UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

Jose Gregorio CASTRO TREJO,

Petitioner,

v.

David Harden, Warden of Glades County Detention Center; Garrett Ripa, Miami Field Office Director, Todd M. Lyons, Acting Director, U.S. Immigration and Customs Enforcement; Kristi NOEM, Secretary, U.S. Department of Homeland Security; U.S. Department of Homeland Security; Executive Office for Immigration Review; Pamela BONDI, U.S. Attorney General; each in their Official capacities.

Respondents.

Case No.

A#: [redacted]

PETITION FOR WRIT OF HABEAS CORPUS

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Jose Gregorio Castro Trejo, (hereinafter "Petitioner" or "Mr. Castro Trejo") by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to compel his release from custody, as his current civil immigration detention violates the Due Process Clause of the United States Constitution and the Immigration and Nationality Act.

INTRODUCTION

1. Petitioner José Gregorio Castro Trejo brings this petition for a writ of habeas corpus to challenge his ongoing unlawful detention by Respondents. Petitioner is currently in the physical custody of Respondents at the Glades County Detention Center, located at 1279 East SR 78, Moore Haven, Florida 33471. ***See Exhibit A.***

2. Petitioner has been detained without an individualized custody determination based on Respondents' erroneous position that he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2). As a result, Petitioner has been categorically denied consideration for release on bond.

3. The Immigration and Nationality Act does not authorize mandatory detention under 8 U.S.C. § 1225(b)(2) under Petitioner's circumstances. Petitioner is not subject to expedited removal, criminal mandatory detention, or a final order of removal. His detention is therefore governed by 8 U.S.C. § 1226(a), which requires an individualized assessment of whether detention is necessary to ensure appearance at proceedings or to protect the community.

4. Petitioner entered the United States in August 2022 and was released into the United States, where he resided for over three years while complying with immigration requirements and pursuing lawful relief. ***See Exhibit B.***

5. In 2023, U.S. Citizenship and Immigration Services approved Petitioner's Special Immigrant Juvenile petition, recognizing his eligibility for humanitarian protection under the Immigration and Nationality Act. ***See Exhibit C.***

6. On October 19, 2025, following a minor, nonviolent traffic-related arrest, Immigration and Customs Enforcement took Petitioner into custody and placed him in removal proceedings under section 240 of the Immigration and Nationality Act.

7. DHS has charged Petitioner as inadmissible under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I), as an individual who entered the United States without inspection. Petitioner is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. ***See Exhibit D.***

8. At a custody redetermination hearing, the Immigration Judge concluded that Petitioner was subject to mandatory detention under 8 U.S.C. § 1225(b)(2) and therefore lacked jurisdiction to consider release on bond under § 1226(a). ***See Exhibit E.***

9. That conclusion is legally erroneous. The structure of the Immigration and Nationality Act, its implementing regulations, and controlling constitutional principles require that Petitioner receive an individualized custody determination under § 1226(a).

10. Federal courts have recently reaffirmed that § 1225(b)(2) does not authorize categorical detention in circumstances where § 1226(a) governs custody. Respondents nonetheless continue to rely on Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), to deny bond jurisdiction.

11. Because Respondents are detaining Petitioner without statutory authority and without due process, this Court should expeditiously grant this petition for a writ of habeas corpus.

12. The Court should order Respondents to immediately release Petitioner from custody. In the alternative, the Court should order Respondents to provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days.

JURISDICTION

13. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Glades County Detention Center in Moore Haven, Florida.

14. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA).

15. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause).

16. Because Petitioner seeks to challenge his custody as a violation of the Constitution and laws of the United States, jurisdiction is proper in this court.

VENUE

17. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Middle District of Florida, the judicial district in which Petitioner currently is detained.

18. Venue is also proper in this Court pursuant to 28 U.S.C. § 1391(e)(1)(A) because Respondents are operating in this district and are directly responsible for the confinement of Petitioner. *Rumsfeld v. Padilla, 542 U.S. 426, 430 (2004).*

REQUIREMENTS OF 28 U.S.C. § 2243

19. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an

order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." Id.

20. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . 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) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." Yong v. I.N.S., 208 F.3d 1116, 1120 (9th Cir. 2000) (citation modified).

PARTIES

21. Petitioner **Jose Gregorio Castro Trejo** is a citizen of Venezuela.

22. He has been in immigration detention since October 19th, 2025 and is being held at the Glades County Detention Facility in Moore Haven, Florida. His Alien Registration Number (A number) is [redacted]. Petitioner is a resident of Florida. He is in the custody, and under the direct control, of Respondents and their agents.

23. Respondent **David Harden**, Warden of Glades County Detention Center. Respondent David Harden is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

24. Respondent **Todd M. Lyons** is the Acting Director of U.S. Immigration and Customs Enforcement (ICE). Respondent Lyons is responsible for Petitioner's detention and is sued in his official capacity.

25. Respondent **Garrett Ripa** is the Field Office Director for the Miami Field Office for ICE within DHS. In that capacity, Field Director Ripa exercises authority over Petitioner's detention, transfer, and potential release. He is sued in her official capacity.

26. Respondent **Kristi Noem** is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner's detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

27. Respondent **Pamela Bondi** is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

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

29. Respondent **Executive Office for Immigration Review** (EOIR) is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

EXHAUSTION

30. There is no statutory exhaustion requirement in 28 U.S.C. § 2241. Any requirement of administrative exhaustion is therefore purely discretionary.

31. Moreover, where the agency has predetermined a dispositive issue, no further action with the agency is necessary. See, e.g., Monestime v. Reilly, 704 F. Supp. 2d 453, 456-57 (S.D.N.Y. 2010) (holding that administrative challenges to a noncitizen's classification under the mandatory detention statute would be futile given the agency's precedent on the issue).

32. The BIA interprets § 1225(b) as mandating detention of arriving aliens pending removal proceedings. See Matter of X-K-, 23 I&N Dec. 731, at 732 (BIA 2005) ("There is no

question that Immigration Judges lack jurisdiction [for a bond hearing] over arriving aliens who have been placed in... removal proceedings..."). Exhaustion before the BIA would therefore be futile.

33. Further, "the BIA [Board of Immigration Appeals] does not have jurisdiction to adjudicate constitutional issues..." (citation modified). United States v. Gonzalez-Roque, 301 F.3d 39, 48 (2d Cir. 2002). Because Petitioner raises a constitutional due process claim in his habeas petition, exhaustion of his due process claims would be futile.

FACTS

34. José Gregorio Castro Trejo was born on [redacted], in Caracas, Venezuela. He is a citizen and national of Venezuela. ***See Exhibit F.***

35. Mr. Castro Trejo fled Venezuela as a young adult due to unsafe conditions and lack of stability in his home country and sought refuge in the United States.

36. On or about August 7, 2022, Mr. Castro Trejo entered the United States without inspection. He was classified by immigration authorities as having entered without inspection and was subsequently granted parole and released into the United States.

37. Following his release, Mr. Castro Trejo complied with all immigration requirements and remained in the United States while pursuing lawful immigration relief. He has continuously resided in the United States since his entry and established residence in Hialeah, Florida.

38. On January 12, 2023, Mr. Castro Trejo filed a Form I-360, Petition for Special Immigrant Juvenile Status, seeking humanitarian protection under the Immigration and Nationality Act.

39. On September 13, 2023, U.S. Citizenship and Immigration Services approved Mr. Castro Trejo's Form I-360 petition, classifying him as a Special Immigrant Juvenile and establishing a priority date of January 12, 2023.

40. Although Mr. Castro Trejo is the beneficiary of an approved Special Immigrant Juvenile petition, immigrant visas in this category are not yet available for his priority date, preventing him from filing an application for adjustment of status at this time.

41. On October 17, 2025, Mr. Castro Trejo was stopped by local police in Hialeah, Florida, in connection with a traffic-related matter. During the stop, officers identified an outstanding bench warrant related to a driving while license suspended offense based on a financial suspension. He was arrested without incident. ***See Exhibit G.***

42. Mr. Castro Trejo's arrest did not involve violence, controlled substances, weapons, or allegations of harm to any person. He cooperated fully with law enforcement.

43. Following this arrest, Immigration and Customs Enforcement took Mr. Castro Trejo into custody, and he was detained at the Krome North Service Processing Center pending removal proceedings.

44. Mr. Castro Trejo requested a custody redetermination hearing pursuant to 8 C.F.R. § 1236, seeking release from immigration detention.

45. On December 11, 2025, the Immigration Judge denied bond, concluding that the court lacked jurisdiction to set bond based on then-controlling precedent, notwithstanding Mr. Castro Trejo's approved Special Immigrant Juvenile petition.

46. On December 29, 2025, DHS, through counsel, filed a motion requesting that the Immigration Judge reconsider the Court's December 11, 2025 bond decision. DHS relied on a recent order in Bautista v. Noem, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), which stated that

"Yajure Hurtado is no longer controlling" and entered final judgment with class-wide declaratory relief as to Counts I, II, and III. The Immigration Judge nonetheless denied the motion, explaining that the Government had appealed the Bautista decision as of December 18, 2025 and concluding that, as of that date, Matter of Yajure Hurtado continued to govern the Court's jurisdictional analysis. The Immigration Judge further suggested that DHS could consider parole through Enforcement and Removal Operations. ***See Exhibit H.***

47. Mr. Castro Trejo remains detained while his removal proceedings continue, despite his long-standing residence in the United States, compliance with immigration authorities, and approved humanitarian petition.

LEGAL FRAMEWORK

I. MR. JOSE GREGORIO CASTRO TREJO IS LIKELY TO SUCCEED ON THE MERITS OF HIS CLAIMS THAT HIS DETENTION IS UNLAWFUL AND VIOLATES HIS DUE PROCESS RIGHTS.

48. Mr. Castro Trejo is likely to succeed on the merits because his continued detention rests on a constitutionally defective framework that deprives him of liberty without lawful authority, individualized process, or a legitimate regulatory justification.

49. As set forth below, (A) the government is detaining Mr. Castro Trejo under an unlawful interpretation of INA § 235(b)(2)(A) that has been rejected by federal courts, and an Immigration Judge expressly refused to exercise jurisdiction absent a class-wide injunction, resulting in categorical detention without statutory or constitutional review; (B) his continued confinement without a bond hearing violates procedural due process under Mathews v. Eldridge, particularly in light of his approved Special Immigrant Juvenile Status ("SIJS"), which reflects Congress's determination that he merits protection rather than punishment; and (C) his detention violates substantive due process because he is neither a flight risk nor a danger to the

community, and therefore his confinement bears no reasonable relation to the limited civil purposes of immigration detention.

50. Taken together, these defects render Mr. Castro Trejo's detention unlawful and unconstitutional, warranting immediate relief.

A. Categorical Detention Under Matter of Yajure Hurtado, Without an Individualized Custody Determination, Violates the Fifth Amendment.

51. The Fifth Amendment prohibits civil immigration detention that is imposed categorically, without individualized assessment, and without a valid statutory basis. Civil detention must remain reasonably related to legitimate regulatory purposes and must be accompanied by meaningful procedural safeguards. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001); *United States v. Salerno*, 481 U.S. 739, 747 (1987); *Boumediene v. Bush*, 553 U.S. 723, 783 (2008).

52. Mr. Castro Trejo is detained pursuant to the Board of Immigration Appeals' decision in *Matter of Yajure Hurtado*, which interprets INA § 235(b)(2)(A) to mandate detention of noncitizens who entered without inspection, regardless of the timing or circumstances of their arrest. That interpretation forecloses any individualized custody determination by treating such individuals as perpetual "applicants for admission," thereby converting discretionary civil detention into automatic confinement.

53. The application of this interpretation deprives Mr. Castro Trejo of any meaningful opportunity to contest the legal or factual basis for his detention. He was denied a bond hearing not because of a finding that he posed a flight risk or danger, but because the Immigration Judge concluded that jurisdiction was categorically barred under agency precedent.

54. Federal courts have recently rejected the agency's expansive interpretation of § 235(b)(2)(A) and reaffirmed that noncitizens whose custody is governed by INA § 236(a) are entitled to individualized bond hearings. See Maldonado Bautista v. Santacruz, Jr., No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). Although not determinative of this case, that decision confirms that categorical detention under § 235(b)(2)(A) in circumstances like Mr. Castro Trejo's lacks statutory and constitutional support.

55. Notwithstanding that ruling, the Immigration Judge in Mr. Castro Trejo's case denied bond on December 11, 2025, not based on any statutory analysis, factual findings, or individualized assessment, but solely because *Maldonado Bautista* had not yet resulted in a final class-wide declaratory judgment or injunction. The Immigration Judge expressly reasoned the following:

> *"The court in Bautista v. Noem, 5:25-cv-01873-SSS-BFM (C.D. Cal.), granted class certification and partial summary judgment for the plaintiffs in that case, but did not issue a class-wide declaratory judgment. The court also did not issue a class-wide injunction, which would not be permitted by law. Rather, the court set a January 9, 2026 joint status report deadline and January 16, 2026 status conference. Until and unless the Bautista court issues a class-wide declaratory judgment or injunction, the Bautista court's opinion and partial grant of summary judgment does not constitute a judgment. See, e.g., Fed. R. Civ. P. 54(b) (second sentence). As such, they do not have preclusive effect with respect to other cases. Rather, there is currently no declaratory relief with respect to other cases filed by people who are now Bautista class members raising claims concerning the proper interpretation of the mandatory detention provisions. Therefore, as of this date, the Board's decision under Matter of Yajure Hurtado controls, and the Court finds it lacks jurisdiction to set a bond in this case. See Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025)."*

56. This reasoning exposes the constitutional defect. Mr. Castro Trejo's liberty was made contingent not on the INA, not on his personal circumstances, and not on constitutional limits, but on the procedural posture of separate federal litigation. The Immigration Judge did not

determine whether detention was authorized by statute or justified by flight risk or danger. Instead, detention was treated as automatic unless and until another court issued relief binding on EOIR.

57. Due process does not permit such a regime. The Constitution requires a meaningful opportunity to challenge the legal and factual basis of detention. It does not allow the government to detain individuals indefinitely by invoking agency precedent while disclaiming responsibility to adjudicate custody until a separate court issues class-wide relief. This circular framework leaves no adjudicator exercising discretion and no forum reviewing the legality of detention.

58. As applied to Mr. Castro Trejo, this practice results in arbitrary detention without statutory authority or procedural safeguards, in violation of the Fifth Amendment. Because his detention rests on an unlawful interpretation of the INA and the Immigration Judge's refusal to exercise jurisdiction, this Court should hold that Mr. Castro Trejo is detained pursuant to INA § 236(a) and order that he be afforded a prompt, individualized bond hearing consistent with constitutional requirements.

B. Mr. Castro Trejo's unlawful detention, without a bond hearing, despite having an approved Special Immigrant Juvenile Visa, violates the Fifth Amendment.

59. Upon an individual evidencing a liberty interest, a court must determine whether constitutionally sufficient procedures were provided by balancing: (1) the private interest affected by the official action; (2) the risk of erroneous deprivation of such interest through the procedures used and the probable value of additional or substitute procedural safeguards; and (3) the government's interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedural requirements would entail. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976).

60. Individuals in immigration detention possess a profound liberty interest in freedom from physical restraint and in remaining in the United States. The Supreme Court has long recognized that deportation and detention implicate "the right to stay and live and work in this land of freedom." *Bridges v. Wixon*, 326 U.S. 135, 154 (1945). That liberty interest is at its apex where, as here, the individual has already been affirmatively recognized by the federal government as deserving humanitarian protection.

61. Mr. Castro Trejo is entitled to the full protections of the Fifth Amendment's Due Process Clause. He has a substantial liberty interest in remaining in the United States and living free from unnecessary civil detention, particularly in light of USCIS's approval of his Form I-360 petition for Special Immigrant Juvenile Status ("SIJS"). USCIS approved Mr. Castro Trejo's SIJS petition on September 13, 2023, under INA § 101(a)(27)(J), with a priority date of January 12, 2023, formally recognizing that he was abused, abandoned, or neglected by a parent, that reunification with one or both parents was not viable, and that it is not in his best interests to return to his country of origin.

62. Congress created SIJS as a humanitarian protection for particularly vulnerable children who lack parental care and protection. SIJS is predicated on state juvenile court findings that the child cannot safely reunify with a parent and that return to the child's country of origin would be contrary to the child's best interests. By approving Mr. Castro Trejo's SIJS petition, the federal government has already determined that he merits protection, stability, and permanence in the United States, not punitive civil detention. His continued incarceration therefore directly undermines the very purpose of the SIJS statute.

63. Under the second *Mathews* factor, the risk of erroneous deprivation is severe. Mr. Castro Trejo has been detained without any opportunity for an individualized bond hearing at

which the government would be required to justify his continued confinement. As courts have made clear, "the only interest to be considered under the second *Mathews* factor is that of the detained individual—not the government." *Black v. Decker*, 103 F.4th 133, 152 (2d Cir. 2024). Here, the absence of a bond hearing creates an unacceptably high risk that Mr. Castro Trejo is being needlessly deprived of his liberty despite posing neither a danger to the community nor a flight risk.

64. Mr. Castro Trejo's detention is particularly arbitrary given his procedural posture. He is the beneficiary of an approved SIJS petition by USCIS. He is eligible to pursue adjustment of status to lawful permanent residence once a visa number becomes available. Detaining an individual whom Congress expressly intended to protect, without any individualized assessment, constitutes a cascading deprivation of due process that compounds with each day of confinement.

65. The government's interests do not justify this deprivation. Any generalized interest in enforcing the immigration laws is minimal where the government has already determined that Mr. Castro Trejo qualifies for humanitarian relief and is not subject to removal as a matter of discretion. Moreover, providing an individualized bond hearing would impose no meaningful fiscal or administrative burden. To the contrary, continued detention needlessly expends government resources while offering no corresponding public benefit.

66. All three *Mathews* factors weigh decisively in Mr. Castro Trejo's favor. His continued detention without a bond hearing violates the Fifth Amendment's Due Process Clause. Accordingly, Mr. Castro Trejo is entitled to immediate release from ICE custody, or, at a minimum, a prompt individualized bond hearing at which the government bears the burden of justifying any continued detention.

C. Mr. Castro Trejo's detention violates his right to substantive due process because he is neither a flight risk nor a danger to the community.

67. Immigration detention is civil in nature and must "bear a reasonable relation to the purpose for which the individual [is] detained" in order to remain nonpunitive in purpose and effect. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001). To comport with due process, only two legitimate regulatory purposes justify immigration detention: ensuring a noncitizen's appearance at future proceedings and protecting the community from danger pending the completion of removal proceedings. *Id.*; *Bunthoeun Kong v. United States*, 62 F.4th 608, 616 (1st Cir. 2023).

68. Mr. Castro Trejo is not a flight risk. He is the beneficiary of an approved Form I-360 petition for Special Immigrant Juvenile Status ("SIJS"), which reflects binding factual determinations by a state juvenile court and USCIS that he was abused, abandoned, or neglected by a parent, that reunification with one or both parents is not viable, and that it is not in his best interests to return to his country of origin. SIJS places Mr. Castro Trejo on a direct statutory pathway to lawful permanent residence once a visa number becomes available, giving him every incentive to remain in the United States and comply with all immigration proceedings.

69. Mr. Castro Trejo is likewise not a danger to the community. He has no criminal history and has already undergone extensive scrutiny in both state juvenile court proceedings and the federal SIJS adjudication process. That process is designed to identify and protect vulnerable youth, not individuals who pose a risk to public safety. Nothing in Mr. Castro Trejo's record suggests that he presents any danger to the community.

70. Accordingly, no legitimate governmental interest justifies Mr. Castro Trejo's continued detention. The government has already determined—through approval of his SIJS petition—that he qualifies for humanitarian protection and should not be returned to his country of origin. Detaining him despite those findings does not advance appearance-based or public-safety objectives and instead undermines the protective purpose of the SIJS statute.

71. Under these circumstances, Mr. Castro Trejo's detention no longer bears a reasonable relation to the civil purposes of immigration custody and has become punitive in effect. Detention based on categorical practices or administrative convenience, rather than an individualized assessment of flight risk or danger, is fundamentally inconsistent with substantive due process.

72. Because Mr. Castro Trejo is neither a flight risk nor a danger to the community, and because his detention serves no legitimate regulatory purpose, his continued confinement violates the Due Process Clause of the Fifth Amendment. He must therefore be released from ICE custody.

73. At a minimum, this Court should order an immediate individualized bond hearing at which the government bears the burden of demonstrating that Mr. Castro Trejo's detention is necessary to serve a legitimate governmental interest and satisfies constitutional requirements.

CLAIMS FOR RELIEF

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

74. Petitioner incorporates by reference all preceding paragraphs as if fully set forth herein.

75. The Immigration and Nationality Act authorizes civil immigration detention only for limited and lawful purposes: to ensure attendance at removal proceedings and to protect the community. Zadvydas v. Davis, 533 U.S. 678, 690 (2001). Detention that exceeds those purposes, or that lacks statutory authorization, violates the INA.

76. Petitioner's continued detention exceeds the limits Congress intended.

77. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens who are charged as inadmissible. As relevant here, it does not apply where a noncitizen's detention is governed by 8 U.S.C. § 1226(a), including where the individual is not subject to expedited removal under § 1225(b)(1), mandatory criminal detention under § 1226(c), or detention pursuant to a final order of removal under § 1231.

78. Petitioner is not subject to a final order of removal and is not detained under 8 U.S.C. § 1225(b)(1), § 1226(c), or § 1231. His custody is therefore governed by 8 U.S.C. § 1226(a), which authorizes only discretionary detention and requires an individualized determination of whether detention is necessary to ensure appearance at proceedings or to protect the public.

79. Section 1226(a) does not authorize mandatory, automatic, or punitive detention. Yet Respondents have treated Petitioner's detention as mandatory by invoking § 1225(b)(2) to categorically deny him consideration for release on bond.

80. The government has not demonstrated that Petitioner's continued detention is necessary to secure his appearance at removal proceedings or to protect the community. Reasonable alternatives to detention, including bond, supervision, or release on recognizance, would adequately serve the purposes of the statute.

81. By applying 8 U.S.C. § 1225(b)(2) to Petitioner and denying him an individualized custody determination under § 1226(a), Respondents are unlawfully mandating his continued detention in violation of the Immigration and Nationality Act.

COUNT II
VIOLATION OF THE BOND REGULATIONS

82. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.

83. In 1997, following enactment of the Illegal Immigration Reform and Immigrant Responsibility Act ("IIRIRA"), the Executive Office for Immigration Review ("EOIR") and the former Immigration and Naturalization Service issued an interim rule interpreting and implementing the amended detention provisions of the INA. Under the heading "Apprehension, Custody, and Detention of [Noncitizens]," the agencies explained that "[d]espite being applicants for admission, [noncitizens] who are present without having been admitted or paroled (formerly referred to as [noncitizens] who entered without inspection) will be eligible for bond and bond redetermination." 62 Fed. Reg. 10312, 10323 (Apr. 9, 1997) (emphasis added).

84. Through this rulemaking, the agencies made clear that noncitizens who entered without inspection are eligible for bond and bond redetermination hearings before Immigration Judges pursuant to 8 U.S.C. § 1226 and its implementing regulations.

85. Nonetheless, pursuant to Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), EOIR has adopted a policy and practice of applying 8 U.S.C. § 1225(b)(2) to individuals situated like Petitioner and of denying Immigration Judges jurisdiction to consider bond under § 1226(a).

86. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates EOIR's own regulations, including 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, which authorize Immigration Judges to conduct bond and bond redetermination hearings for individuals detained under § 1226(a).

COUNT III
VIOLATION OF THE FIFTH AMENDMENT RIGHT TO DUE PROCESS

87. Petitioner incorporates by reference all preceding paragraphs as if fully set forth herein.

88. The Fifth Amendment prohibits the government from depriving any person of liberty 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 core of the liberty protected by the Due Process Clause. Zadvydas v. Davis, 533 U.S. 678, 690 (2001).

89. The Due Process Clause applies to all persons within the United States, including noncitizens, regardless of whether their presence is lawful, unlawful, temporary, or permanent. Id. at 693.

90. Petitioner has a fundamental liberty interest in being free from unnecessary and prolonged government detention.

91. Respondents are detaining Petitioner without providing an individualized bond hearing to assess whether he poses a flight risk or danger to the community. Instead, detention has been imposed categorically based on an asserted lack of jurisdiction, without any factual findings or discretionary assessment.

92. The government's continued detention of Petitioner without an adequate bond hearing violates due process. The Constitution does not permit the government to impose civil detention automatically, without individualized consideration, and without a meaningful opportunity to challenge the legal and factual basis for continued confinement.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that the Court grant the following relief:

a. Assume jurisdiction over this matter;

b. Order that Petitioner not be transferred outside the Middle District of Florida while this habeas petition is pending;

c. Issue an Order to Show Cause directing Respondents to demonstrate, within three days, why this Petition should not be granted;

d. Issue a Writ of Habeas Corpus requiring Respondents to immediately release Petitioner or, in the alternative, to provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within seven days;

e. Declare that Petitioner's detention is unlawful.

f. Award Petitioner attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, and any other applicable authority; and

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

Dated this February 6th, 2026.

/s/ Gustavo Guerrero-Barboza, Esq.
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TABLE OF EXHIBITS

Exhibit A— Current Detention Center– Glades County Detention Center, located at 1279 East SR 78, Moore Haven, Florida 33471.

Exhibit B — Immigration Parole (Most Recent – 08/06/2022 Entry)

Exhibit C — Special Immigrant Juvenile Petition Approval Notice — 09/13/2023

Exhibit D— Notice to Appear (NTA) – Issued 10/19/2025.

Exhibit E— Custody Redetermination Decision – Issued 12/11/2025

Exhibit F — Venezuelan Identity Card and Birth Certificate

Exhibit G— Arrest Record — Local Police, Hialeah, Florida — 10/17/2025

Exhibit H — Decision on Motion to Reconsider Bond Hearing Denial – 12/13/2025.