

UNITED STATES DISTRICT COURT FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No.

Juan Carlos Bolivar Sanchez,

Petitioner,

v.

The United States Department of Homeland Security,

(DHS), Kristi Noem, The United States Department of


Immigration and Customs Enforcement (ICE), Todd

Lyons, and Mario Izquierdo, as warden.

Respondents.

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. SECTION 2241

Personal Information

1. (a) Petitioner's full name: Juan Carlos Bolivar Sanchez, d.o.b. 
(b) Other names Petitioner has used: none.
2. Place of Confinement:
 - (a) **Name of Institution**: The Petitioner is detained at the Broward Transitional Center. The immigration court (Miami Krome Immigration Court) on 02/13/2026 issued an order declining to hear the motion for bond, stating that

the immigration court presently does not have jurisdiction under current case law (Exhibit "A").

(b) **Address:** Petitioner's last known whereabouts is Broward Transitional Center
3900 Powerline Road, Pompano Beach, Florida 33073.

(c) **Petitioner's Identification Number:** 

3. Petitioner is currently being held on orders by: Federal authorities State authorities other: Petitioner is being held by: United States Immigration and Customs Enforcement (ICE), and the U.S. Department of Homeland Security.

4. Petitioner is currently being held due to:

A pretrial detainee (waiting trial on criminal charges)

Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime. If serving a sentence provide: (a) name and location of court that sentenced you: _____, (b) Docket Number of criminal case: _____, (c) Date of sentencing: _____.

Being held on an immigration charge.

Other. _____.

Decision or Action You Are Challenging

5. What is being challenged in this petition:

How the sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

Pretrial detention

Immigration detention: The Petitioner is in removal proceedings

Detainer

The validity of the conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)

Disciplinary proceedings

Other:

6. Provide more information about the decision or action that is being challenged:

(a) Name and location of the agency or court: The U.S. Department of Homeland Security, and The U.S. Department of Immigration and Customs Enforcement.

(b) **Docket number, Case number, or opinion number:** The order of the immigration judge declining to hear the motion for bond or conditional release, due to lack of jurisdiction, is dated 02/13/2026. The court order is attached hereto as Exhibit "A".

(c) **Decision or action that is being challenged:** (for disciplinary proceedings specify the penalties imposed): The court stated that it lacks authority to redetermine Respondent's custody status because he is present in the United States without admission, and is subject to mandatory detention under Section 235(b)(2)(A) of the INA. And, the court cited to *Matter of Yajure Hurtado*, ID #4125. The court further stated that as such, therefore the court lacks jurisdiction to address custody.

(d) Date of the decision or action: February 17, 2026.

Petitioner's Earlier Challenges to the Decision or Action

7. **First Appeal:** Did Petitioner appeal the decision, file a grievance, or seek an administrative remedy? yes no

(a) If "yes" provide:

1. Name of the authority, agency, or court:
2. Date of filing:
3. Docket number, case number, or opinion number:
4. Result:
5. Date of result:
6. Issues raised:
7. Other:

(b) If Petitioner answered "No" explain why Petitioner did not appeal:

Second Appeal: After the first appeal, was there a second appeal to a higher authority, agency or court? ___ yes no. There was no first nor second appeal.

8. If "yes" provide:

- ___ name of the authority, agency or court:
- ___ date of filing:
- ___ Docket number, case number, or opinion number:
- ___ Result:
- ___ Date of result:
- ___ Issues raised:

If "no" explain why you did not file a second appeal:

9. Third appeal: After the second appeal, was there a third appeal to a higher authority, agency, or court? ___ yes no

If "yes" provide:

- ___ name of the authority, agency or court:

date of filing:

Docket number, case number, or opinion number:

Result:

Date of result:

Issues raised:

If "no" explain why you did not file a third appeal: There were no first, second, nor third appeals filed.

10. Motion under 28 U.S.C. Section 2255

In this petition are you challenging the validity of your conviction or sentenced as imposed? yes no.

If "yes" answer the following: (a) have you already filed a motion under 28 U.S.C. Section 2255 that challenges the conviction or sentence? yes no.

If "yes" provide:

Name of court:

Case number:

Date of filing:

Result:

Date of result:

Issues raised:

11. Has Petitioner ever filed a motion in a United States Court of Appeals under **28 U.S.C. Section 2244(b) (3) (A)** seeking permission to file a

second or successive Section 2255 motion to challenge this conviction or sentence? ___ yes no.

If "yes" provide:

___ Name of court:

___ Case number:

___ Date of filing:

___ Result:

___ Date of result:

___ Issues raised:

12. Explain why the remedy under 28 U.S.C. Section 2255 is inadequate or ineffective to challenge the conviction or sentence: because this involves an immigration case.

13. Appeals of Immigration Proceedings:

Does this case concern immigration proceedings? yes ___ no.

If "Yes" provide:

(a) Date Petitioner was taken into immigration custody: the Petitioner was detained on or about 12/17/2025.

(b) Date of the removal or reinstatement order: no removal orders have been issued, but only the order declining to hear the motion for bond, as to Petitioner. (Exhibit "A")

(c) Did you file an appeal with the Board of Immigration Appeals? ___ yes no.

If "yes" provide:

date of filing

Case number:

Result:

Date of result:

Issues raised:

(d) Did you appeal the decision to the United States Court of Appeals? yes

no.

If "yes" provide:

name of court

date of filing

Case number

Result

Date of result

Issues raised

14. **Other appeals**: Other than the appeals listed above, have other petitions, applications, or motions been filed about the issues raised in this petition?

yes no.

If "yes" provide:

(a) Kind of petition, motion, or application

(b) Name of the authority, agency, or court

(c) Date of filing:

(d) Docket number, case number, or opinion number

(e) Result:

(f) Date of result

(g) Issues raised:

Grounds for Petitioner's Challenge in this Petition

15. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in separate memorandum.

Ground One:

(a) **Supporting facts:** (be brief – do not cite cases or law): The Petitioner was born in Colombia. He arrived into the United States on or about, November 06, 2022, arriving at Eagle Pass, Texas The Petitioner is married to a U.S. born American citizen, Mary Rose O'hearn; His wife filed a Petition for Alien Relative (I130) on his behalf, which was approved on 03/16/2025. The Petitioner filed an Application for Provisional Unlawful Presence Waiver (I601A) which is pending with the immigration service. The Petitioner has loved ones to stay with and who can provide support throughout his proceedings. He has ties to the community and is not a flight risk. He had been issued a work permit.

(b) The petitioner had a bond hearing and was heard by the Miami Krome Immigration Court. The immigration judge declined to consider the bond motion, holding that Petitioner is an arriving alien and therefore, the court lacks jurisdiction under *Matter of M-S-27* I&N Dec. 509 (A.G. 2019) and *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

(c) In declining to consider the motion for bond, the immigration court reasoned that bond was being denied because respondent appears to be present in the United States without admission and is subject to mandatory detention under Section 235 (b) (2) (A) of the INA and *Matter of Yajure Hurtado*, ID #4125, The court determined that it lacked jurisdiction to address custody. The immigration court based its determination that it lacks jurisdiction due primarily to the case of *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

(d) A person who arrives at a U.S. border or Port and lacks an entry document such as a visa, is considered an "arriving alien" and such persons, when later encountered by ICE and placed in removal proceedings, have regularly been denied bond by the immigration courts. This denial of bond to persons deemed "arriving aliens" is based upon the case of *Yajure Hurtado*, I&N Dec. 216 (BIA 2025). However, due to a recent new ruling, the Respondent may be considered for bond determination.

(e) The Respondent qualifies as a member of a class of persons who may be considered for bond determination, under *Lazaro Maldonado Bautista et al v. Ernesto Santa Cruz Jr et al*, Case 5:25-cv-01873-SSS-BFM (U.S. Dist. Ct. C.D. Calif. 2025). There, four persons were arrested in Southern California in June 2025, when they were not inspected at the U.S. border. They were held at a detention center and denied bond, following a change in Department of Homeland Security

(DHS) policy that occurred in July 8, 2025. The Respondents sued for Habeas Corpus relief in Federal court at the Central District Court of California. Judge Sunshine Suzanne Sykes found the new DHS policy unlawful and unconstitutional; and the Respondents were granted hearings and released from detention. The court also entered a class action order, certifying a class of similarly eligible persons for release on bond under Section 236 of the INA. Thus, under this new ruling, noncitizens who entered the U.S. without inspection can now seek bond relief from the courts, reversing prior mandatory detention policies.

The new ruling allows the following persons to request bond from the immigration courts:

- a. Non-citizens
- b. Entered without inspection
- c. Not apprehended at entry
- d. Not subject to mandatory detention

Section 236 of the INA governs the detention and bond process for non-citizens eligible for release, replacing Section 235 (b) (2) (A) of the INA.

Judge Sykes at the Central District Court in California, certified a class granting relief to immigrants nationwide who “who have entered or will enter the U.S. without inspection, and those who were not initially detained when they came into the country.”

The judge reasoned that the July 8, 2025 DHS policy directed ICE to treat anyone in the U.S. as an “applicant for admission” under Section 8 U.S.C. Section 1225 (b)(2) (A); and this resulted in an expansive and improper reading of the term “applicants for admission”. The judge reasoned that this resulted in treating people already living in the U.S. as if they were arriving at the border; and this tended to “collapse” 8 U.S.C. Section 1226 into “nonexistence”.

Petitioner, Bolivar Sanchez, therefore may be considered for bond by the immigration court.

The Respondent may be released on conditional parole or a low bond in that he is not a flight risk, is not a danger to the community, and presents a viable claim for Political Asylum and withholding of removal. *See*, 8 C.F.R. Section 1003 19 (d) (h).

1. Mr. Bolivar Sanchez is not a flight risk

The Respondent is not a flight risk. He has no prior immigration or history of nonappearance at immigration proceedings. He has maintained a steady address; and if released he would be reunited with his family in South Florida.

Petitioner has family members and friends with lawful status in the United States who will support him as he complies with the terms of his immigration process. Petitioner’s wife suffers from episodes of depression, and greatly needs her spouse, Mr. Bolivar Sanchez, at her side.

2. The Respondent is not a danger to Society

If released the Petitioner intends to pursue legal relief in the form of Political Asylum, Withholding of Removal, and protection under the Convention

Against Torture. The Petitioner is not a danger to the community; does not have any criminal convictions, nor has he ever been arrested by the police.

A. Conclusion

In that Petitioner is not a flight risk, will not fail to appear before the court, and presents no threat to the safety of the community, then he should be allowed to have a hearing for a proper court to consider his motion for conditional parole; Alternatively, he should be released on a low bond.

(f) Did you present Ground One in all appeals that were available to you? ___ yes
X no.

Request for Relief:

16. State exactly what you want the court to do: Petitioner has the right to be heard, regarding a conditional release or bond determination hearing. We want the court to consider that Petitioner Bolivar Sanchez be released from detention on his own recognizance, on conditional release, or alternatively on a low bond. The Petitioner has not committed any crimes or offenses. He has been detained in very difficult conditions. The Petitioner, a Colombian native who is presenting an approved spousal petition claim (I-130), should be released so that he can be with his wife while he waits for the hearing on his application for relief which is to be heard by the immigration court.
17. Petitioner qualifies to be released on conditional release or a low bond, being that he has committed no crimes, is not a flight risk, and has family

in South Florida. We ask that the court order that there be a proper bond hearing for him to be heard by the court.

18. Further we ask that Petitioner not be moved from his current location during the pendency of his matter.

Declaration Under Penalty of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:
I declare under penalty of perjury that I am the attorney for the petitioner, I have read this petition, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: February 17, 2026

Respectfully Submitted,

By: **Juan C. Perez Esq. /s/**

LAW OFFICE JUAN CARLOS PEREZ

ATTORNEY AT LAW PA

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing Petition for Habeas Corpus has been delivered via the court's e-portal, and via U.S. mail, and/or hand delivery to The U.S. Department of Homeland Security (DHS), Kristi Noem, The U.S. Department of Immigration and Customs Enforcement (ICE), Todd Lyons, on or about February 17, 2026. **Juan C. Perez, Esq. /s/**