

United States District Court
Southern District of Florida

Case No.:1:25-CV-_____

(Civil Action)

District Judge _____

Magistrate Judge _____

CARLOS MANUEL SANCHEZ-SILVA,

A# 

Petitioner,

v.

MITCHELL DIAZ,

In his official capacity as Assistant Field Office Director,

U.S. Immigration and Customs

Enforcement and Removal Operations;

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.

United States District
Court Southern District of Florida

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, CARLOS MANUEL SANCHEZ-SILVA (“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 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. The Immigration Judge’s Order dated September 19, 2025, stating that the Court does not have jurisdiction over the Petitioner as related to bond, based on the DHS’s current policy and the BIA’s decision in *Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), has denied the Petitioner the opportunity to even present a case for bond amounting to an indefinite and unlawful detention. To date he has been detained for over six (6) months.

5. Venue is proper in this District under 28 U.S.C. §§ 1391(e) and 2241 because Petitioner is detained at Glades County Detention Center under the jurisdiction of the ICE Miami Field Office which maintains responsibility for his immediate detention, and the Miami

Immigration Court which is responsible for the denial of his bond request.

6. 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

7. Petitioner, CARLOS MANUEL SANCHEZ-SILVA, is a native and citizen of Cuba, he is 38 years of age, born on [REDACTED] in Granma, Cuba, who entered the United States without inspection around February 18, 2022, at 34 years of age, and has resided primarily in Brevard County Florida, since that time. Petitioner is identified by Alien Registration Number A# [REDACTED]

8. Respondent MITCHELL DIAZ, Assistant 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.

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. The Petitioner has been held in detention since approximately July 25, 2025, after he appeared for a scheduled court hearing, and should not be held in the Glades County Detention Center, Moore Haven, Florida, and should be given a bond hearing at a minimum, while his removal proceedings are pending and his appeal is pending with BIA.

14. The Petitioner should be afforded an opportunity to place a bond to be released from the Krome North Service Processing Center during the 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. The Petitioner was issued a Notice to Appear on July 19, 2022, and a removal case was initiated by EOIR. The Petitioner first filed an Application for Asylum on or about July 20, 2022, with USCIS. He continued to comply with his immigration proceedings with EOIR and USCIS and submitted for Biometrics on August 10, 2022. Thereafter he received a work authorization document and social security number, indicating his compliance with immigration procedures, laws, and regulations. (**See NTA- Issued 7/19/2022, I-589 Biometrics Appt. Notice, and ID Docs.**).

16. The Petitioner appeared for a scheduled immigration court hearing with EOIR on July 25, 2025, and upon dismissal of his removal case by the Immigration Judge, he was detained by ICE officials in the courtroom. Since that time he has been detained in ICE custody, for a period of nearly seven (7) months, despite otherwise having a valid claim for Asylum pending with USCIS and complying with all court proceedings.

17. On August 25, 2025, a Bond Redetermination Request was filed with EOIR, requesting that the Court grant the Petitioner bond pending the processing of his case. A hearing was scheduled for August 28, 2025, however, the Petitioner was not transported from the

detention facility for court and there were no arrangements at that time for electronic appearance from the facility. On August 28, 2025, Immigration Judge Michael Walleisa entered an Order indicating “No Action” due to no fault of Petitioner, thus delaying his detention further. (**See- Bond Redetermination Request dated 8/25/2026 and Order dated 8/28/2026**).

18. Another Bond Redetermination Request was filed on September 8, 2025, and at the hearing, IJ Scott Alexander indicated the court had no jurisdiction based on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). On September 19, 2025, the 19, 2025 Court and entered an Order to that effect. (**See- Bond Redetermination Request dated 9/8/2025, and Order of Immigration Judge, dated 9/19/2025**).

19. There is no legal reason that Petitioner should not be granted Bond. He is not a risk to the community or a flight risk. Petitioner has resided in the United States for over four (4) years and has demonstrated his ability and willingness to comply with his immigration proceedings, as well as the laws of this country. The Petitioner is a husband and father and has been legally married since 2013. He has stable housing and employment, and has multiple relatives who are supporting him, as well as multiple letters of support from various friends and community members. (**See Marriage Certificate, Daughter’s Birth Certificate, and Letters of Support**).

20. The Petitioner has an appeal pending before the Board of Immigration Appeals related to the Immigration Judge’s dismissal of his removal proceedings and that led to his subsequent detention, as well as an appeal of the denial of his bond. As such, the Petitioner has multiple legal issues under review which he hopes to prevail on. However, without access to bond, the Petitioner will remain detained for a significant period, in addition to the time he has already spent in custody. In addition, there is no scheduled hearing at this time further indicating that he is being held in ICE custody without Court oversight or the possibility of release, but for bond. This habeas corpus proceeding has been filed to seek Petitioner’s release and temporarily enjoin Petitioner’s removal.

IV. HISTORY

21. The Petitioner is a native and citizen of Cuba who has lived in the United States for over four (4) years, since entering into the United States on February 18, 2022, and is presently detained by ICE at Glades County Detention Center under the Jurisdiction of Miami Field Office and Miami Immigration Court.

22. For this purpose of this petition, this Court has jurisdiction to order that Petitioner not be removed from the United States until his appeals have been resolved.

23. The Petitioner has lived an exemplary life in the United States for more than four (4) years with no indication of any malfeasance or lack of moral turpitude.

24. This petition is being filed on an emergency basis because Petitioner has been detained for over more than six (6) months.

25. The Petitioner is married and has one child who is eight (8) years old. He has been living in Brevard County, Florida and has a valid driver's license, valid work authorization, and has been working legally to support his family.

26. The Petitioner has a sponsor who is committed to supporting him through his immigration process and has presented to the court various letters of support which all describe him as hardworking and kind.

27. There will be absolutely no prejudice or harm to the United States of America if this Court allows the Petitioner to be released on Bond and permits him to remain in the United States pending his appeals of the Immigration Judge's decisions.

V. CLAIMS FOR RELIEF

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

28. The Petitioner re-alleges paragraphs 1–27 as though fully set forth herein.

29. The Petitioner is “in custody” within the meaning of 28 U.S.C. § 2241 and the Suspension Clause because he is physically detained by ICE at Glades County Detention Center and subject prolonged detention and imminent removal.

30. The continued detention and threatened removal of Petitioner—without affording him a meaningful opportunity to pursue and obtain review of the Immigration Judge's decision violates the Due Process Clause of the Fifth Amendment and the statutory framework governing removal, including INA § 241(b).

31. Removing Petitioner before he can pursue his administrative appeal and, if necessary, petition for review would unlawfully extinguish his right to meaningful review and render his statutory remedies inadequate.

32. 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 proceedings.

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

33. The Petitioner re-alleges paragraphs 1–27 as though fully set forth herein.

34. By seeking to remove Petitioner imminently despite his long-term residence in the United States, his deep family ties, and failure to allow him the opportunity for release under Bond, Respondents are violating Petitioner’s rights under the Fifth Amendment’s Due Process Clause.

35. 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)

36. The Petitioner re-alleges paragraphs 1–27 as though fully set forth herein.

37. The Petitioner satisfies the standard for temporary and preliminary injunctive relief.

38. Under the All Writs Act and Rule 65, this Court may and should temporarily restrain Respondents from removing Petitioner, or taking any steps to remove him, to any country while this Court considers the merits of this Asylum Petition and while Petitioner pursues available appellate 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, pending resolution of this Petition and Petitioner’s administrative and judicial appeals;
- 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, continued detention, and threatened removal are unlawful, and enjoining Respondents from removing Petitioner until he has had a full and fair opportunity to pursue and obtain review of his claims on appeal before the Board of Immigration Appeals or the United States Court of Appeals;
- E. In the alternative, order Petitioner’s immediate 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 Petitioner's prolonged detention, no pending court date and the potential for immediate deportation of Petitioner without notice at the discretion of ICE.

Date: 2/20/2026

Respectfully submitted,

/S/ Ramona M.Hupp
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VERIFICATION

I, Ramona M. Hupp, 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, and that I have reviewed the record before the Immigration Court and any and all relevant documents, and in consultation with the Petitioner, CARLOS MANUEL SANCHEZ-SILVA, who has confirmed all included information.

/S/ Ramona M.Hupp
Ramona M. Hupp, Esq