time he was taken into custody. *See Ivonin v Rhoney, et al.*, 6:25-cv-06673 (W.D.N.Y. Jan. 26, 2026); *Cabrera Martinez v Marich, et al.*, 25-cv-1110-LJV, 2025 WL 3771228 (December 31, 2025); *Campbell v Almodovar*, 1:25-civ-09509 (JLR), 2025 WL

3538351 (S.D.N.Y. Dec. 10, 2025). *See also Francois v Noem*, 25-7334, 2026 WL 27565 (E.D.P.A. January 5, 2026) (Haitian noncitizen who was paroled into the United States and whose TPS had expired could not be detained under § 1225). *But see contrary Sanchez v. Soto*, No. CV 25-19082 (SDW), 2026 WL 125576, at \*2 (D.N.J. Jan. 16, 2026) (“The record of this matter makes it clear that Petitioner was detained at the border as an ‘arriving alien’ under § 1225(b)(2). Her release on parole does not change that because Petitioner is treated legally as if she remained at the border for the duration of that parole. Petitioner thus remained subject to both the removal procedures, and accompanying mandatory detention, which applies to noncitizens detained under § 1225(b)(2) . . . .Petitioner’s current detention is thus lawful, and Petitioner is not entitled to a bond hearing under the statute that governs [her] detention.” (citation modified)); *Tenemasa-Lema v. Hyde*, No. CV 25-13029-BEM, 2025 WL 3280555, at \*4 (D. Mass. Nov. 25, 2025) (concluding that expiration of parole did not preclude re-detention under section 1225 “because DHS’s statutory power to ‘return’ Petitioner to custody under section 1225 at the expiration of his parole, see 8 U.S.C. § 1182(d)(5)(A), was not lost through DHS’ inaction, [and] that remains a proper authority for his current detention”); 3, *No. 1:25-CV-00500-JAW*, 2025 WL 3013081, at \*7 (D. Me. Oct. 28, 2025) (“The Court concludes that Mr. Chanaguano Caiza was initially detained pursuant to § 1225(b)(2) and therefore, upon expiration of his parole, his status is restored to detention under that same statute.”).

39. Applying the plain meaning of the phrase “seeking admission,” the Petitioner was not “presently trying to enter the United States at or near the border,” at the time of his apprehension and detention. *Id.*

40. Most importantly, since his apprehension and detention by ICE, the Respondents have treated the Petitioner in a manner consistent with his position that his detention is governed

40. Most importantly, since his apprehension and detention by ICE, the Respondents have treated the Petitioner in a manner consistent with his position that his detention is governed by 8 U.S.C. § 1226. He was provided with a Warrant of Arrest which stated he was being taken into custody **“as authorized by section 236 of the Immigration & Nationality Act.”**

(Emphasis added). *See* Exh 7. Further, the Notice to Appear charged the Petitioner as “an alien present in the United States **who has not been admitted or paroled.**” not an arriving alien.

(Emphasis added). *See* Exh. 1.

41. As the Petitioner was not “seeking admission” within the meaning of § 1225(b) but was “already in the country,” the mandatory provision of § 1225(b)(2) does not apply to the Petitioner whose parole had already expired at the time he was apprehended. This is consistent with the documentary evidence, namely the Warrant of Arrest and NTA issued to the Petitioner. Therefore, his detention is governed by the provisions of 8 U.S.C. § 1226. *See Desgazons v Nessinger, et al.*, 25-cv-459-MRD-PAS (D.R.I. Oct. 22, 2025). *See also see also Puga v Assistant Field Office Director Krome, et al.*, 25-cv-24535-civ-Altonaga.

## **VI. CLAIMS FOR RELIEF**

### **COUNT I**

#### **VIOLATION OF THE IMMIGRATION & NATIONALITY ACT**

42. Petitioner realleges and incorporates by reference paragraphs 1 through 41 as if fully set forth herein.

43. The mandatory detention provision at 8 USC § 1225(b)(2) does not apply to all noncitizens residing in the United States who are present without inspection or admission and placed in removal proceedings by Respondents. Such noncitizens are detained under 8 USC § 1226(a), unless they are subject to 8 USC § 1225(b)(1), § 1226(c) or § 1231.

44. The application of § 1225(b)(2) to the petitioner unlawfully mandates his continued detention and violates the INA.

## COUNT II

### VIOLATION OF DUE PROCESS

45. Petitioner realleges and incorporates paragraphs 1 through 41 as if fully set forth herein.

46. The government may not deprive a person of life, liberty or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects. *Zadvydas v Davis*, 533 U.S. 678, 690 (2001).

47. Regardless of which statute governs, even if it is 8 U.S.C. § 1225, the Petitioner is entitled to due process since his parole expired and he has been living in the United States.

48. Petitioner has a fundamental interest in liberty and being free from official restraint. Therefore, his detention has to comply with procedural due process. *See i.e. Elias C.M. v Warden of the Golden State Annex Facility*, 1:25-cv-02043-TLN-EFB (E.D. Cal. January 16, 2026); *E.V. v. Raycraft*, 2025 WL 3122837 (N.D. Ohio Nov. 7, 2025). The absence of any hearing or individualized assessment creates a substantial risk of erroneous deprivation of liberty and fails even the most basic procedural requirements of the Fifth Amendment.

49. The Respondents continued detention of the Petitioner is a violation of his due WHEREFORE. Petitioner prays this court grant the following relief:

1. Accept jurisdiction over this matter.

2. Issue an Order to Show Cause pursuant to 8 USC § 2243 directing the Respondents to file a return in three days of the Order directing the Respondents to show cause why the Court should not grant the Writ of Habeas Corpus.

3. Issue an order forbidding the Respondents from moving or otherwise transferring the Petitioner from the Southern District of Florida.

4. Issue a Writ of Habeas Corpus declaring that the statutory basis for the Petitioner's continued detention is 8 USC § 1226(a);

5. Issue a Writ of Habeas Corpus declaring that the Respondents detention of the Petitioner violates the Due Process Clause of the Fifth Amendment of the U.S. Constitution.

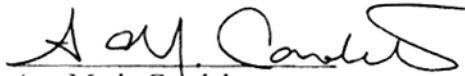
6. Issue an Order granting the Writ of Habeas Corpus and ordering the Petitioner's immediate release.

7. Grant temporary and permanent injunctive relief requiring the Respondents to release the Petitioner from custody under reasonable conditions of supervision.

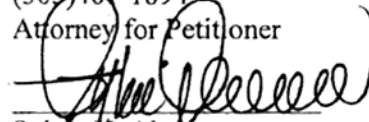
8. Alternatively, the Petitioner requests that the Court order a constitutionally adequate bond hearing within 5 days of its order before a neutral decisionmaker, where the Respondents will bear the burden of establishing the Petitioner is a flight risk and/or danger to the community by clear and convincing evidence. Petitioner further requests that the immigration judge, when deciding whether the Respondents have met their burden of proof, be ordered to consider less-restrictive non-bond alternatives to detention to reasonably address the government's interest in Petitioner's continued detention; and if setting a bond, consider the Petitioner's ability to pay.

9. Grant such further relief as Petitioner may request and/or this Honorable Court deems just and proper.

Respectfully submitted,



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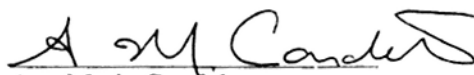


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**VERIFICATION**

Pursuant to 28 USC 2242, the undersigned counsel certifies under penalty of perjury that I am submitting this verification because I am one of the Petitioner's attorneys and I have discussed the facts within this Petition with Ana Maria Candela, Esq., who will be the Petitioner's counsel in removal proceedings before the Respondents. Pursuant to these discussions, I have reviewed the foregoing petition and that, to the best of my knowledge, the facts herein are true and accurate and the attachments to the petition are true and correct copies of the originals.

Respectfully submitted,



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A handwritten signature in black ink, appearing to read 'Sylvia H. Alonso', written over a horizontal line.

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