UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. ________________

ELISEO YOEL ALLOUIS-DIAZ,

Petitioner,

v.

FIELD OFFICE DIRECTOR,
Miami Field Office,
U. S. Immigration and Customs Enforcement,

FIELD OFFICE DIRECTOR,
Miami Field Office,
U. S. Citizenship and Immigration Services,

Respondents.
____________________________________/

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS
AND COMPLAINT TO COMPEL AGENCY ACTION

The petitioner, Eliseo Yoel Allouis-Diaz, by and through undersigned counsel, submits this verified petition for writ of habeas corpus, and alleges as follows:

INTRODUCTION

1. The petitioner has been detained by the respondents in prolonged civil immigration custody for over eight months, since or before June 11, 2025, without opportunity for release or bail. Because this is a violation of Fifth Amendment due process, the petitioner seeks a writ of habeas corpus ordering that he be afforded an individualized bond hearing before an immigration judge with adequate procedural safeguards.

2. Further, the petitioner has an application for lawful permanent residence under Section 1 of the Cuban Refugee Adjustment Act of 1966 (CAA), Pub. L. No. 89-732, 80 Stat. 1161, as amended, pending before the exclusive jurisdiction of USCIS since October 10, 2024.

But USCIS refuses to adjudicate the application despite the immediacy arising from the petitioner's detention.

3. Thus, the petitioner also seeks an order compelling the adjudication of this application for lawful permanent residence.

PARTIES

4. The petitioner, **Eliseo Yoel Allouis-Diaz**, is a resident of Miami-Dade County, and is currently detained in civil immigration custody at the Broward Transitional Center in Pompano Beach, Florida.

5. The respondent **Field Office Director**, Miami Field Office, U. S. Immigration and Customs Enforcement (ICE respondent) is sued in his or her official capacity. In this capacity, the Field Office Director has jurisdiction over the detention facility in which the petitioner is held, is authorized to release the petitioner, and is a legal custodian of the petitioner.

6. The respondent **Field Office Director**, Miami Field Office, U. S. Citizenship and Immigration Services (USCIS respondent) is sued in his or her official capacity. In this capacity, the Field Office Director has jurisdiction over the petitioner's application for lawful permanent residence given that the petitioner's place of residence is in Miami-Dade County within the USCIS Miami Field Office's area of responsibility.

JURISDICTION

7. This action arises under: (1) the Constitution of the United States of America; (2) 28 U. S. C. § 2241 et seq. (habeas corpus); (3) the Immigration and Nationality Act (INA), 8 U. S. C. § 1101 et seq.; (4) the Cuban Refugee Adjustment Act of 1966 (CAA), Pub. L. No. 89-732, 80 Stat. 1161, as amended; (5) Title 8 of the Code of Federal Regulations; and (6) the Administrative Procedure Act (APA), 5 U. S. C. §§ 555(b), 701 et seq.

8. The Court has jurisdiction over this case under 28 U. S. C. § 2241 (habeas corpus), and § 1331 (federal question).

9. The Court may grant relief pursuant to the U.S. Const., art. I, § 9, cl. 2 (Suspension Clause), 5 U. S. C. §§ 701, et seq. (Administrative Procedure Act), 28 U. S. C. § 1651 (All Writs Act), 28 U. S. C. §§ 2201–02 (declaratory relief), and 28 U. S. C. § 2241 (habeas corpus).

10. The Court has jurisdiction over the petitioner's application for lawful permanent residence for any and all purposes because the immigration court has no jurisdiction over the application, and because none of the INA's jurisdictional bars under 8 U. S. C. § 1252(a)(2)(B) apply to the Cuban Adjustment Act. *Perez* v. *USCIS*, 774 F. 3d 960 (CA11 2014).

VENUE

11. Venue is proper in this district for the plaintiff's Administrative Procedure Act claim in Count II because the plaintiff "resides," 28 U. S. C. § 1391(e)(1)(C), in Miami-Dade County, the APA "defendant in the action resides" in this district, § 1391(e)(1)(A), and because "a substantial part of the events or omissions giving rise to the [APA] claim occurred" in this district, § 1291(e)(1)(B).

12. As for the plaintiff's habeas claim under Count I, it is a non-core habeas claim seeking injunctive relief in the form of a bond hearing where a determination as to whether he should be released (or not) will be made. Compare *Garland* v. *Aleman Gonzalez*, 596 U. S. 543, 551 (2022) ("Both District Courts entered injunctions requiring the Government to provide bond hearings . . . ."); *Dep't of Homeland Sec.* v. *Thuraissigiam*, 591 U. S. 103, 118 (2020) ("respondent did not ask to be released;" "[s]uch relief might fit an injunction . . . but that relief falls outside the scope of the common-law habeas writ"); *Wilkinson* v. *Dotson*, 544 U. S. 74, 80 (2005) ("an otherwise proper injunction enjoining the *prospective* enforcement of invalid prison

regulations" **does not "necessarily ... mea[n] immediate release or a shorter period of incarceration;" it "attack[s] only the wrong procedures, not the wrong result"**) (emphasis added) (citation and punctuation omitted); with *Preiser* v. *Rodriguez*, 411 U. S. 475, 489 (1973) (a "challenge to the fact or duration of [one's] confinement" lies at "the core of habeas corpus"); see also *Bautista* v. *Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025) ("Any differences that may exist in class members' entitlement to be released is a different matter than their entitlement to a hearing.").

13. Like here, "the immediate physical custodian rule, by its terms, does not apply when a habeas petitioner challenges something other than his present physical confinement." *Rumsfeld* v. *Padilla*, 542 U. S. 426, 438 (2004).

14. In such cases, like here, "a habeas petitioner who challenges a form of 'custody' other than present physical confinement may name as respondent the entity or person who exercises legal control with respect to the challenged 'custody.'" *Padilla*, 542 U. S., at 438 (citation omitted).

15. This is especially true "when a federal immigrant detainee is housed in a contract facility, the federal official charged with overseeing the detainees in that facility is more akin to the 'immediate custodian'—the individual with the power to produce the body of the petitioner before the court—than a non-federal warden." *Masingene* v. *Martin*, 424 F. Supp. 3d 1298, 1302 (S.D. Fla. 2020) (citing *Padilla*, 542 U. S., at 434).

16. Regardless, the immediate custodian resides in this district.

17. Therefore, venue is proper in this district under 28 U. S. C. § 2241 because this is the district where the "the custodian can be reached by service of process." *Rasul* v. *Bush*, 542 U. S. 466, 478–79 (2004).

EXHAUSTION OF REMEDIES

18. As to the petitioner's Count II APA claim, an agency's failure to take action is reviewable agency action, *Norton* v. *S. Utah Wilderness Alliance*, 542 U. S. 55, 61–62 (2004), and there are no administrative remedies available that the plaintiff is required to exhaust under *Darby* v. *Cisneros*, 509 U. S. 137 (1993).

19. As to the petitioner's Count I habeas claim, 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).

20. Exhaustion in the habeas context is at most a "non-jurisdictional," *id.*, at 475, "judicially-created . . . doctrine," *Haitian Refugee Ctr., Inc.* v. *Nelson*, 872 F.2d 1555, 1561 (CA11 1989) (*HRC* v. *Nelson*), aff'd sub nom. *McNary* v. *Haitian Refugee Ctr., Inc.*, 498 U. S. 479 (1991), subject to various exceptions. See *Jaimes* v. *United States*, 168 Fed. Appx. 356, 359, n. 4 (CA11 2006) ("judicially-created exhaustion requirements may be waived by the courts for discretionary reasons") (quoting *Gallo Cattle Co.* v. *U. S. Dep't of Agric.*, 159 F. 3d 1194, 1197 (CA9 1998)); *Richardson* v. *Reno*, 162 F. 3d 1338, 1374 (CA11 1998) (*Richardson I*), cert. granted, judgment vacated on other grounds, 526 U.S. 1142 (1999) ("judicially developed exhaustion requirements might be waived for discretionary reasons by courts").[1]

21. "[A] petitioner need not exhaust his administrative remedies 'where the administrative remedy will not provide relief commensurate with the claim.' " *Boz* v. *United States*, 248 F. 3d 1299, 1300 (CA11 2001), abrogation on other grounds recognized by *Santiago-Lugo*, 785 F. 3d, at 474–75 n. 5 (quoting *HRC* v. *Nelson*, 872 F. 2d, at 1561).

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[1] In a revised opinion following remand, the Eleventh Circuit "readopt[ed] and reaffirm[ed] the reasoning in *Richardson I* except to the extent it relied on INA § 242(g) to support its holding." *Richardson* v. *Reno*, 180 F. 3d 1311, 1313 (CA11 1999) (*Richardson II*).

22. "Because the BIA does not have the power to decide constitutional claims—like the validity of a federal statute— . . . certain due process claims need not be administratively exhausted." *Warsame* v. *U. S. Att'y Gen.*, 796 Fed. Appx. 993, 1006 (CA11 2020); accord *HRC* v. *Nelson*, 872 F. 2d, at 1561 (exhaustion had "no bearing" where petitioner sought to make a constitutional challenge to procedures adopted by the INS); see also *Matter of Punu*, 22 I. & N. Dec. 224, 229 (BIA 1998) ("this Board cannot entertain constitutional challenges") (citations omitted).

FACTUAL ALLEGATIONS

23. The petitioner is a native and citizen of Cuba who was paroled under 8 U. S. C. § 1182(d)(5)(A) into the United States on July 4, 2023, at a port of entry, and who remained at liberty under parole residing in Miami-Dade County, Florida thereafter. **App.**, pp. 1–2.

24. The petitioner orderly entered the United States after pre-screening using the CBP One mobile application that the government had established to control the entry of asylum seekers in an orderly manner. See American Immigration Council, *CBP One: An Overview* (Mar. 24, 2025), available at: https://www.americanimmigrationcouncil.org/fact-sheet/cbp-one-overview/ (accessed Feb. 13, 2026).

25. During the process of paroling the petitioner into the United States at liberty, he was served with a notice to appear (NTA) in removal proceedings under 8 U. S. C. § 1229a for the presentation of an asylum application. The NTA informed him that his first hearing would be at the Miami non-detained immigration court on September 3, 2026. **App.**, pp. 3–6.

26. While at liberty, awaiting his asylum hearing, the petitioner was able to regularize his stay in the community by obtaining a driver license, a social security number to pay taxes, and employment authorization. **App.**, pp. 7–9.

27. On October 10, 2024, after a year of physical presence in the United States, the petitioner applied for lawful permanent residence under Section 1 of the Cuban Refugee Adjustment Act of 1966 (CAA), Pub. L. No. 89-732, 80 Stat. 1161, as amended, with USCIS. **App.**, p. 10.

28. The petitioner is statutorily eligible for permanent residence under the CAA, and he has a right to apply for and obtain a ruling on his application. See *INS* v. *St. Cyr*, 533 U. S. 289, 307–08 (2001) ("Eligibility that was 'governed by specific statutory standards' provided 'a right to a ruling on an applicant's eligibility,' even though the actual granting of relief was 'not a matter of right under any circumstances, but rather is in all cases a matter of grace.' ") (citations omitted).

29. Further, if the petitioner's application for permanent residence under the CAA is denied, the petitioner has a right to seek judicial review of the denial before this Court because none of the INA's jurisdictional bars under 8 U. S. C. § 1252(a)(2)(B) apply to the Cuban Adjustment Act. *Perez* v. *USCIS*, 774 F. 3d 960 (CA11 2014).

30. On November 25, 2025, the petitioner submitted himself to biometrics processing with USCIS for purposes of having a background check conducted on him for his residence application. **App.**, p. 11.

31. Since then, USCIS has not acted on the petitioner's application for lawful permanent residence even though the agency's posted processing timelines for an application like the petitioner's is 14 months. **App.**, pp. 12–16. The petitioner's application was filed over 16 months ago.

32. A positive adjudication of this application would provide the petitioner with a legal status that can serve as a defense to removal from the United States.

33. At the start of 2025, government polices on immigration changed drastically.

34. Among those changes was a series of memoranda ending parole problems like the CBP One program through which the petitioner lawfully entered the United States to apply for asylum following pre-screening and authorization, and guidance promoting the use of summary removal and detention of persons who participated in such programs. B.C. Huffman, *Guidance Regarding How to Exercise Enforcement Discretion* (Jan. 23, 2025) (referencing other non-public memoranda) (copy at **App.**, pp. 17–18).

35. The petitioner has no criminal arrest history in the United States, always complying with local and immigration law. **App.**, p. 19.

36. And yet, on or before June 11, 2025, the government arrested the petitioner and took him into civil immigration custody based solely upon a change in policy. **App.**, p. 20.

37. Afterwards, the government transferred the venue of the petitioner's removal proceeding to the Broward Transitional Center to rapidly process his asylum application in a detained setting.

38. Fortunately, the petitioner was able to retain counsel to present his asylum application, seeking continuances solely for the purposes of presenting a complete and well-prepared application for trial. He did not engage in any dilatory behavior before the immigration court.

39. The petitioner's application for asylum, withholding of removal, and protection under the Convention Against Torture was denied by a visiting immigration judge on September 25, 2025. **App.**, pp. 21–26.

40. On October 17, 2025, the petitioner timely filed an appeal to the Board of Immigration Appeals (BIA). **App.**, pp. 27–29.

41. No briefing scheduled has been issued by the Board yet, as the transcript of the

proceedings is still pending. **App.**, pp. 30–32.

42. Given the petitioner's manner of entry into the United States, he is classified as an "applicant for admission" under 8 U.S.C. § 1225(a)(1).

43. "[A]pplicants for admission fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2)." *Jennings* v. *Rodriguez*, 138 S. Ct. 830, 837 (2018).

44. "Aliens covered by § 1225(b)(1) are normally ordered removed 'without further hearing or review' pursuant to an expedited removal process." *Id.* (citing § 1225(b)(1)(A)(i)). "But if a § 1225(b)(1) alien 'indicates either an intention to apply for asylum . . . or a fear of persecution,' then that alien is referred for an asylum interview." *Id.* (citing § 1225(b)(1)(A)(ii)). If an immigration officer determines after that interview that the alien has a credible fear of persecution, 'the alien shall be detained for further consideration of the application for asylum.' " *Id.* (citing § 1225(b)(1)(B)(ii)). This is collectively known as the expedited removal process.

45. The petitioner has never been subjected to the expedited removal process, and thus is not detained under any provision of § 1225(b)(1).

46. Rather, the petitioner, who "arrive[d] in the United States . . . at a designated port of arrival," § 1225(a)(1), and was thus "seeking admission," § 1225(b)(2)(A), at the time he was issued an NTA to commence "a proceeding under section 1229a," *id.*, was paroled out of detention that was otherwise required by § 1225(b)(2)(A).

47. Immigration regulations define the term "arriving alien" to include "an applicant for admission coming or attempting to come into the United States at a port-of-entry." 8 CFR §§ 1.2, 1001.1(q). Those regulations also provide that "[a]n arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act[, 8 U. S. C. § 1182(d)(5)], and even

after any such parole is terminated or revoked." *Id.*

48. Agency regulations also provide that regulatorily-defined "arriving aliens" are barred from receiving individualized bond hearings, and may only be released from detention through a grant of parole under § 1182(d)(5) from an enforcement officer, relying on § 1225(b) of the statutes for that authority. 8 CFR §§ 1003.19(h)(2)(i)(B) (no jurisdiction for immigration judge to reconsider custody of "[a]rriving aliens in removal proceedings, including aliens paroled after arrival pursuant to section 212(d)(5) of the Act"); 235.3(c)(1) (citing 8 U. S. C. § 1225(b) to provide mandatory detention for arriving aliens in removal proceedings, except for release by parole).

49. Additionally, when one is a regulatorily-defined "arriving alien" in removal proceedings, the immigration judge is not permitted to adjudicate any applications for adjustment to lawful permanent resident status, including an application under the Cuban Adjustment Act. Only USCIS can adjudicate such an application, with direct review available in a district court notwithstanding the pendency of a removal proceeding, or even the existence of an administratively final order of removal. *Perez*, 774 F. 3d, at 966–67.

50. The petitioner has been detained under § 1225(b)(2)(A) for over eight months.

51. During these last eight months of detention, the petitioner has been held without an individualized hearing to determine whether he should remain in custody.

52. The petitioner's ongoing detention, without an individualized hearing where the government must prove by clear and convincing evidence that he is a danger or a flight risk in order to keep him in custody, is unconstitutionally prolonged in violation of due process.

53. Further, USCIS is refusing the adjudicate the petitioner's pending application for lawful permanent residence even though the application is outside of USCIS' normal processing

times.

54. The petitioner is statutorily eligible for permanent residence under the CAA, and he has a right to apply for and obtain a ruling on his application. See *INS* v. *St. Cyr*, 533 U. S. 289, 307–08 (2001) ("Eligibility that was 'governed by specific statutory standards' provided 'a right to a ruling on an applicant's eligibility,' even though the actual granting of relief was 'not a matter of right under any circumstances, but rather is in all cases a matter of grace.' ") (citations omitted).

55. USCIS' refusal to adjudicate the petitioner's application, including under the precedential standards set out under *Matter of Arai*, 13 I. & N. Dec. 494 (1970), *Matter of Riva*, 12 I. & N. Dec. 56 (Reg. Comm'r 1967), and *Matter of Mesa*, 12 I. & N. Dec. 432 (Dep. Assoc. Comm'r 1967), is unlawful.

CLAIMS FOR RELIEF

COUNT I
As to ICE Respondent
Petition for Writ of Habeas Corpus

56. The allegations in paragraphs 1-55 are realleged and incorporated herein.

57. The petitioner's detention is in violation of the Fifth Amendment.

58. Additionally, the petitioner's detention is unconstitutionally punitive because it is being used to deprive the petitioner of his right to an adjudication on his application for lawful permanent resident status

59. Therefore, the petitioner is unlawfully detained, and he is entitled to a writ of habeas corpus ordering: (1) his immediate release; or (2) that he be afforded an individualized bond hearing before an immigration judge where the government must prove by clear and convincing evidence that he is a danger or a flight risk in order to keep him in custody.

COUNT II
As to USCIS Respondent
Agency Action Unlawfully Withheld and Unreasonably Delayed

60. The allegations in paragraphs 1-55 are realleged and incorporated herein.

61. Given that the petitioner is classified by regulation as an "arriving alien," only USCIS can adjudicate his application for permanent residence; the immigration judge is forbidden from hearing the application by regulation. 8 CFR §§ 245.2(a), 1245.2(a).

62. The immigration court system (i. e., the immigration judge(s) assigned to the petitioner's case, and the Board of Immigration Appeals) cannot adjudicate the petitioner's residence application, and must eventually make an administratively final decision on the petitioner's removal case by either granting asylum or ordering removal.

63. Historically, the Cuban Refugee Adjustment Act exists because Congress viewed Cubans as refugees who needed a permanent solution in addition to being paroled into the United States as refugees. See *Matter of Mesa*, 12 I. & N. Dec., at 434–45 ("The purpose of the Act upon which these applications are based is to provide a ready means to permit certain Cuban refugees in the United States to adjust to permanent resident status," such that a "major objective of this opportunity for adjustment of status was, therefore, to aid in these refugees' resettlement by enhancing their opportunity to qualify for employment here and in turn reduce the Government's expenditures in their behalf.") (footnote omitted); *Matter of Riva*, 12 I. & N. Dec., at 58 ("this is remedial legislation, such [that] a strict interpretation is to be avoided if it thwarts the congressional intent").

64. As such, there is no reason why a person who is eligible for relief under the Cuban Refugee Adjustment Act (which by precedent must be construed liberally) should pursue an asylum application under 8 U. S. C. § 1158 (which is incredibly difficult to win).

65. Yet, the USCIS respondent's failure to adjudicate the petitioner's application led to the immigration judge holding a merits hearing which, statistically, has a likelihood of resulting in a removal order, and in fact did lead to a removal order that is currently being appealed — creating a situation where petitioner will likelihood be denied his right to an adjudication and judicial review on his application for permanent residence.

66. In determining whether agency action has been unreasonably delayed, courts apply the six-factor test established by *Telecomms. Research & Action Center* v. *F.C.C.*, 750 F. 2d 70 (CADC 1984) ("*TRAC*"). E. g., *Nguyen Xi Van* v. *Chertoff*, No. 05-80308-CIV, 2006 WL 8433671 (S.D. Fla. Mar. 15, 2006) (applying the TRAC factors and recognizing that an "inquiry into the existence of an unreasonable delay is fact and case specific"); *Alessandra* v. *Barr*, No. 3:19-CV-2878-MCR/MJF, 2020 WL 5239111 (N.D. Fla. Aug. 18, 2020), report and recommendation adopted, No. 3:19-CV-2878-MCR/MJF, 2020 WL 5237743 (N.D. Fla. Sept. 2, 2020) (same).

67. The TRAC factors include:

> (1) the time agencies take to make decisions must be governed by a "rule of reason," (2) where Congress has provided a timetable or other indication of the speed with which it expects the agency to proceed in the enabling statute, the statutory scheme may supply content for this rule of reason, (3) delays that might be reasonable in the sphere of economic regulation are less tolerable when human health and welfare are at stake, (4) the court should consider the effect of expediting delayed action on agency activities of a higher or competing priority, (5) the court should also take into account the nature and extent of the interests prejudiced by delay, and (6) the court need not "find any impropriety lurking behind agency lassitude in order to hold that agency action is 'unreasonably delayed.

TRAC, 750 F. 2d, at 80.

68. "Delay is measured by a 'rule of reason,' informed whenever possible by discernible congressional expectations, respecting the pace at which proceedings should advance." *In*

re Monroe Commc'ns Corp., 840 F. 2d 942, 945 (CADC 1988).

69. "The ultimate issue, as in all such cases, will be whether the time the [agency] is taking to act upon the [plaintiffs'] petition satisfies the "rule of reason." *Mashpee Wampanoag Tribal Council, Inc.* v. *Norton*, 336 F. 3d 1094, 1102 (CADC 2003).

70. "That issue ... will depend in large part ... upon the complexity of the task at hand, the significance (and permanence) of the outcome, and the resources available to the agency." *Id.*

71. USCIS as a whole, and at the service center level, is not abiding by whatever prioritization system that it publicly claims to be applying to the adjudication of immigration benefits, including applications under the Cuban Refugee Adjustment Act.

72. USCIS as a whole, and at the service center level, is not abiding by a neutral rule of reason in the adjudication of immigration benefits, including applications under the Cuban Refugee Adjustment Act.

73. Additionally, USCIS has no neutral rule of reason taking into account how adjudications should be prioritized when an applicant is in pending removal proceedings, or, more importantly, when an applicant is detained in immigration custody.

74. The law requires that, "[w]ith due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it." 5 U. S. C. § 555(b).

75. With regard to immigration cases specifically, it has long been "the sense of Congress that the processing of an immigration benefit application should be completed not later than 180 days after the initial filing of the application, except that [other classes of petitions not relevant here should be processed quicker]." Act of Oct. 17, 2000, Pub. L. No. 106-313, Title

II, § 202, 114 Stat. 1262 (codified at 8 U. S. C. § 1571(b)).

76. Rather than merely regulating economic activity, the agency action at stake affects human welfare in that it will determine whether the petitioner will be allowed to remain in the United States free from the oppression of a communist dictatorship.

77. Thus, on balance, the agency has unlawfully withheld action on the petitioner's application, and has unreasonably delayed the adjudication of it as well.

78. The petitioner has "suffer[ed] legal wrong," and has been "adversely affected" and "aggrieved" by the actions of the USCIS respondent. 5 U. S. C. § 702.

79. The USCIS respondent has "unlawfully withheld" and "unreasonably delayed" action on the petitioner's application for permanent residence. § 706(1).

80. As such, the petitioner is entitled to injunctive and declaratory relief, § 703, to compel, § 706(1), the USCIS respondent to adjudicate his application for permanent residence within a reasonable timeframe.

PRAYER FOR RELIEF

WHEREFORE, the petitioner prays that the Court grant the following relief:

(a) Assume jurisdiction over this matter;

(b) Set this matter for expedited consideration pursuant to 28 U. S. C. § 1657;

(c) Order the respondents to show cause why: (1) the writ should not be granted within three days, and allowing the petitioner three days to file a traverse, and, if necessary, set a hearing on this petition within five days of the submission of the return, pursuant to 28 U. S. C. § 2243; and (2) why petitioner's Count II claim should not be granted;

(d) Order the ICE respondent to refrain from transferring the petitioner out of the jurisdiction of this Court during the pendency of this proceeding, and while the petitioner

remains in the respondent's custody;

(e) Declare that the petitioner's detention has become unconstitutionally prolonged;

(f) Grant the petitioner a writ of habeas corpus ordering that the petitioner: (1) be immediately released; or (2) be immediately given a custody redetermination hearing before an immigration judge with adequate procedural safeguards, including but not limited to: (i) the placement of the burden of proof upon the government to demonstrate by clear and convincing evidence that the petitioner is a danger or a flight risk, and (ii) a prohibition against the government from seeking a stay of the immigration judge's custody order either automatically, on an emergency basis, or otherwise without a meaningful opportunity for the petitioner to respond and be heard;

(g) Declare that the USCIS respondent has unreasonably delayed, and has unreasonably failed to complete, the adjudication of the petitioner's application for permanent residence, in violation of law;

(h) Order the USCIS respondent to adjudicate the petitioner's application for permanent residence within 7 days of the Court's order, or within another reasonable period of time determined by the Court;

(i) Retain jurisdiction over this case to ensure compliance with all of the Court's orders;

(j) Award the petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. § 2412, and on any other basis justified under law; and

(k) Grant any other and further relief that the Court deems just and proper.

Dated: February 16, 2026

s/ Mark Andrew Prada
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VERIFICATION BY SOMEONE ACTING ON THE PETITIONER'S BEHALF PURSUANT TO 28 U.S.C. § 2242

I, Mark Andrew Prada, am submitting this verification on behalf of the petitioner because I am the petitioner's attorney. I have discussed with the petitioner, the petitioner's family, and/or the petitioner's other counsel, the events described in this petition. On the basis of those discussions, I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: February 16, 2026

s/ Mark Andrew Prada
Fla. Bar No. 91997

Counsel for Petitioner