

**UNITED STATES DISTRICT COURT
SOUTHERN
DISTRICT OF FLORIDA**

JANIER RICO,

Petitioner/Plaintiff, v.

KRISTI NOEM, in their official capacity as Secretary of the United States Department of Homeland Security;

PAMELA BONDI, in their official capacity as Attorney General of the United States;

JUAN AGUDELO in his official capacity as KROME DETENTION CENTER,

Respondents/Defendants.

Case No.

**PETITION FOR WRIT OF HABEAS CORPUS
(28 U.S.C. § 2241)**


INTRODUCTION

Petitioner, JANIER RICO("Petitioner"), by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Petitioner is civilly detained by U.S. Immigration and Customs Enforcement ("ICE") pursuant to INA § 236(a), 8 U.S.C. § 1226(a). His continued detention without a constitutionally adequate bond hearing violates the Due Process Clause of the Fifth Amendment. Petitioner seeks an order requiring a prompt bond hearing with the burden on the Government, or, in the alternative, immediate release.

JURISDICTION AND VENUE

1. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody and is detained in violation of the Constitution and laws of the United States.
2. Venue is proper in the SOUTHERNDistrict of Florida because Petitioner is detained at the KROME DETENTION CENTER, KROME NORTH SPC 18201 S.W. 12TH ST. NA MIAMI, FL 33194, which lies within this District.

PARTIES

3. Petitioner JANIER RICO is a citizen and national of CUBA A  and is currently detained at KROME DETENTION CENTER.
4. Respondent KRISTI NOEM is sued in her official capacity as Secretary of the Department of Homeland Security and is responsible for the administration and enforcement of the Immigration and Nationality Act.
5. Respondent PAMELA BONDI is sued in her official capacity as Attorney General of the United States.
6. Respondent JUAN AGUDELO in his official capacity as KROME DETENTION CENTER, is the immediate physical custodian of Petitioner.

FACTUAL BACKGROUND

7. On December 1, 2009, an Immigration Judge ordered Petitioner removed.
8. Petitioner has been continuously detained since December 6, 2025.
9. ICE has provided no concrete removal timeline.
10. Petitioner is not responsible for any delay in removal.
11. There is no realistic prospect that removal will occur in the reasonably foreseeable future.

LEGAL FRAMEWORK

12. Post-order detention is governed by 8 U.S.C. § 1231(a).
13. In *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court held that detention is presumptively reasonable for six months.
14. The six-month period is not a mandatory waiting period.
15. Courts retain authority to order release prior to six months where removal is not reasonably foreseeable.
16. Detention is constitutionally permissible only so long as it bears a reasonable relation to its purpose — effectuating removal.
17. When removal is diplomatically impossible or legally foreclosed, continued detention is arbitrary.

COUNT I

Violation of the Due Process Clause (Fifth Amendment)

18. Petitioner incorporates all preceding paragraphs.
19. ICE has no viable country of removal.
20. Multiple designated countries have affirmatively refused to accept Petitioner
21. There is no significant likelihood of removal in the reasonably foreseeable future.
22. Continued detention serves no legitimate immigration purpose.
23. Civil detention without a realistic removal prospect violates substantive due process.

COUNT II

Violation of INA § 241(a)

24. Petitioner incorporates all preceding paragraphs.
25. Section 241(a) does not authorize detention where removal is not reasonably foreseeable.
26. The statute must be construed to avoid constitutional infirmity.
27. Continued detention under these circumstances exceeds statutory authority.
28. Detention of Petitioner exceeds its statutory authority and violates due process.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- A. Assume jurisdiction over this action;

- B.** Issue a Writ of Habeas Corpus ordering Respondents to provide Petitioner with a prompt bond hearing before an Immigration Judge at which the Government bears the burden of proving, by clear and convincing evidence, that continued detention is justified;
- C.** Alternatively, order Petitioner's immediate release under reasonable conditions of supervision;
- D.** Enjoin Respondents from transferring Petitioner outside this District without prior Court approval; and
- E.** Grant such other and further relief as the Court deems just and proper.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was served on all Respondents and counsel for Respondents by U.S. Mail and/or electronic service on this day of February 22, 2026

Respectfully submitted,

David Magilligan

Florida Bar No. 41487
Magilligan Law
3900 Hollywood Blvd., Suite PH2
Hollywood, Florida 33021
(954) 927 7961
david@demesq.com