

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION
Case No. 1-26-CV-20890**

Eddy Alain MARTINEZ DE MOYA, individually,
Petitioner,

v.

MIAMI FIELD OFFICE DIRECTOR, U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT,
Garrett J. RIPA, in his official capacity;
ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT,
Todd M. LYONS, in his official capacity;
SECRETARY OF THE UNITED STATES DEPARTMENT OF
HOMELAND SECURITY,
Kristi NOEM, in her official capacity; and
ATTORNEY GENERAL OF THE UNITED STATES,
Pamela J. BONDI, in her official capacity.

Respondents,

PETITION FOR WRIT OF HABEAS CORPUS

COMES NOW THE PETITIONER, Eddy Alain MARTINEZ DE MOYA (“Petitioner” or “MARTINEZ DE MOYA”), individually, by and through his undersigned counsel and pursuant to 28 U.S.C. §2241 (2026) and the Administrative Procedure Act, 5 U.S.C. § 701, et seq. (2026), and brings this petition for a writ of habeas corpus pursuant to remedy his continued unlawful detention by Respondents and requests immediate release or an order mandating and individualized bond hearing before an immigration judge. In support thereof, Petitioner states as follows.

PRELIMINARY STATEMENT

1. Petitioner is a 20-year-old Cuban national who entered the United States in December 2022 as an unaccompanied minor child.

2. Following his entry, Petitioner was briefly detained by immigration officials in the custody of the Office of Refugee Resettlement (ORR) and was classified as an unaccompanied minor child (UAC).

3. After immigration officials determined that he was neither a danger nor a flight risk, Petitioner was released to the care of a family sponsor in Florida, where he has always resided since his entry.

4. Petitioner timely-filed a Form I-589 application for asylum and withholding of removal with U.S. Citizenship and Immigration Services, and this application remains pending.

5. Petitioner was recently re-detained by the U.S. Department of Homeland Security (DHS) despite no material change in his circumstances and no evidence that he is a danger or a flight risk. He faces unlawful detention because DHS seeks to re-classify him as an “alien who is an applicant for admission” pursuant to 8 U.S.C. 1225(b)(2)(A) and refuses to release him.

6. DHS has not filed a Notice to Appear (NTA) in Petitioner’s case, and he is detained despite no pending removal proceedings in immigration court.

7. While Petitioner no longer meets the definition of a UAC because he is no longer under 18, the U.S. District Court for the District of Columbia’s 12 December 2025 order in *Garcia Ramirez et al. v. U.S. Customs and Immigration Enforcement*, Case No. 18-508 requires ICE to

comply with its statutory obligations by considering the least restrictive setting available to the UAC who turns 18 and enjoins DHS from detaining age-outs like Petitioner in any manner that contravenes the nationwide permanent injunction in that case.

8. Respondents' failure to release Petitioner absent materially changed circumstances regarding the statutory risk factors violates 8 U.S.C. § 1232 (c)(2)(B), the nationwide injunction in *Garcia Ramirez*, and the Administrative Procedure Act, and this Court should order Respondents to release Petitioner immediately.

9. Alternatively, this Court should order Respondents to provide a bond hearing under 8 U.S.C. § 1226(a) within 7 days.

JURISDICTION

10. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*

11. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause).

12. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 *et seq.*, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

VENUE

13. Venue is proper in this District because Respondents are officers, employees, or agencies of the United States and substantial part of the events or omissions giving rise to Petitioner's claims occurred in this District. 28 U.S.C. § 1391(e).

14. Venue is also proper in this District, as Petitioner is currently detained in this District in Respondents' custody.

REQUIREMENTS OF 28 U.S.C. § 2243

15. Pursuant to 28 U.S.C. § 2243, this Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243.

16. If an order to show cause is issued, the Court must require Respondents to file a return "within *three days* unless for good cause additional time, not exceeding twenty days, is allowed." *Id.* (emphasis added).

17. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as "perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *See Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

18. Petitioner Eddy Alain Martinez de Moya is a Cuban national who, until such time as he was re-detained by Respondents, was residing in Hillsborough County, Florida. Petitioner is currently detained in the direct custody and control of Respondents and their agents at the Broward County Detention Center in Pompano Beach, Florida, in this District.

19. Respondent Garrett J. Ripa ("RIPA") is the Director of the Miami Field Office of ICE's Enforcement and Removal Operations division. RIPA is Petitioner's immediate custodian and is responsible for Petitioner's detention and removal. He is sued in his official capacity.

20. Respondent Todd M. Lyons (“LYONS”) is sued in his official capacity as the Acting Director of ICE. In this capacity, LYONS is responsible for the implementation and enforcement of the “INA,” and oversees ICE. LYONS is Petitioner’s legal custodian. He is sued in his official capacity.

21. Respondent Kristi Noem (“NOEM”) is the Secretary of the U.S. 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. NOEM has ultimate custodial authority over Petitioner and is sued in her official capacity.

22. Respondent Pamela J. Bondi (“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. BONDI is sued in her official capacity.

STATEMENT OF FACTS

23. Petitioner is a 20 year-old citizen of Cuba. He first entered the United States on 7 December 2022 near San Luis, Arizona as an unaccompanied minor child. He was 17 years of age at the time.

24. Petitioner was briefly detained by immigration officers who, after classifying him as an Unaccompanied Minor Child, or “UAC,” placed him in the temporary custody of the U.S. Department of Health and Human Services’ Office of Refugee Resettlement (ORR).

25. After determining that he was neither a danger nor a flight risk, Respondents released Petitioner to his family sponsor in Homestead, Florida on 31 December 2022. This release was subject to Section 462 of the Homeland Security Act of 2002 and Section 235 of the William

Wilberforce Trafficking Victims Protection Reauthorization Act of 2008 (the “TVPRA”), 8 U.S.C. 1232(c)(2)(B). A true and correct copy of Respondent’s ORR Verification of Release is attached hereto at Exhibit A.

26. A Notice to Appear (“NTA”) in removal proceedings was prepared by DHS prior to his release. The NTA is dated 7 December 2022, and it classifies Petitioner as an “alien present in the United States who has not been admitted or paroled.” A true and correct copy of the NTA is attached hereto at Exhibit B.

27. As of the date of the filing of this petition, the NTA has not been filed with the Executive Office of Immigration Review. As such, he is not currently in removal proceedings.

28. Since his release to his sponsor, Petitioner has lived with his family in the Tampa Bay area in Florida, gained lawful employment authorization, and has been working and supporting himself.

29. Petitioner has no criminal history anywhere in the world, nor does he have a history of violence.

30. Petitioner, who fled political persecution in Cuba, timely filed a Form I-589 application for asylum and withholding of removal under the Convention Against Torture with USCIS and attended his corresponding 2 June 2023 biometrics appointment. A true and correct copy of Petitioner’s Form I-589 biometrics notice is attached hereto at Exhibit C.

31. In early January 2026, Petitioner was taken into immigration custody after a traffic stop near Lakeland, Polk County, Florida. He was not explained the reason for his detention.

32. After a brief period of immigration detention at the Florida Soft-Side Facility in Ochopee, Collier County, Florida, in the Middle District of Florida, Petitioner was transferred to

immigration custody at the Broward Transitional Center in Pompano Beach, Florida, which is located within this District, and where he remains detained to this day.

33. Respondents have indicated that they seek to reclassify Petitioner as an alien seeking admission under *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and detain him under 8 U.S.C. 1225(b)(2), without affording him any of the protections that he is entitled to under 8 U.S.C. 1232(c)(2)(B).

EXHAUSTION OF REMEDIES

34. Petitioner has not requested a bond hearing before an immigration judge because no genuine opportunity for adequate remedy exists, and an administrative appeal would be futile, given the Board of Immigration Appeals decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) and the EOIR's 16 January 2026 nationwide guidance instructing immigration judges to deny bond hearings for all persons under *Yajure Hurtado*. Because immigration judges are bound by BIA precedent, any request for a bond proceeding would only prolong Petitioner's detention and serve no purpose.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Trafficking Victims Protection Reauthorization Act (TVPRA) (8 U.S.C. § 1232(c)(2)(B)) and *Garcia Ramirez* Nationwide Injunction

35. The allegations in the above paragraphs are realleged and incorporated herein.

36. In accordance with the Trafficking Victims Protection Reauthorization Act, 8 U.S.C. § 1232(c)(2)(B), when unaccompanied minors lacking immigration status arrive in the United States, they are designated as UACs and placed in ORR custody.

37. Once the UAC reaches 18, they are considered “age-outs,” and they are afforded certain protections upon a transfer to ICE custody.

38. Specifically, Section 1232(c)(2)(B) requires that before Respondents decide to detain an age-out, it must “consider placement in the least restrictive setting available,” after considering the age-out’s “danger to self, danger to the community, and risk of flight” and it makes age-outs eligible to participate in alternative to detention programs, utilizing a continuum of alternatives” that are based on the age-out’s need for supervision. *Id.*

39. In September 2021, the United States District Court for the District of Columbia issued a nationwide permanent injunction in *Garcia Ramirez*, mandating that Respondents comply with Section 1232(c)(2)(B) by considering the least restrictive setting available for every age-out and to make all age-outs eligible for alternatives to detention. On 12 December 2025, the D.C. District Court issued a ruling enforcing the 2021 permanent injunction.

40. Petitioner has had no material changes in circumstances since his original release from ORR custody at age 17, and Respondents did not conduct the assessments required by Section 1232(c)(2)(B) before making its current custody determination and this violated the statute and the *Garcia Ramirez* permanent injunction.

41. For these reasons, Petitioner’s detention violates the TVPRA and the *Garcia Ramirez* permanent injunction.

COUNT TWO

Violation of the Administrative Procedure Act (5 U.S.C. § 706, et seq.)

42. The allegations in the above paragraphs are realleged and incorporated herein.

43. The Administrative Procedure Act, 5 U.S.C. § 706, et seq. (APA), provides that any person suffering a legal wrong because of agency action, or who adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.

44. Petitioner has been adversely affected by Respondent's refusal to comply with the TVPRA or allow him a bond hearing to seek release from detention, which constitutes a violation of the APA.

45. For these reasons, Petitioner's detention violates the APA.

COUNT THREE
Violation of the Immigration & Nationality Act (INA)
Independent Statutory Entitlement to Bond Under 8 U.S.C. § 1226(a)

46. The allegations in the above paragraphs are realleged and incorporated herein.

47. Petitioner's detention is independently unlawful because it is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2).

48. Section 1225 applies primarily to noncitizens "arriving" at the border or seeking admission. *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018).

49. Section 1226(a), by contrast, is the "default rule" governing noncitizens already present in the United States.

50. Petitioner entered the United States in 2022, has resided continuously in the United States, was previously released from custody, granted deferred action, issued work authorization, and was categorized as an "alien present in the United States who has not been admitted or paroled" on the NTA prepared by Respondents. *See supra* at § 26.

51. Under Supreme Court precedent and persuasive district authority, Respondents may not retroactively classify him as an applicant for admission. 61. Because Petitioner is detained under § 1226(a), Respondents' categorical denial of a bond due to lack of jurisdiction violates the INA.

52. For these reasons, Petitioner's detention violates the INA.

COUNT FOUR
Violation of the Fifth Amendment Due Process Clause

53. The allegations in the above paragraphs are realleged and incorporated herein.

54. Respondents' categorical detention of Petitioner without an individualized bond determination violates the Due Process Clause of the Fifth Amendment.

55. Once a noncitizen enters the United States, "the Due Process Clause applies to all 'persons' within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent." *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

56. Petitioner's years-long physical presence, prior release from custody, grant of deferred action, and favorable discretionary determinations give rise to a protected liberty interest that cannot be extinguished by agency fiat. *See Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958).

57. Respondents have made no individualized finding that Petitioner is a danger to the community or a flight risk.

58. Respondent's categorical detention policy violates due process and cannot withstand constitutional scrutiny.

59. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment of the United States Constitution.

PRAYER FOR RELIEF

Wherefore, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three (3) days;
- (3) Declare that Petitioner's detention violates the TVPRA (8 U.S.C. § 1232(c)(2)(B)); the APA, the INA, and the Fifth Amendment's Due Process Clause;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately schedule a bond hearing before an immigration judge and, at such hearing, afford Petitioner the opportunity to seek release under 8 U.S.C. 1226(a);
- (5) Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, and on any other basis justified under law; and
- (6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

/s/ Kristin D. Figueroa-Contreras

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Eddy Alain MARTINEZ DE MOYA and submit this verification on Petitioner's behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 27th day of January 2026.

/s/ Kristin D. Figueroa-Contreras

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