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**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
CIVIL DIVISION**

BRAULIO ANASTACIO VASQUEZ MELGAR

)
)
Petitioner,)
)
v.)
)
WARDEN, Miami Federal Detention Center FDC;)
GARRET J. RIPA, Director of Miami Field Office,)
U.S. Immigration and Customs Enforcement;)
KRISTI NOEM, Secretary of the U.S. Department)
of Homeland Security; and **PAMELA BONDI**,)
Attorney General of the United States,)
in their official capacities,)
)
Respondents.)
_____)

Case No. 1:26cv20968

**PETITION FOR WRIT OF
HABEAS CORPUS**

**ORAL ARGUMENT
REQUESTED**

INTRODUCTION

Petitioner, **BRAULIO ANASTACIO VASQUEZ MELGAR**, is a Guatemalan national in the custody of U.S. Immigration and Customs Enforcement (“ICE”) at Miami Federal Detention Center FDC in Miami, Florida, where he has been detained since October 2025. He previously entered the United States in December 8, 2024, was released, and lived in Fort Lauderdale, Florida, for more than one year with his family while pursuing immigration relief.

This petition challenges Mr. Vasquez Melgar’s ongoing civil immigration detention as unlawful because ICE and the Immigration Court have classified him under the wrong detention statute, treated him as subject to mandatory detention, and refused to provide an individualized

bond hearing to determine whether his continued confinement is necessary. Through counsel, he sought a low-cash bond in Immigration Court under 8 U.S.C. § 1226(a), relying on *Bautista v. Santacruz* and the certified “Bond Eligible Class” to establish that individuals like him are detained under section 8 U.S.C. § 1226 rather than 8 U.S.C. § 1225 and are therefore entitled to bond consideration, but the Immigration Judge nevertheless found he was subject to mandatory detention and lacked jurisdiction to grant bond. Accordingly, to vindicate Petitioner’s constitutional and statutory rights to be free from arbitrary and excessive civil detention, this Court should grant the instant petition for a writ of habeas corpus.

Petitioner further summarizes his claims as follows: (1) he is being detained under the wrong immigration detention statute and improperly treated as subject to mandatory detention instead of being recognized, consistent with *Bautista v. Santacruz* and its final judgment, as bond-eligible under 8 U.S.C. 1226(a); (2) he has never received an individualized custody determination assessing danger or flight risk, either from ICE or the Immigration Court, despite having requested a bond hearing and submitting a detailed bond motion invoking *Bautista* and the nationwide Bond Eligible Class; and (3) his prolonged detention, despite serious medical issues, strong community ties, and a willing U.S.-citizen sponsor, has become unnecessary, unreasonable, and harmful to his health and family. Absent an order from this Court, Petitioner will remain confined without a meaningful opportunity to seek release or to obtain the specialized medical treatment his condition requires.

Petitioner asks this Court to find that his continued civil immigration detention is unlawful because he is detained under the wrong statute and denied an individualized bond hearing as required for *Bautista v. Santacruz* Bond-Eligible Class members, and order his immediate release from ICE custody under appropriate conditions of supervision or, at

minimum, an expedited individualized bond hearing before an Immigration Judge applying 8 U.S.C. 1226(a).

JURISDICTION

1. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq., because Petitioner challenges the lawfulness of his ongoing civil immigration detention and seeks enforcement of federal statutory and constitutional limits on that detention.
2. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus) and 28 U.S.C. § 1331 (federal question) because Petitioner is in federal immigration custody within this District and alleges that he is “in custody in violation of the Constitution or laws or treaties of the United States,” and the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, preserves the availability of habeas review for such claims. There is no statutory exhaustion requirement for 28 U.S.C. § 2241 immigration habeas petitions, and any prudential exhaustion requirement is excused here because further administrative review would be futile considering binding agency precedent and would risk continuing, irreparable harm from unlawful detention.
3. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., including orders directing release or a constitutionally adequate bond hearing, as well as under the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., which authorizes declaratory relief concerning the parties’ rights under federal law, and the All Writs Act, 28 U.S.C. § 1651, which empowers federal courts to issue all writs necessary or appropriate in aid of their jurisdiction.

VENUE

4. Venue is proper in this District because Petitioner is detained at Miami Federal Detention Center in Miami, Florida, which is within the jurisdiction of this Court.
5. In addition, venue is proper in this District because Respondents are officers, employees, or agencies of the United States, a substantial part of the events and omissions giving rise to Petitioner's claims—including his initial ICE custody, continued detention classification, and denial of bond under the Bautista Bond-Eligible framework—occurred at Miami Federal Detention Center and within this District, and no real property is involved in this action. 28 U.S.C. § 1391(e).

REQUIREMENTS OF 28 U.S.C. § 2243

6. The 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. 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).

7. 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.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

8. Petitioner is a noncitizen in civil immigration detention who entered the United States in December 2024 and is currently detained at Miami Federal Detention Center in

Miami, Florida. He is in the custody, and under the direct control, of Respondents and their agents.

9. Respondent Warden of Miami Federal Detention Center has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner. Respondent Warden is a legal custodian of Petitioner.
10. Respondent Garrett Ripa is sued in his official capacity as the Field Office Director of the Miami Field Office of U.S. Immigration and Customs Enforcement, Enforcement and Removal Operations. Respondent Ripa is a legal custodian of Petitioner and has authority to release him from ICE custody.
11. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent Noem is a legal custodian of Petitioner.
12. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity, she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA; Respondent Bondi is therefore a legal custodian of Petitioner.

STATEMENT OF FACTS

13. Petitioner is a 43-years-old citizen of Guatemala who entered the United States in December 8, 2024, seeking protection from persecution, has lived in Fort Lauderdale, Florida with his brother. He has no criminal history and maintains strong family and community ties in the United States.
14. Petitioner entered the United States on or about December 8, 2024, was released, instructed to report to ICE, and then lived for one year in Fort Lauderdale, Florida, supporting his family and community.
15. During this time in the community, Petitioner complied with immigration requirements, filed an asylum application, maintained a stable residence, and developed strong ties with his uncle, U.S.-citizen sponsor Gilmar Donaldo Melgar, and multiple friends who have submitted letters attesting to his integrity, responsibility, and good moral character.
16. On October 23, 2025, while attending a scheduled appointment with ICE, the Petitioner was taken into custody, transferred from local custody to ICE custody, and transported to the Miami Federal Detention Center (FDC) in Miami, Florida, where he remains detained under civil immigration custody.
17. On December 15, 2025, Petitioner appeared with counsel for a bond hearing before the Immigration Court. At that hearing, the Immigration Judge concluded that the court lacked jurisdiction to consider bond and therefore denied relief, without conducting an individualized analysis of danger, flight risk, or Petitioner's medical and family circumstances.

18. Because the Immigration Judge made clear that the denial was based solely on a lack of jurisdiction, and not on any discretionary factors, further administrative review would have been futile, as the underlying jurisdictional issue would remain unchanged.
19. As a result, Petitioner remains detained at the Miami Federal Detention Center without having received a meaningful individualized bond determination, despite having strong family and community ties, a stable residence and sponsor, no criminal convictions, and significant medical needs that continue to be worsened by detention.

LEGAL FRAMEWORK

20. Civil immigration detention of noncitizens in removal proceedings is governed principally by 8 U.S.C. §§ 1225 and 1226. Section 1226(a) authorizes the arrest and detention of noncitizens pending a decision on removal and expressly permits release on bond or conditional parole, while section 1226(c) requires mandatory detention only for a narrow class of individuals with specified criminal or national-security grounds. By contrast, 8 U.S.C. § 1225(b)(2) applies to certain “applicants for admission” encountered at or near the border and has been interpreted by DHS and the Board in Matter of Yajure-Hurtado to require detention without bond for the duration of proceedings, an interpretation Petitioner challenges as contrary to statute and binding federal court authority.
21. In Lazaro Maldonado Bautista et al. v. Santacruz, the U.S. District Court for the Central District of California issued a detailed statutory analysis holding that noncitizens who entered without inspection but were not apprehended at the border and are not subject

to §§ 1226(c), 1225(b)(1), or 1231 are detained under § 1226(a), not § 1225(b)(2), and are therefore eligible for bond consideration. The court certified a nationwide “Bond Eligible Class” of such individuals and later entered Final Judgment declaring that class members are detained pursuant to § 1226(a), are entitled to individualized consideration for release on bond by immigration officers, and, if not released, are entitled to a custody redetermination hearing before an Immigration Judge under 8 C.F.R. §§ 236.1, 1236.1, and 1003.19, while vacating DHS’s July 8, 2025 Interim Guidance to the contrary under the Administrative Procedure Act. Petitioner alleges that he falls squarely within this Bond Eligible Class and that DHS and the Immigration Court’s continued reliance on § 1225(b)(2) and Matter of Yajure-Hurtado in his case is unlawful and inconsistent with the Bautista Final Judgment.

22. The Board of Immigration Appeals has long held that individuals detained under § 1226(a) should generally be released on bond absent a finding that they present a danger to the community or a flight risk, and that IJs must consider factors such as fixed address, length of residence, family ties, employment history, criminal record, and appearance record in setting bond. Decisions such as Matter of Patel and Matter of Guerra emphasize that civil immigration detention is the exception, not the rule, and that bond determinations must be individualized and fact-specific rather than categorical. Petitioner contends that by refusing to recognize his § 1226(a) status, ICE and the Immigration Judge have categorically denied him any individualized assessment of danger or flight risk, in violation of these principles.
23. The Due Process Clause of the Fifth Amendment constrains the federal government’s authority to detain noncitizens in civil immigration custody, requiring that detention

bear a reasonable relation to its purposes and that, over time, the government provide adequate procedural protections, including an individualized hearing, to justify continued confinement. Supreme Court and lower-court precedent recognize that nonpunitive civil detention becomes constitutionally problematic when it is prolonged, unjustified, or imposed without adequate process, particularly where serious health harms or family separation result. Petitioner alleges that his months-long detention without a bond hearing, despite strong family and community ties, lack of criminal convictions, and serious untreated orthopedic conditions, has become excessive and arbitrary in violation of due process.

24. Federal courts retain habeas jurisdiction under 28 U.S.C. § 2241 and the Suspension Clause to review the legality of immigration detention, including challenges to the statutory authority for confinement, misclassification under detention provisions, and the failure to provide a constitutionally adequate bond hearing. Because there is no statutory exhaustion requirement for § 2241 immigration habeas and further administrative review would be futile in light of binding agency precedent and the Immigration Judge's express reliance on Matter of Yajure-Hurtado, Petitioner properly invokes habeas to seek a declaration that he is detained under § 1226(a) as a Bautista Bond Eligible Class member, an order directing his release under reasonable conditions, or, at minimum, an expedited individualized bond hearing applying the correct statutory framework.

CLAIMS FOR RELIEF

COUNT ONE

Violation of Fifth Amendment Right to Due Process

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

26. Petitioner's continued civil immigration detention without recognition of his status as a § 1226(a)-detained Bautista Bond Eligible Class member, and without any meaningful, individualized custody hearing to determine whether his confinement is necessary based on danger or flight risk, violates the Fifth Amendment's guarantee of procedural and substantive due process. Petitioner has been held for months in detention despite strong family and community ties, the absence of any criminal convictions, and serious, worsening medical conditions, and Respondents have relied on an erroneous mandatory-detention classification to deny him the basic process of a bond hearing and to impose detention that is excessive in relation to its purported immigration purposes.
27. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT TWO
Violation of 8 U.S.C. § 1226 (a) and Implementing Regulations

28. The allegations in the above paragraphs are realleged and incorporated herein.
29. Under *Bautista v. Santacruz* and the Final Judgment entered for the nationwide Bond Eligible Class, noncitizens who, like Petitioner, entered without inspection, were not apprehended at the border, and are not detained under 8 U.S.C. §§ 1226(c), 1225(b)(1), or 1231 are detained pursuant to 8 U.S.C. § 1226(a) and are entitled to individualized bond consideration by ICE and, if not released, to a custody redetermination hearing before an Immigration Judge under 8 C.F.R. §§ 236.1, 1236.1, and 1003.19. Respondents have instead classified and treated Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2), refused to treat him as bond-eligible under § 1226(a), failed to provide the individualized custody assessment required by the

governing regulations, and relied on vacated DHS guidance and Matter of

Yajure-Hurtado in direct conflict with Bautista's controlling construction of the statute.

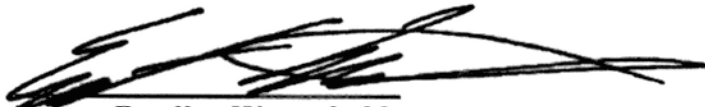
30. For these reasons, Petitioner's detention violates 8 U.S.C. § 1226(a) and its implementing regulations, including 8 C.F.R. §§ 236.1, 1236.1, and 1003.19.

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 days.
- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1226(a), and 8 C.F.R. §§ 236.1, 1236.1, and 1003.19;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to either (a) release Petitioner immediately from ICE custody under appropriate conditions of supervision, including any reporting requirements the Court deems necessary, or (b) in the alternative, promptly schedule an individualized bond hearing before an Immigration Judge applying 8 U.S.C. § 1226(a) and governing regulations, at which the government bears the burden to justify continued detention by clear and convincing evidence of danger or flight risk and the Immigration Judge must consider Petitioner's family ties, community support, medical needs, and lack of criminal convictions;
- (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,



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Dated: February 12, 2026

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

I represent Petitioner, Braulio Anastacio Vasquez Melgar, and submit this verification on his 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 12th day of February 2026



Ernest Bradley Westerhold