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7

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

8

9

GACITA CHELALA, ELIAS



Case No. 0:26-cv-60559

10

Petitioner,

11

**PETITION FOR WRIT OF
HABEAS CORPUS**

12

v.

13

Pamela Bondi, U.S. Attorney General,

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Kristi Noem, Secretary, U.S. Department of
Homeland Security,

15

16

Todd Lyons, Acting Director of U.S.
Immigration and Customs Enforcement,

17

Cynthia Lawson-Swain, Warden of Broward
Transitional Center

18

**IN THEIR OFFICIAL
CAPACITIES**

19

Respondents.

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1 INTRODUCTION

- 2 1. Petitioner Mr. Elias Gacita Chelala is in the physical custody of Respondents at Broward
3 Transitional Center. He now faces unlawful detention because the Department of
4 Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have
5 concluded that he is subject to mandatory detention. (*See*, Exhibit A, ICE Online Detainee
6 Locator).
- 7 2. Petitioner entered the United States on November 22, 2023, at San Ysidro, California
8 through the use of the CBP One app. (*See*, Exhibit B, Notice to Appear).
- 9 3. Petitioner was granted parole at the time of his entry, which was valid for two years,
10 expiring on November 22, 2025. (*See*, Exhibit C, Parole Document).
- 11 4. On November 22, 2023, Respondent's issued a Notice to Appear for Petitioner, where he
12 was charged under INA § 212(a)(7)(A)(i)(I) as an immigrant who at the time of application
13 for admission was not in possession of a valid entry document. (*See*, Exhibit B, Notice to
14 Appear).
- 15 5. On or about December 12, 2024, Respondents received Petitioner's I-485 Application to
16 Register Permanent Residence or Adjust Status under the Cuban Adjustment Act. (*See*,
17 Exhibit D, I-485 Receipt). This application is currently pending before USCIS.
- 18 6. On September 30, 2025, the Immigration Court terminated Petitioner's case to allow him
19 to pursue adjustment of status under the Cuban Adjustment Act given his demonstration of
20 prima facie eligibility. (*See*, Exhibit E, IJ Order Terminating Case).
- 21 7. On January 28, 2026, Petitioner was detained by ICE at his place of work due to his
22 immigration status.
- 23
24

- 1 8. Petitioner repeatedly and expressly requested placement in full removal proceedings under
2 INA § 240, 8 U.S.C. § 1229a, which would have afforded him the opportunity to appear
3 before an Immigration Judge, present evidence, and apply for relief from removal. Despite
4 these requests, the Department of Homeland Security (DHS) instead subjected Petitioner
5 to expedited removal proceedings under INA § 235(b), 8 U.S.C. § 1225(b), thereby
6 depriving him of a meaningful opportunity to be heard and to seek available relief.. (*See*,
7 Exhibit F, Requests to be Placed in Court Proceedings; Exhibit G, Notice and Order of
8 Expedited Removal).
- 9 9. ICE issued the order of expedited removal on January 28, 2026, after Petitioner had been
10 present in the United States for two years under a granted parole, and without any new or
11 additional information suggesting that Petitioner is a threat to public safety or a flight risk.
12 (*See*, Exhibit H, Evidence of Two Years of Presence in the United States).
- 13 10. On February 9, 2026, Petitioner appeared for his Credible Fear Interview. Thereafter, on
14 February 14, 2026, Petitioner received a negative credible fear determination despite being
15 found credible. (*See*, Exhibit I, Form I-870, Record of Determination).
- 16 11. Petitioner is scheduled for a Judicial Review Hearing on February 27, 2026. (*See*, Exhibit
17 J, Notice of Hearing).
- 18 12. Petitioner’s detention violates the plain language of the Immigration and Nationality Act.
19 Expedited Removal under Section 1225(b)(1)(A)(i) only applies to “noncitizens arriving
20 in the United States” and “noncitizens who have not been admitted or paroled into the
21 United States and cannot affirmatively show that they have been physically present in the
22 United States continuously for the 2 year period prior to the date of determination of
23 inadmissibility”.

1 13. It has been recognized that non-citizens who are already in the United States should not be
2 treated the same as aliens which are coming into the United States; such treatment would
3 defy the plain language of INA. *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-
4 BFM (C.D. Ca. Feb 18, 2026).

5 14. Section 1225 governs “applicants for admission” encountered at the border or its functional
6 equivalent, while section 1226 governs those “already in the country”. *Jennings v.*
7 *Rodriguez*, 583 U.S. 282, 288-89 (2018).

8 15. Petitioner was paroled upon entry into the United States, and he was placed in Court
9 Proceedings pursuant to 8 U.S.C. § 1229a. (*See*, Exhibit B; Exhibit C).

10 16. He was detained over two years after his initial entry. Therefore, he is currently detained
11 under INA § 236(a), the discretionary detention provision that authorizes release on bond
12 or conditional parole.

13 17. Petitioner is a Cuban national with no criminal history. His continued confinement under
14 these circumstances serves no lawful basis where Congress has expressly authorized bond
15 consideration under § 1226(a).

16 18. This is a case where ICE, unlawfully detained the Petitioner who at the time of his arrest,
17 had a valid work authorization, license, and pending immigration relief with USCIS.

18 19. The Fifth amendment guarantees apply “to all persons within the United States, including
19 aliens, whether their presence here is lawful, unlawful, temporary, or permanent”.
20 *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

21 20. Over the years, the courts have stepped in to ensure that vulnerable classes of immigrants
22 receive protections to which they are entitled as a matter of law, due process and
23 fundamental notions of fairness. The case at bar is an opportunity for this Honorable Court
24

1 to step in once again in the interest of justice to allow this innocent man to be released in
2 accordance with the law.

3 21. Because Respondents are detaining Petitioner in violation of both the Immigration and
4 Nationality Act, this Court should expeditiously grant the petition.

5 22. The Court should order Respondent DHS to release Petitioner within one day.

6 23. Alternatively, the Court should order his release unless Respondents provide a bond
7 hearing under 8 U.S.C. § 1226(a) within seven days.

8 JURISDICTION

9 24. Petitioner is in the physical custody of Respondents. Petitioner is detained at the Broward
10 Transitional Center in Pompano Beach, Florida.

11 25. This Court has jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331
12 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the
13 Suspension Clause).

14 26. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act,
15 28 U.S.C. § 2201, and the All Writs Act, 28 U.S.C. § 1651.

16 VENUE

17 27. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493- 500
18 (1973), venue lies in the United States District Court for the Southern District of Florida,
19 the judicial district in which Petitioner currently is detained.

20 28. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents
21 are employees, officers, and agencies of the United States, and because a substantial part
22 of the events or omissions giving rise to the claims occurred in the Southern District of
23 Florida.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

1
2 29. The court must grant the petition for writ of habeas corpus “forthwith” unless the petitioner
3 is not entitled to relief. 28 U.S.C. § 2243.

4 30. Habeas corpus is “perhaps the most important writ known to the constitutional law . . .
5 affording as it does a swift and imperative remedy in all cases of illegal restraint or
6 confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963). “The application for the writ usurps
7 the attention and displaces the calendar of the judge or justice who entertains it and receives
8 prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d
9 1116, 1120 (9th Cir. 2000).

10 31. Petitioner is “in custody” within the meaning of 28 U.S.C. § 2241 because he is detained
11 by Respondents at Broward Transitional Center in Pompano Beach, Florida pursuant to
12 immigration detention authority. Petitioner challenges that custody as unlawful under the
13 Constitution, federal law, and applicable treaties.

14 **PARTIES**

15 32. Petitioner Mr. Elias Gacita Chelala is a citizen of Cuba who was paroled into the United
16 States on November 22, 2023, and has been in immigration detention since January 28,
17 2026.

18 33. Respondent Kristi Noem is the Secretary of the Department of Homeland Security. She is
19 responsible for the implementation and enforcement of the Immigration and Nationality
20 Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms. Noem
21 has ultimate custodial authority over Petitioner and is sued in her official capacity.

22 34. Respondent Pamela Bondi is the Attorney General of the United States. She is responsible
23 for the Department of Justice, of which the Executive Office for Immigration Review and
24



1 the immigration court system it operates is a component agency. She is sued in her official
2 capacity.

3 35. Respondent Todd Lyons is the Acting Director of the U.S. Department of Homeland
4 Security Immigration and Customs Enforcement. He is being sued in his official capacity.

5 36. Respondent Cynthia Lawson-Swain is the Warden of Broward Transitional Center, where
6 Petitioner is detained. She is sued in her official capacity.

7 **STATEMENT OF FACTS**

8 37. Mr. Elias Gacitas Chelala ("Petitioner") is a native and citizen of Cuba who has been in
9 ICE custody since January 28, 2026.

10 38. On or about June 19, 2023, Petitioner fled Cuba given the persecution he faced 
11  (See, Exhibit K, Credible Fear
12 Interview Transcript).

13 39. Petitioner entered the United States on November 22, 2023, at San Ysidro, California
14 through the use of the CBP One app. (See, Exhibit B, Notice to Appear).

15 40. Petitioner was granted parole at the time of his entry, which was valid for two years,
16 expiring on November 22, 2025. (See, Exhibit C, Parole Document).

17 41. On November 22, 2023, Respondent's issued a Notice to Appear for Petitioner, where he
18 was charged under INA § 212(a)(7)(A)(i)(I) as an immigrant who at the time of application
19 for admission was not in possession of a valid entry document. (See, Exhibit B, Notice to
20 Appear).

21 42. On or about December 12, 2024, Respondents received Petitioner's I-485 Application to
22 Register Permanent Residence or Adjust Status under the Cuban Adjustment Act. (See,
23 Exhibit D, I-485 Receipt). This application is currently pending before USCIS.
24

1 43. On September 30, 2025, the Immigration Court terminated Petitioner's case to allow him
2 to pursue adjustment of status under the Cuban Adjustment Act given his demonstration of
3 prima facie eligibility. (See, Exhibit E, IJ Order Terminating Case).

4 44. On January 28, 2026, Petitioner was detained by ICE at his place of work due to his
5 immigration status.

6 45. Petitioner relentlessly requested to be placed in 240 Proceedings; however, DHS processed
7 him under Expedited Removal. (See, Exhibit F, Requests to be Placed in Court Proceedings;
8 Exhibit G, Notice and Order of Expedited Removal).

9 46. ICE issued the order of expedited removal on January 28, 2026, without any new or
10 additional information suggesting that Petitioner is a threat to public safety or a flight risk.
11 (See, Exhibit G, Notice and Order of Expedited Removal).

12 47. On February 9, 2026, Petitioner appeared for his Credible Fear Interview. Thereafter, on
13 February 14, 2026, Petitioner received a negative credible fear determination despite being
14 found credible. (See, Exhibit I, Form I-870, Record of Determination).

15 48. Petitioner is scheduled for a Judicial Review Hearing on February 27, 2026. (See, Exhibit
16 J, Notice of Hearing).

17 49. The Petitioner has no criminal history, has consistently demonstrated compliance with all
18 immigration requirements, and does not pose a flight risk.

19 50. Additionally, the Petitioner has strong family ties in the United States, including his Legal
20 Permanent Resident Fiancé, Loraine Martinez, who has the intention to both marry him
21 and file an I-130, Petition for Alien Relative for him. (See, Exhibit L, Petitioner's Fiance's
22 Statement). Upon filing this petition there will be an additional avenue for relief for
23 Petitioner.
24

1 51. As of filing of this petition, Petitioner has been detained for one month due to an erroneous
2 and unjust application of expedited removal processing.

3 **STATEMENT OF LAW**

4 ***Expedited Removal Applicability***

- 5 1. Expedited removal allows immigration officers to remove noncitizens “without further
6 hearing or review.” 8 U.S.C. § 1225(b)(1)(A)(i).
- 7 2. Given the severe limitations to the noncitizen’s rights, the INA limits its applicability. First,
8 noncitizens may be eligible only if they are inadmissible because the “lack proper entry
9 documents or falsified or misrepresented their application for admission.” *Coalition for*
10 *Humane Immigrant Rights v. Noema*, 805 F.Supp.3d 48, 61, 2025 WL 2192986, at *5
11 (D.D.C. 2025) (citing 8 U.S.C. § § 1225(b)(1)(A)(i) and 1182(a)(6)(C), (a)(7)). Second,
12 “among that set, only two categories of noncitizens are eligible...(1) noncitizens “arriving
13 in the United States”, and (2) noncitizens who have not been admitted or paroled into the
14 United States and cannot affirmatively show that they have been physically present in the
15 United States continuously for the 2 year period immediately prior to the date of the
16 determination of inadmissibility.” *Id.* (quoting 8 U.S.C. § 1224(b)(1)(A)(i)-(iii)).
- 17 3. 8 U.S.C. § 1225(b)(1)(A)(iii)(II) excludes aliens who have been paroled in the United
18 States for more than two years from the class eligible for expedited removal. *See, Azahares*
19 *Gutierrez v. Noem*, 2:26-cv-00214-SPC-DNF (M.D. Fla. Feb 18, 2026); *Silva-Toruno v.*
20 *Ripa*, 2:26-cv-199-SPC-DNF (M.D. Fla. Feb 24, 2026); *Dorta v. Mordant*, 2:26-cv-217-
21 SPC-DNF (M.D. Fla. Feb 18, 2026).
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24

Mandatory Detention Scheme

- 1
2 1. Immigration detention has two statutory goals (1) “to ensure the noncitizen’s appearance
3 at future immigration proceedings” and (2) “to prevent danger to the community”.
4 *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
- 5 2. Congress established two separate detention regimes. Section 1225 governs “applicants for
6 admission” encountered at the border or its functional equivalent, while section 1226
7 governs those “already in the country”. *Jennings v. Rodriguez*, 583 U.S. 282, 288-89 (2018).
8 These provisions are mutually exclusive: “A noncitizen cannot be subject to both
9 mandatory detention under § 1225 and discretionary detention under § 1226.” *Martinez v.*
10 *Hyde*, No. 25-cv-11613, 2025 WL 2084238, at *8 (D. Mass July 24, 2025).
- 11 3. Section 1225(b)(2)(A) provides that “in the case of an alien who is an applicant for
12 admission, if the examining immigration officer determines that an alien seeking admission
13 is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a
14 proceeding under section 1229a.” 8 U.S.C. § 1225(b)(2)(A).
- 15 4. Crucially, courts and the BIA have recognized that the phrase “seeking admission” carries
16 an active, temporal component: it refers to individuals “coming or attempting to come into
17 the United States,” 8 C.F.R. § 1.2, i.e., those apprehended at or near the border and in the
18 process of initial entry. *Martinez*, 2025 WL 2084238, at *6-7.
- 19 5. By contrast, § 1226 governs detention of noncitizens already present in the United States
20 and apprehended on a warrant issued by the Attorney General. 8 U.S.C § 1226(a). Unlike
21 § 1225’s mandatory scheme, § 1226(a) creates a discretionary framework, under which the
22 Attorney General “may continue to detain,” or “may release” a noncitizen on bond or
23 conditional parole. *Id.*
- 24

- 1 6. Individuals detained under § 1226 are entitled to an individualized custody determination
2 and may appeal that determination to an immigration judge. 8 C.F.R. § 1236.1(d)(1); *see*
3 *Matter of Siniauskas*, 27 I&N Dec. 207, 207 (BIA 2018).
- 4 7. Narrow mandatory detention categories exist under § 1226(c) for certain criminal or
5 security grounds, but those are not implicated here.
- 6 8. Multiple recent decisions confirm that § 1225 does not apply to noncitizens apprehended
7 in the interior. *See Carlos Javier Lopez Benited v. Francis*, No. 25- cv-11517, 2025 WL
8 1869299, at *5-8 (D. Mass. July 7, 2025) (holding that § 1225(b)(2)(A) did not apply to a
9 petitioner who had been residing in the United States for over two years; emphasizing that
10 "seeking admission" requires an active, ongoing effort to enter, not mere presence in the
11 country, and concluding that detention was governed by § 1226(a) with access to bond);
12 *see also Rodriguez v. Bostock*, F. Supp. 3d, 2025 WL 1193850, at *12-16 (W.D. Wash.
13 Apr. 24, 2025) (finding that a non-citizen apprehended from within the United States and
14 charged with inadmissibility was necessarily detained under section 1226, rather than
15 section 1225); *Gomes*, 2025 WL 1869299 at *5-8 (same); *Lepe v. Andrews*, No. 1:25-cv-
16 01163-KES-SKO (HC), 2025 U.S. Dist. LEXIS 187233, at *13 (E.D. Cal. Sep. 23, 2025).
- 17 9. As those courts recognized, interpreting § 1225 to cover all noncitizens who were never
18 formally "admitted" would collapse the statutory distinction, render § 1226 superfluous,
19 and contradict longstanding DHS practice. *See Martinez*, 2025 WL 2084238, at *8 ("This
20 tension between sections 1225 and 1226 motivates the conclusion that they apply to
21 different classes of aliens"); *Gomes v. Hyde*, 2025 WL 1869299, at *5-8 (D. Mass. July 7,
22 2025); *Marx v. Gen. Revenue Corp.*, 568 U.S. 371, 386, 133 S.Ct. 1166, 185 L.Ed.2d
23 242(2013).

1 10. Courts have distilled two central principles:

2 a. Geographic/temporal limits: § 1225 applies only to noncitizens apprehended at or
3 near the border and in the act of entry (see *Thuraissigiam*, 591 U.S. 103, 114, 139
4 (2020), not to those apprehended years later in the interior.

5 b. Statutory structure: Reading § 1225 as covering all noncitizens who were never
6 lawfully "admitted" would render § 1226 largely meaningless, contrary to the rule
7 against surplusage. See *Martinez*, 2025 WL 2084238, at *7; *Gomes v. Hyde*, No.
8 25-cv-11571, 2025 WL 1869299, at *6-8 (D. Mass. July 7, 2025).

9 11. As set forth below, applying this framework compels the conclusion that Petitioner's
10 detention cannot fall under § 1225. Having resided in the United States for almost 3 years
11 before detention within the interior, he falls squarely within the discretionary scheme of §
12 1226. Respondents' reliance on § 1225 is therefore legally untenable.

13 12. Finally, *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) is a landmark decision
14 overruling *Chevron* deference thereby permitting this Honorable Court to come to its own
15 conclusion on the interpretation of the relevant statutes without relying on Board precedent
16 in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), which was wrongly decided
17 and vacated. See, *Maldonado Bautista v. Santacruz*, 5:25-cv-01873-SSS-BFM (C.D. Ca.
18 Feb 18, 2026).

19 **CLAIMS FOR RELIEF**

20 **UNLAWFUL DETENTION UNDER 8 U.S.C. § 1225; CUSTODY PROPERLY**

21 **GOVERNED BY 8 U.S.C. § 1226**

22 13. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in
23 the preceding paragraphs as if fully set forth herein.
24

1 14. Petitioner is not eligible for expedited removal and therefore his detention violates INA.

2 15. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to
3 mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights
4 under the INA.

5 16. Petitioner is currently detained pursuant to INA § 236(a), 8 U.S.C. § 1226(a). Petitioner
6 was paroled into the United States on November 22, 2023, with parole authorized for a
7 two-year period. DHS exercised its prosecutorial discretion at that time by placing
8 Petitioner in removal proceedings under INA § 240, 8 U.S.C. § 1229a. At the time of his
9 detention on January 28, 2026, he had resided in the United States for over two years and
10 had pending immigration relief for which he is prima facie eligible. He is not subject to
11 mandatory detention under § 1226(c), expedited removal under § 1225(b)(1), or post-order
12 detention under § 1231.

13 17. As a Cuban national who entered the United States on November 22, 2023, and who was
14 not apprehended at the time of entry, Petitioner squarely falls within the class of individuals
15 detained under § 236(a). Accordingly, detention is discretionary, not mandatory, and DHS
16 must exercise that discretion in a manner consistent with statutory and constitutional limits.

17 18. Despite the discretionary detention framework set forth in INA § 236(a), 8 U.S.C. §
18 1226(a), Respondents have refused to meaningfully exercise that discretion. Specifically,
19 Respondents have declined to consider placement in removal proceedings under INA §
20 240, have refused to consider Petitioner for release, and have failed to provide a
21 constitutionally adequate bond hearing. As a result, Petitioner remains subject to prolonged
22 civil detention that is not reasonably related to any legitimate governmental purpose.

Violation of Due Process

19. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

20. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

21. Petitioner has a fundamental interest in liberty and being free from official restraint.

Violation of the Due Process Clause of the Fifth Amendment of the United States

Constitution; 5 U.S.C §§ 702, 706

22. Petitioner repeats, re-alleges, and incorporates by reference each and every allegation in the preceding paragraphs as if fully set forth herein.

23. The Due Process Clause of the Fifth Amendment protects all “person[s]” from deprivation of liberty “without due process of law.”

24. The Due Process Clause entitles Petitioner to meaningful process assessing whether his current detention is justified. The arrest and detention of Petitioner without an opportunity for him to contest his detention in front of a neutral decision maker after he had been living in the United States for almost 3 years provides insufficient due process and violates the Due Process Clause of the Fifth Amendment of the Constitution.

25. Immigration detention has two statutory goals (1) “to ensure the noncitizen’s appearance at future immigration proceedings” and (2) “to prevent danger to the community”. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Petitioner’s detention serves neither purpose.

26. There is no evidence that Petitioner poses a danger to the community or a flight risk.

1 27. Petitioner:

- 2 a. has continuously resided in the United States since November 2023 (*See*, Exhibit
3 H, Evidence of Two Years of Presence in the United States);
- 4 b. has no criminal history;
- 5 c. has immediately available relief through his pending application for Adjustment of
6 Status under the Cuban Adjustment Act (*See*, Exhibit D, I-485 Receipt);
- 7 d. has complied with all immigration requirements;
- 8 e. had a valid work authorization document and driver's license (*See*, Exhibit M,
9 Employment Authorization Document);
- 10 f. has maintained stable employment; (*See*, Exhibit N, Letter from Employer);
- 11 g. has strong family ties in the United States; and
- 12 h. could benefit from an I-130 Family Petition upon Marriage to his LPR Fiancé (*See*,
13 Exhibit L, Petitioner's Fiance's Statement).

14 28. These factors overwhelmingly favor release under INA § 236(a). Nothing in the record
15 demonstrates that continued detention is necessary to protect the public or to ensure
16 Petitioner's appearance at future proceedings.

17 29. Because Petitioner's detention is discretionary, continued confinement without meaningful
18 consideration of release is arbitrary and not reasonably related to any legitimate
19 immigration purpose.

20 30. The Fifth Amendment's Due Process Clause requires adequate procedural protections to
21 ensure that the government's asserted justification for physical confinement outweighs the
22 individual's constitutionally protected interest in avoiding physical restraint. *See Id.*;
23 *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018).

1 31. Where detention is discretionary under INA § 236(a), due process requires individualized
2 consideration of whether continued detention is justified. Prolonged detention cannot be
3 sustained where it is unrelated to danger or flight risk and where less restrictive alternatives,
4 such as bond or conditions of supervision, are readily available.

5 32. Petitioner has now been detained for a month without a meaningful exercise of discretion
6 or a constitutionally adequate bond hearing.

7 33. Under these circumstances, continued detention no longer serves a legitimate regulatory
8 purpose and instead imposes unnecessary physical and psychological harm to an individual
9 with available migratory relief.

10 **PRAYER FOR RELIEF**

11 **WHEREFORE**, Petitioner prays that this Court grant the following relief:

- 12 a. Assume jurisdiction over this matter;
13 b. Order that Petitioner shall not be transferred outside the Southern District of
14 Florida;
15 c. Issue an Order to Show Cause ordering Respondents to show why this Petition
16 should not be granted within 3 days.
17 d. Declare that the Petitioner's detention violates the Due Process of the Fifth
18 Amendment.
19 e. Issue a writ of habeas corpus requiring that within one day, Respondents release
20 Petitioner.
21 f. Grant any other and further relief that this Court deems just and proper.

DATED this 18 of February, 2026.

21 Roxana Gerardo Fernandez, Esq.
22 Fernandez Law Office, LLC
23 3900 Woodlake Blvd., Suite 204
24 Greenacres, FL 33463
(561) 223-3089
(561) 822-7988

GACITA CHELALA, ELIAS

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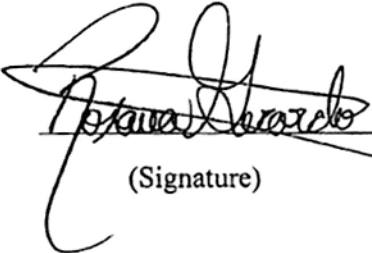
CERTIFICATE OF SERVICE

I hereby certify that a true and correct copy of the Petition for Writ of Habeas Corpus with Attachments and Summons was served by certified mail to PAMELA BONDI, Attorney General of the United States, U.S Department of Justice, 950 Pennsylvania avenue, NW, Washington, DC 20530-0001.

I hereby certify that a true and correct copy of the Petition for Writ of Habeas Corpus with Attachments and Summons was served by certified mail to KRISTI NOEM, Secretary of Homeland Security, U.S. Department of Homeland Security, 245 Murray Lane, SW, Mail Stop 0485, Washington, DC 20528-0485.

I hereby certify that a true and correct copy of the Petition for Writ of Habeas Corpus with Attachments and Summons was served by certified mail to TODD LYONS, Acting Director of U.S. Immigration and Customs Enforcement, Office of the Principal Legal Advisor, U.S. Immigration and Customs Enforcement, 500 12th Street SW, Washington, DC 20536.

I hereby certify that a true and correct copy of the Petition for Writ of Habeas Corpus with Attachments and Summons was served by certified mail to CYNTHIA LAWSON-SWAIN, Warden of Broward Transitional Center, 3900 N Powerline Rd, Pompano Beach, FL 33073.



(Signature)

02/26/2026

(Date)