

UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA

Case No.: _____ (Civil Action)
District Judge _____
Magistrate Judge _____

HERIBERTO JIMENEZ RAMIREZ,

A# 

Petitioner,

v.

MITCHELL DIAZ,

In his official capacity as Assistant Field Office Director,
U.S. Immigration and Customs Enforcement
and Removal Operations

CYNTHIA SWAIN,

In her official capacity as Warden of the
Broward Transitional Center, a for-profit detention facility
operated by The GEO Group, Inc.

GARRETT RIPA,

in his official capacity as Field Office Director of the
Miami Field Office of the U.S. Immigration and Customs Enforcement
And Removal Operations;

TODD LYONS,

in his official capacity as Acting Director of the
U.S. Immigration and Customs Enforcement;

KRISTI NOEM, Secretary,

U.S. Department of Homeland Security, in her official capacity;

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

EXECUTIVE OFFICE for Immigration Review
United States Department of Justice

Respondents.

_____ /

**EMERGENCY PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241
AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE RELIEF AND
EMERGENCY MOTION FOR
TEMPORARY RESTRAINING ORDER AND STAY OF REMOVAL PROCEEDINGS**

Petitioner, HERIBERTO JIMENEZ RAMIREZ (“Petitioner”), by and through undersigned counsel, files this Emergency Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241, Complaint for Declaratory and Injunctive Relief, and Emergency Motion for Temporary Restraining Order and Stay of Removal Proceedings, and states as follows:

I. JURISDICTION AND VENUE

1. This Court has jurisdiction over Petitioner’s claims pursuant to 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, the Fifth Amendment to the United States Constitution, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202.

2. To the extent necessary to protect its jurisdiction and prevent irreparable constitutional injury, this Court also has authority under the All Writs Act, 28 U.S.C. § 1651(a), and Federal Rule of Civil Procedure 65.

3. The REAL ID Act channels direct review of final orders of removal to the courts of appeals, see 8 U.S.C. § 1252, but does not eliminate habeas jurisdiction over challenges to the legality of immigration detention and to the manner in which removal is carried out, including removal to an improper country and removal that would unlawfully extinguish access to meaningful review.

4. Venue is proper in this District under 28 U.S.C. §§ 1391(e) and 2241 because Petitioner is detained within the Southern District of Florida at Broward Transitional Center, a for-profit detention facility operated by The GEO Group, Inc., in Pompano Beach, Florida, and the immediate custodian responsible for his detention is located in this District.

5. It is respectfully submitted that District courts have the authority to grant writs of habeas corpus. *See* 28 U.S.C. § 2241(a). Habeas corpus is fundamentally “a remedy for unlawful executive detention.” *Munaf v. Geren*, 553 U.S. 674, 693, 128 S. Ct. 2207, 171 L. Ed. 2d 1 (2008) (citation omitted). A writ may be issued to a petitioner who shows that he is being held in custody in violation of the Constitution or federal law. *See* 28 U.S.C. § 2241(c)(3). The Court’s jurisdiction extends to challenges involving immigration detention. *See Zadvydas v.*

Davis, 533 U.S. 678, 687, 121 S. Ct. 2491, 150 L. Ed. 2d 653 (2001). *Boffill v Field Off. Director, Mia. Field Off.*, 2025 US Dist LEXIS 228852, at 5 (S.D. Fl. Nov. 20, 2025, No. 25-cv-25179-JB).

II. PARTIES

6. Petitioner, HERIBERTO JIMENEZ RAMIREZ, is a native and citizen of Mexico, he is 39 years of age, born on [REDACTED] who entered the United States without inspection around December 22, 2002, at 16 years of age, and has resided primarily in Florida, since that time. He is married to a United States Citizen, Maria Perez-Aguirre. Petitioner is identified by Alien Registration Number A# [REDACTED] (**Exhibit “1” Mexican Passport and other Identification Documents**).

7. Respondent MITCHELL DIAZ, as Assistant Field Office Director, U.S. Immigration and Customs Enforcement and Removal Operations and is sued in his official capacity.

8. Respondent CYNTHIA SWAIN, Warden of the Broward Transitional Center for-profit detention facility operated by The GEO Group, Inc., is Petitioner's immediate custodian and is sued in her official capacity.

9. Respondent GARRETT RIPA, Field Office Director of the Miami Field Office of the U.S. Immigration and Customs Enforcement and Removal Operations is responsible for immigration enforcement operations in this region, including Petitioner's detention and removal, and is sued in his official capacity.

10. Respondent TODD LYONS, Acting Director of the U.S. Immigration and Customs Enforcement is responsible for immigration enforcement operations in the United States, and is sued in his official capacity.

11. Respondent KRISTI NOEM is the Secretary of the U.S. Department of Homeland Security (DHS), the agency responsible for enforcing the immigration laws. She is sued in her official capacity.

12. Respondent PAMELA BONDI is the Attorney General of the United States and the head of the Department of Justice, which includes the Executive Office for Immigration Review (EOIR), United States Department of Justice. She is sued in her official capacity.

III. Status of Petitioner

13. Petitioner has been held in detention since approximately September 25, 2025, after a traffic stop, and should not be held in the Broward Transitional Center, a for-profit detention facility operated by The GEO Group, Inc., Pompano Beach, Florida, and should not be deported from the United States for the reasons set forth herein and should be given a bond hearing at a minimum, until his appeal of the Order is adjudicated.

14. Petitioner should be afforded an opportunity to place a bond to be released from the Broward Transitional Center, a for-profit detention facility operated by The GEO Group, Inc., Pompano Beach, Florida during the pendency of these proceedings. 8 U.S.C. §1226(a); *Boffill v. Field Off. Dir., Mia. Field Off.*, 2025 U.S. Dist. Lexis 228852 (S.D. Fl., November 20, 2025, Judge Becerra); *J.L.R.R. v Warden, Stewart Dety. Ctr.*, 2025 U.S. Dist. Lexis 233070 (M.D. Ga. November 26, 2025); *J.S.A. v Warden, Stewart Dety. Ctr.*, 2025 U.S. Dist. Lexis 233094 (M.D. Ga. November 25, 2025); *Doe v. Facility*, 2025 U.S. Dist. Lexis 231699, S.D. Ga. November 25, 2025); *Garcia v. Immigr. & Customs Enf 't Dept. of Homeland Sec.*, 2025 U.S. Dist. Lexis 228236 (M.D. Fl. November 20, 2025).

15. Petitioner first filed an Application for Asylum and for Withholding Removal, filed with the EOIR on or about April 2, 2019 (**Exhibit “2” – INS Form I-589 – Application for Asylum and for Withholding Removal, dated January 20, 2017, and filed with the EOIR**).

16. Petitioner then filed an Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents on or about July 23, 2021 (**Exhibit “3”- EOIR Form 42B- Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents filed with the EOIR**).

17. Petitioner then filed a Supplemental Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents on or about December 8, 2025, (**Exhibit “4”- EOIR Form 42B- Application for Cancellation of Removal and Adjustment of Status for Certain Nonpermanent Residents filed with the EOIR**).

18. Petitioner then filed a Motion to Terminate Removal Proceedings on or about December 8, 2025, alleging that based on his approved I-130 based on his marriage to a US citizen, and pending 601A Waiver (**Exhibit “5”- Motion to Terminate with I-130 Receipt and 601A Receipts**)

19. The Petitioner has been proactive in addressing his immigration matters and has complied with all requirements regarding his court appearances and any court orders. He does not pose a flight risk.

20. The Petitioner has no significant legal history apart from some traffic citations. He does not pose a public safety risk to the community.

21. The Petitioner has been denied his right to release due to DHS and EOIR's application of *Yajure Hurtado*, I&N Dec. 216 (2025 BIA). The Miami Immigration Court in all cases involving Bond Requests by individuals detained who entered without inspection. The court's application of *Yajure Hurtado* and the court's denial of jurisdiction to applicants for bond means that the Respondent is being held with no opportunity for release despite meeting the criteria for bond in all other respects.

22. Petitioner has resided in the United States for his entire adult life between age 16 and his present age of 39. For the majority of this life, Petitioner has resided in the State of Florida, in the United States, where he married, has raised his children and the children of his spouse, while being an upstanding member of his community. **(Exhibit "6"- Proof of Marriage, U.S. Citizen children's Birth Certificates, and Support Ltrs.).**

23. The Petitioner's Motion to Terminate his removal proceedings and allow him to be released so he can pursue adjustment of status with USCIS, while providing for his family and continuing to act as a productive member of his community is a violation of his rights. This habeas corpus proceeding has been filed to temporarily enjoin Petitioner's removal proceedings and allow him to be released on bond.

24. Refusal of EOIR to grant the Petitioner's Motion to Terminate and to allow him to be released is a violation of his due process rights. There is no just cause to detain him and he should be immediately released on bond.

25. The Petitioner has been denied his due process rights and based on his full compliance with his immigration proceedings, his marriage to his U.S. citizen wife, his approved I-130 Family Petition and pending 601A Waiver with USCIS, the Petitioner should be granted bond and his removal proceedings should be enjoined to allow him to pursue his immigration relief in the form of adjustment of status while residing in his home with his wife and children.

26. If removal proceedings continue and Petitioner is ordered removed from the

United States, Petitioner will have extreme difficulty pursuing his lawful adjustment of status process and his U.S. Citizens' wife's rights will be abated.

27. There will be absolutely no prejudice or harm to the United States of America if this Court enjoins the Petitioner's removal proceedings, permits Petitioner to be released on bond and remain in the United States pending the adjudication of his adjustment of status.

IV IMMIGRATION HISTORY

28. Petitioner is a native and citizen of Mexico who has lived in the United States for over twenty-three (23) years, since entering into the United States as a minor on December 22, 2002. He is presently detained by ICE at Broward Transitional Center, a for-profit detention facility operated by The GEO Group, Inc. in Pompano Beach, Florida.

29. For this purpose of this petition, this Court has jurisdiction to order that Petitioner not be removed from the United States until his appeal of the Order

30. Petitioner has lived an exemplary life in the United States for more than twenty-three (23) years. He has received tickets for traffic infractions, which have been paid or otherwise resolved by court proceedings, and has otherwise acted lawfully and with good character.

31. This petition is being filed on an emergency basis because Petitioner is scheduled for a final hearing in his removal proceedings on February 4, 2026.

32. Petitioner is married with four (4) children, living in the State of Florida. Petitioner's wife and children, including his step-child, are all United States Citizens.

33. Petitioner brings this action to (a) challenge the lawfulness of his detention and his threatened removal without constitutionally adequate process, and (b) request an immediate Temporary Restraining Order enjoining his removal proceedings and final hearing on February 4, 2026, and (c) grant him immediate release on bond.

34. This Court has the jurisdiction to order the Petitioner released on bond and to stop the imminent deportation of the Petitioner, and it is respectfully requested that the Court use its powers to stop the Removal proceedings and the imminent deportation of Petitioner.

35. To the extent any statutory exhaustion requirement might apply to the constitutional and legal issues raised here, further exhaustion would be futile and inadequate because removal could occur before the administrative process is complete.

V. CLAIMS FOR RELIEF

**COUNT I - (Habeas Corpus – Unlawful Detention and Execution of Removal
in Violation of the Fifth Amendment and INA § 241)**

36. Petitioner re-alleges paragraphs 1–35 as though fully set forth herein.

37. Petitioner is “in custody” within the meaning of 28 U.S.C. § 2241 and the Suspension Clause because he is physically detained at Broward Transitional Center and subject to imminent removal.

38. The Petitioner’s continued detention, failure to provide for bond, and the continued removal proceedings despite the Petitioner’s approved I-130 Family Petition and pending 601A Waiver violates the Due Process Clause of the Fifth Amendment and the statutory framework governing removal, including INA § 241(b).

39. Respondents’ actions and threatened actions are arbitrary, capricious, contrary to law, and in excess of their statutory authority, and they warrant habeas relief and injunctive relief staying removal.

COUNT II - (Declaratory and Injunctive Relief – Due Process Violations)

40. Petitioner re-alleges paragraphs 1–35 as though fully set forth herein.

41. By seeking to pursue removal of the Petitioner despite his long-term residence, his deep family ties, his U.S. citizen children, Respondents are violating Petitioner’s rights under the Fifth Amendment’s Due Process Clause

42. The Immigration Judge’s decision’s to deny the Petitioner’s Motion to Terminate is a violation of the Petitioner’s due process rights.

43. A declaratory judgment and corresponding injunctive relief are necessary to prevent irreparable harm and to clarify the parties’ rights and obligations.

COUNT III - (All Writs Act / Rule 65 – TRO and Stay of Removal)

44. Petitioner re-alleges paragraphs 1–35 as though fully set forth herein.

45. Petitioner satisfies the standard for temporary and preliminary injunctive relief:

a. Likelihood of Success on the Merits: Petitioner has an approved I-130 Family Petition filed by his US citizen wife and several other forms of relief pending, and proceedings with removal before completion of his process would deprive him of due process.

b. Irreparable Harm: If removed, Petitioner will be separated from his U.S. citizen children and wife, or they will be forced to relocate abroad, threatening his wife and children’s mental health, disrupting his children’s education, and permanently altering the

family's life. No monetary relief can remedy these harms.

c. Balance of Equities: The harm to Petitioner and his wife and children from removal far outweighs any administrative burden to the government of a brief stay of removal proceedings while proper review occurs.

d. Public Interest: The public interest is served by ensuring that the government follows its own statutes, respects constitutional due process, and does not remove a long-time resident father to the wrong country while his legal challenges are pending.

46. Under the All Writs Act and Rule 65, this Court may and should temporarily restrain Respondents from proceeding with removal of the Petitioner, or taking any steps to remove him, while this Court considers the merits of this Petition and while Petitioner pursues all available remedies.

VI. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this matter;
- B. Issue an immediate Temporary Restraining Order, without prior notice if necessary, prohibiting Respondents from removing Petitioner from the United States, and ordering that the removal hearing scheduled on February 4, 2026, be cancelled pending resolution of this Petition and Petitioner's administrative proceedings with USCIS;
- C. Order Respondents to show cause why the writ of habeas corpus should not be granted;
- D. After full consideration, issue a writ of habeas corpus declaring that Respondents' actions and threatened removal is unlawful and enjoining Respondents from removing Petitioner;
- E. Order Petitioner's release from custody under appropriate conditions of supervision pending the outcome of his immigration and federal court proceedings upon posting of a bond to be determined at a bond hearing; and
- F. Grant such other and further relief as this Court deems just and proper.

After reviewing the facts and researching applicable legal principles, I certify that this motion in fact presents a true emergency due to the pending removal hearing scheduled on February 4, 2026, and potential order of deportation of Petitioner.

Date: January 20, 2026

Respectfully submitted,

//S// Richard J. Anaya

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HERIBERTO JIMENEZ RAMIREZ

VERIFICATION

I, Heriberto Jimenez Ramirez, declare under penalty of perjury under the laws of the United States of America that the factual statements in this Petition are true and correct to the best of my knowledge and belief.

Executed on January 19, 2026, at Pompano Beach, Florida.

Heriberto Jimenez
Heriberto Jimenez Ramirez

STATE OF FLORIDA)
COUNTY OF BROWARD)

On 1/19/26, before me, a Notary Public, personally appeared, Heriberto Jimenez Ramirez, who proved to me on the basis of satisfactory evidence to be the person whose name is subscribed to the within instrument and acknowledged to me that he executed the same in his authorized capacity, and that by his signature on the instrument the person, or the entity upon behalf of which the person acted, executed the instrument by means of physical presence.

I certify under PENALTY OF PERJURY under the laws of the State of Florida that the foregoing paragraph is true and correct.

WITNESS my hand and official seal.

Dated: 1/19/26.

Signature [Handwritten Signature]

Notary Public in and for the State of Florida

My Commission Expires:

