UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. ______________

LIOBEL CASTENEDA FRENES,

Petitioner,

v.

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

JUAN AGUDELO, in his official capacity as Acting Assistant Field Office Director of U.S. Immigration and Customs Enforcement Miami Field Office and Officer-in- Charge, Broward Transitional Center, Pompano Beach, Florida;

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

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

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

Respondents.
_______________________________________/

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Liobel Casteneda Frenes, submits this petition for writ of habeas corpus and related relief and allege as follows:

INTRODUCTION

1. Petitioner, Liobel Castaneda Frenes, is from Cuba and entered the United States on October 3, 2022. On October 4, 2022, U.S. Department of Homeland Security (DHS or Department) served the petitioner with a Notice to Appear (NTA).

2. On December 2, 2022, Petitioner timely filed a Form I-589, Application for Asylum and for Withholding of Removal. The Petitioner was assigned a master calendar hearing date of June 8, 2028, before the Miami Immigration Court.

3. While adjudication on his application for asylum, the Petitioner has contributed meaningfully to his community. He has maintained steady employment as a Rolex watchmaker, and otherwise demonstrated compliance with all immigration-related obligations. He has no history of failing to appear for any immigration-related appointments or proceedings.

4. But under the new Trump administration, everything changed. On December 6, 2025, Petitioner was detained at his periodic routine "check in" appointment at the Immigration and Customs Enforcement (ICE) office in Miramar, Florida. He was detained at such appointment and placed into federal custody, first at the Florida Soft Side Facility in Ochopee, Florida. The Petitioner has no known criminal history.

5. As a result of the aforementioned, a 47-year-old man with no criminal arrests or convictions remains detained at Broward Transitional Center (BTC), in Pompano Beach, Florida, where he has undergone more than two months of incarceration separated from his family, friends and workplace in Miami. As further explained *infra*, Respondents lacked the authority to arrest and detain them under the Immigration and Nationality Act (INA), its implementing regulations, and the Constitution. He files this habeas petition seeking his immediate release from custody.

JURISDICTION & VENUE

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

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

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

PARTIES

9. Petitioner, Liobel Castaneda Frenes, is a native and citizen of Cuba and asylum applicant who is currently detained at BTC in Pompano Beach, Florida.

10. Respondent Kelly Walker is the Field Office Director for the ICE Miami Field Office. In that capacity, she is charged with overseeing BTC, which is owned by ICE and operated by a contractor, and has the authority to make custody determinations regarding individuals detained there. Therefore, Respondent Walker is the immediate custodian of Petitioner. She is sued in her official capacity.

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

Secretary Noem is the ultimate legal custodian of Petitioner. Respondent Noem is sued in her official capacity.

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

LEGAL BACKGROUND

A. Detention During Removal Proceedings

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

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

15. Section 1226 of Title 8 of the U.S. Code (Section 236 of the INA) is the default provision that governs the arrest and detention of non-citizens pending removal proceedings. It states that "on a warrant issued by the Attorney General,[1] a[] [non-citizen] may be arrested and detained pending a decision on whether the [non-citizen] is to be removed from the United States"

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

8 U.S.C. § 1226(a). Non-citizens arrested upon a warrant and in ongoing removal proceedings are eligible to seek bond from an IJ. *Id.* § 1226(a)(2).

16. A separate provision governs the detention of people who seek admission to the United States at the border. It states that "in the case of a [non-citizen] who is an applicant for admission, if the examining immigration officer determines that a [non-citizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the non-citizen shall be detained for a proceeding under section 1229a of this title." 8 U.S.C. § 1225(b)(2)(A). IJs do not have jurisdiction to grant bond for such "applicant[s] for admission," though DHS retains the discretion to release such non-citizens on a specific type of parole "for urgent humanitarian reasons or significant public benefit." 8 U.S.C. § 1182(d)(5)(A).

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

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

19. In the absence of a statutorily mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision that rests soundly within the broad discretion. of district courts. *See J.N.C.G. v. Warden, Stewart Detention Ctr.*, No. 4:20-CV- 62-MSH, 2020 WL 5046870, at *3 (M.D. Ga. Aug. 26, 2020) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144

(1992)); *see also Richardson v. Reno*, 162 F.3d 1338, 1374 (11th Cir. 1998); *Yahweh v. U.S. Parole Comm'n*, 158 F. Supp. 2d 1332, 1341 (S.D. Fla. 2001).

20. Here, there is no reason to require exhaustion of administrative remedies, as Petitioner has no meaningful alternative to habeas relief, and has already requested bond from the immigration court. *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001) ("[A] petitioner need not exhaust their administrative remedies where the administrative remedy will not provide relief commensurate with the claim."); *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982) ("[E]xhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile[.]"). In light of the BIA's recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), exhaustion would be futile because the outcome of the administrative process can be reasonably anticipated and would not constitute an adequate remedy. *Puga v. Assistant Field Office Director, Krome North Service Processing Center, et al.*, No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369, at *2 (S.D. Fla. Oct. 15, 2025)

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

STATEMENT OF FACTS

22. Petitioner entered the United States without inspection or parole on October 3, 2022. *See* Exh. A, Mr. Frenes's Notice to Appear (October 4, 2022). On December 2, 2022, Petitioner filed a Form I-589, Application for Asylum and for Withholding of Removal. *See* Exh. B, Mr. Frenes's I-797C Notice of Action (December 3, 2022). The Petitioner was assigned a hearing date of June 28, 2028, before the Miami Immigration Court. Petitioner complied with his biometrics requirements, and his asylum application is still pending.

23. While awaiting further adjudication on his application for asylum, the Petitioner has continued to contribute meaningfully to his community. He has maintained steady employment as a Rolex watchmaker, paid U.S. income taxes, and otherwise demonstrated compliance with all immigration-related obligations. He has no history of failing to appear for any immigration-related appointments or proceedings.

24. On December 6, 2025, Petitioner was detained at his periodic routine "check in" appointment at the ICE office in Miramar, Florida. He was detained at such appointment and placed into federal custody. Petitioner has no known criminal history.

25. On January 13, 2026, an Immigration Judge denied his request for bond because the Immigration Judge found he had "no jurisdiction" to hear bond requests or grant bond to aliens present in the United States without admission and in removal proceedings, based on the plain language of 8 U.S.C. 1225(b)(2)(A)) pursuant to *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 228 (BIA 2025). *See* Exh. C, IJ Bond Denial Order (January 13, 2026).

26. In support of his bond motion, Petitioner had submitted copious evidence of employment and community ties and sponsorship and support in the United States. *See* Exh. E, List of Sponsor Letter and Support Letters. The Immigration Judge stated at the bond hearing that, if he had found he had jurisdiction, he would have granted bond to Petitioner.

27. Petitioner remains detained at BTC in Pompano Beach, Florida, and is in removal proceedings, as of the date of this petition.

ARGUMENT

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

28. Petitioner contends that Respondents have unlawfully subjected him to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2), despite the fact that he was apprehended inside the

United States after having resided here for several years. As a result, Respondents have deprived him of his liberty without due process, contrary to the Fifth Amendment and the INA.

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

30. The IJ's January 13, 2026 Order relies on the BIA decision *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which district courts across the country have rejected and declined to follow. *See e.g., Barrera v. Tindall*, No. 3 :25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Zumba v. Bondi*, No. 25-CV-14626-KSH-, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Lopez-Campos*, No. 2:25-CV12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV07492-RFL, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025). This Court should also decline to follow *Matter of Yajure Hurtado*, whose interpretation of § 1225 is at odds with the text of § 1225 and § 1226, is inconsistent with earlier BIA decisions, and renders superfluous the recent Laken Riley Act amendments to § 1226(c).

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

> "Respondents' reliance on the BIA's decision in *Matter of Yajure Hurtado* — rejecting the argument that a noncitizen who entered the United States without

> inspection and has resided here for years is not 'seeking admission' under section 1225(b)(2)(A) — is also misplaced. The Court need not defer to the BIA's interpretation of law simply because the statute is ambiguous. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024) ("[C]ourts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous." (alteration added)). As explained, the statutory text, context, and scheme of section 1225 do not support a finding that a noncitizen is 'seeking admission' when he never sought to do so. Additionally, numerous courts that have examined the interpretation of section 1225 articulated by Respondents — particularly following the BIA's decision in *Matter of Yajure Hurtado* — have rejected their construction and adopted Petitioner's. ... For these reasons, the Court finds that section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A). Petitioner is entitled to an individualized bond hearing as a detainee under section 1226(a)."

Puga v. Assistant Field Office Director, Krome North Service Processing Center, et al., No. 25-cv-24535-CIV-ALTONAGA, 2025 WL 2938369 (S.D. Fla. Oct. 15, 2025).

32. This case turns on the statutory distinction between § 1226(a) and § 1225(b)(2) of the INA. Section 1226(a) governs the arrest and detention of noncitizens already present in the United States pending removal proceedings, while § 1225(b)(2) governs the detention of noncitizens arriving at the border or ports of entry. In enacting these provisions, Congress expressly recognized the greater due process rights of noncitizens residing within the United States as compared to those of "arriving" noncitizens. *See* H.R. REP. 104-469, pt. 1, at 163–66 ("an alien present in the U.S. has a constitutional liberty interest to remain in the U.S."), citing *Knauff v. Shaughnessy*, 338 U.S. 537 (1950).

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

immigration judge, while arriving aliens do not.") (citing *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)).

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

35. This expansive interpretation contradicts the statutory text, legislative history, and consistent judicial authority in multiple circuits. *See, e.g.*, *Merino v. Noem*, No. 25-cv-23845 (S.D. Fla. Oct. 15, 2025), *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025). Each of these courts rejected DHS's position and held that noncitizens residing in the United States when taken into custody are detained under § 1226(a) and therefore entitled to a bond hearing.

36. Petitioner, who has lived in the United States for over three years and was apprehended inside the country, is therefore not properly classified as an "arriving alien." His detention under § 1225(b)(2) is unlawful. Because § 1226(a) governs his custody, Petitioner is entitled to a custody redetermination and to consideration for bond based on individualized factors. The government's continued reliance on § 1225(b)(2) to deny bond violates both the statute and Petitioner's constitutional right to due process.

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

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

38. Civil immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has made clear that there are only two plausible purposes for immigration detention: ensuring a non-citizen's appearance at his removal proceedings and/or preventing danger to the community. *Zadvydas*, 533 U.S. at 690. Indeed, where civil detention "is of potentially *indefinite* duration," courts have "also demanded that the dangerousness rationale be accompanied by some other special circumstance." *Id.* If immigration detention is not reasonably related to one of these purposes, it is essentially punitive and therefore violative of the Due Process Clause. *See id.*

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

the government's interest, including administrative or fiscal burdens of additional process. *Mathews*, 424 U.S. at 335. Each of these factors strongly favors Petitioner.

40. First, the Petitioner's liberty interest is undoubtedly substantial. Freedom from physical constraint is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Petitioner has been detained for over two months without any individualized assessment of flight risk or danger despite his period of residence in the United States, community ties, and lack of any disqualifying criminal record because the IJ was not permitted to consider those factors, finding he lacked jurisdiction to set bond. The Immigration Judge stated at the bond hearing that, if he had found he had jurisdiction, he would have granted bond to Petitioner.

41. Second, the risk of erroneous deprivation is extreme. The IJ's refusal to even consider bond, based on DHS's position that Petitioner is subject to "mandatory detention" under §1225(b)(2), deprived him of the only procedural mechanism designed to test the necessity of his continued confinement. This result effectively transformed the bond hearing into an empty formality, denying Petitioner a meaningful opportunity to contest his detention. Courts have consistently held that procedures which categorically foreclose individualized review of detention violate due process. *See Günaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154 (D. Minn. May 21, 2025) (describing DHS's unilateral detention authority as creating "not just a risk, but a likelihood" of erroneous deprivation).

42. Third, the Government's interests are adequately protected by the individualized bond determination procedure already contemplated by §1226(a). As the Ninth Circuit recognized in *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017), "the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future proceedings can be reasonably ensured by less restrictive

conditions." Far from imposing any undue burden, allowing bond hearings for noncitizens apprehended inside the United States promotes fairness and efficiency.

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

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

45. Petitioner's confinement is purely civil and ostensibly intended to ensure his presence for removal proceedings. Yet the Government has offered no individualized justification for his ongoing detention, and no finding that he poses a danger or flight risk. The Immigration Judge stated at the bond hearing that, if he had found he had jurisdiction, he would have granted bond to Petitioner. Detaining a Florida resident without such a finding serves no legitimate regulatory goal and instead amounts to impermissible punishment.

46. Respondents rely on *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025), to argue that the IJ lacked jurisdiction to consider bond because Petitioner is "an arriving alien" detained under §1225(b)(2). That reliance is misplaced. As discussed *supra*, Petitioner was apprehended inside the United States, after residing here for several years. He is therefore properly detained under §1226(a), which provides for discretionary release on bond. The BIA's decision in

Yajure-Hurtado cannot override Congress's clear statutory distinction between §1225(b)(2) (governing those seeking admission at the border) and §1226(a) (governing those already present in the United States).

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

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

CLAIMS FOR RELIEF

COUNT I

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

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

50. Immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527. Petitioner has been detained for over two months without any individualized custody determination. At his initial bond hearing, the Immigration Judge declined to exercise jurisdiction, citing *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025), and therefore did not rule on whether Petitioner posed a danger or flight

risk]. As a result, Petitioner remains confined without any finding that his detention is necessary to serve a legitimate regulatory purpose. Such unexamined and indefinite detention bears no reasonable relation to ensuring appearance at removal proceedings or protecting public safety.

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

COUNT II

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

Procedural Due Process

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

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

COUNT III

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

No Authority to Detain

54. 8 U.S.C. § 1226(a) authorizes immigration detention only during pending removal proceedings. Respondents' reliance on § 1225(b)(2) to deny Petitioner a bond hearing and to classify him as subject to mandatory detention is contrary to the plain language and structure of the INA, as well as its legislative history and judicial interpretation.

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

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Respondents not transfer Petitioner outside of the jurisdiction of the U.S. District Court for the Southern District of Florida during the pendency of this petition;

c. Issue an Order to Show Cause ordering Respondents to show cause why this petition should not be granted within three days;

d. Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment to the U.S. Constitution and/or the Immigration and Nationality Act;

e. Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner from custody immediately or release under supervision;

f. In the alternative, order Respondents to afford Petitioner, within ten (10) days of this Court's Order, a prompt and constitutionally adequate individualized bond hearing before an Immigration Judge with jurisdiction under 8 U.S.C. § 1226(a), at which the Government shall bear the burden of proof, by clear and convincing evidence, to justify Petitioner's continued civil detention consistent with due process;

g. Issue an order enjoining Respondents from denying bond to Petitioner on the basis that he is detained pursuant to 8 U.S.C. § 1225(b)(2);

h. Order Petitioner's immediate release from custody if a bond hearing is not held within ten (10) days of this Court's order;

i. Award Petitioner costs and reasonable attorney's fees under the Equal Access to Justice Act, 5 U.S. Code § 504, or any other basis justified under law; and

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

Dated: February 13, 2026

Respectfully submitted,

/s/ Joseph Kano

Joseph Kano, Esq.
Fl Bar No. 106423
Catholic Charities Legal
Services ADOM
1469 NW 13th Ter, Suite 100
Miami, FL 33125
Tel: (520) 270-5691
jkano@cclsmiami.org

Pro Bono Attorney for Petitioner

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

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

Dated: February 13, 2026

Respectfully submitted,

/s/ Joseph Kano

Joseph Kano, Esq.
Fl Bar No. 106423
Catholic Charities Legal Services ADOM
1469 NW 13th Ter, Suite 100
Miami, FL 33125
Tel: (520) 270-5691
jkano@cclsmiami.org

CERTIFICATE OF SERVICE

I, undersigned counsel, hereby certify that on this date, I electronically filed this Petition for Writ of Habeas Corpus and all attachments and that they are available for viewing and downloading from the Court's CM/ECF system, and that all participants in the case are registered CM/ECF users and that service will be accomplished by the CM/ECF system.

Dated: February 13, 2026

Respectfully submitted,

/s/ Joseph Kano

Joseph Kano, Esq.
Fl Bar No. 106423
Catholic Charities Legal Services, ADOM
1469 NW 13th Ter, Suite 100
Miami, FL 33125
Tel: (520) 270-5691
jkano@cclsmiami.org