

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

RODRIGO GERARD MARATUECH ARENAS,

Case No. _____

Petitioner,

v.

Kristi Noem, Secretary of the Department of Homeland Security; **Todd M. Lyons**, Acting Director U.S. Immigration and Customs Enforcement; **Garrett Ripa**, ICE ERO Miami Field Office Director; **Kevin Guthrie**, Executive Director of the Florida Division of Emergency Management, **Pamela Bondi**, Attorney General of the U.S.; **Matthew Mordant**, Warden of the Florida Soft Side Facility aka Alligator Alcatraz,

Respondents

_____/

EMERGENCY VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

- 1) The Petitioner, Rodrigo Gerard Maratuech Arenas, seeks a writ of habeas corpus to remedy his unlawful detention by the Respondents. He is being held without statutory authority, due process, or a hearing due to

Department of Homeland Security's failure to properly file a Notice to Appear.

2) Specifically, the Petitioner argues that his detention is unlawful on account of:

a) Federal law does not authorize state agencies to hold immigration detainees during the removal process.

b) Petitioner was denied the right to due process under the Fifth Amendment to the U.S. Constitution. Respondents are unlawfully detaining Petitioner without providing legal justification for his ongoing detention.

3) The Petitioner is a twenty-two (22) year old Peruvian citizen, entered the United States (hereinafter "US") on or about August 11, 2015, with a visitor visa and has been living in the US since then. Despite having no prior significant criminal history, he was detained on January 22, 2026, and transferred to a detention facility inside the Big Cypress National Preserve, named Alligator Alcatraz (hereinafter, "the detention center"), run by the State of Florida Division of Emergency Management (hereinafter "FL Emergency Mgmt.") and under the supervision/control of the US Department of Homeland Security (hereinafter "DHS" or "the Department") and the US Immigration and Customs Enforcement (hereinafter "ICE").

- 4) Petitioner respectfully requests that this Honorable Court order Respondents to show cause why the writ should not be granted within three days and, if necessary, set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243.
- 5) Petitioner further respectfully requests that this Honorable Court grant him a writ of habeas corpus, ordering Respondents to release him immediately.

PARTIES

- 6) The Petitioner, Rodrigo Gerard Maratuech Arenas, alien number   is a resident of Miami-Dade County, and is currently detained by the Respondent and his or her agents at the detention center in Ochopee, FL.
- 7) Respondent, Kristi Noem, is the Secretary of DHS, which is responsible for the administration of ICE, a subunit of DHS, and the implementation and enforcement of the immigration laws. As such, Ms. Noem is the ultimate legal custodian of Petitioner. This Respondent is being sued in her official capacity.
- 8) Respondent, Todd M. Lyons, is the Acting Director of ICE. He is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including noncitizen detention. As such, he is one of the Petitioner's legal custodians. This Respondent is being sued in his official capacity.
- 9) Respondent, Garrett Ripa, is the ICE Field Office Director for the Miami Field

Office. The Miami Field Office is responsible for the detention of noncitizens in Florida and at the detention center where Petitioner is being detained. This Respondent also affects operational, legal, and factual control over the detention center and, as such, is one of the Petitioner's legal custodians. This Respondent is being sued in his official capacity.

- 10) Respondent Kevin Guthrie is the Executive Director of FL Emergency Mgmt., which manages the detention center where Petitioner is being detained. As such, is one of the Petitioner's legal custodians. This Respondent is being sued in his official capacity.

JURISDICTION

- 11) This action arises under the Constitution of the United States, 28 U.S.C. § 2241 (habeas corpus), the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 *et seq.*, and Title 8 of the Code of Federal Regulations.
- 12) The Court has jurisdiction over this case under 28 U.S.C. § 2241 and 28 U.S.C. § 1331.
- 13) The Court may grant relief pursuant to U.S. Const. art. I, § 9, cl. 2 (Suspension Clause), 28 U.S.C. § 1651 (All Writs Act), 28 U.S.C. § 2201-02 (declaratory relief), and 28 U.S.C. § 2241.
- 14) No jurisdictional bars under the Immigration and Nationality Act apply to a claim that an order of removal does not exist. *Madu v. U.S. Att'y Gen.*, 470 F.3d 1362, 1368 (11th Cir. 2006) ("In this case, Madu does not seek review of

an order of removal, and the REAL ID Act therefore does not apply. Furthermore, neither 8 U.S.C. § 1252(b)(9) nor § 1252(g) divest the district court of jurisdiction.").

VENUE

15) Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. § 1391 and 2241(d) because Petitioner is detained at the detention center in or near Ochopee, Florida, within the court's jurisdiction.

16) Venue will remain proper throughout the course of this action because the Court had proper venue when this action was initiated. *Ex parte Endo*, 323 U.S. 283, 307 (1944) ("That end may be served and the decree of the court made effective if a respondent who has custody of the prisoner is within reach of the court's process even though the prisoner has been removed from the district since the suit was begun.")

EXHAUSTION OF ADMINISTRATIVE REMEDIES

17) In the instant case, although not required, the Petitioner has attempted to exhaust all administrative resources available and requested a Bond Hearing before an Immigration Judge at the detention center. The bond hearing was closed as No Action due to Petitioner's traffic infractions and without consideration of high bond amounts or conditions like cease driving.

18) No exhaustion is statutorily required for the petitioner's habeas claims

because "Section 2241 itself does not impose an exhaustion requirement."

Santiago-Lugo v. Warden, 785 F.3d 467, 474 (11th Cir. 2015).

19) Exhaustion in the habeas context is at most a "non-jurisdictional," *id.* at 475, "judicially created" doctrine. *Haitian Refugee Ctr., Inc. v. Nelson*, 872 F.2d 1555, 1561 (11th Cir. 1989), *aff'd sub nom. McNary v. Haitian Refugee Ctr., Inc.*, 498 U.S. 479 (1991). *See also Jaimes v. United States*, 168 F. App'x 356, 359 n.4 (11th Cir. 2006); *Gallo Cattle Co. v. U.S. Dep't of Agric.*, 159 F.3d 1194, 1197 (9th Cir. 1998); *Richardson v. Reno*, 162 F.3d 1338, 1374 (11th Cir. 1998), cert. granted, judgment vacated on other grounds, 526 U.S. 1142 (1999).

20) For example, "a petitioner need not exhaust his administrative remedies where the administrative remedy will not provide relief commensurate with the claim." *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001), abrogation on other grounds recognized by *Santiago-Lugo*, 785 F.3d at 474–75 n.5 (quoting *Haitian Refugee Ctr., Inc.*, 872 F.2d at 1561).

a) **First**, no statute, regulation, or other legal source with binding authority exists to provide the remedy that the petitioner's claims seek to remedy. For example, "because the BIA does not have the power to decide constitutional claims - like the validity of a federal statute - ... certain due process claims need not be administratively exhausted." *Warsame v. U.S. Att'y Gen.*, 796 F. App'x 993, 1006 (11th Cir. 2020); accord *Haitian Refugee Ctr., Inc.*, 872 F.2d at 1561 (exhaustion had "no bearing" where petitioner

sought to make a constitutional challenge to procedures adopted by the INS); see also *Matter of Punu*, 22 I. & N. Dec. 224, 229 (B.I.A. 1998) (“this Board cannot entertain constitutional challenges”) (citations omitted). The petitioner urgently seeks and is entitled to habeas relief because he has no meaningful opportunity to challenge the constitutionality of his detention through any available administrative process. See *Boumediene v. Bush*, 553 U.S. 723, 783 (2008).

- b) **Second**, there is no available administrative remedy that the Petitioner can pursue to present his regulatory and statutory arguments, and thus those claims are not subject to prudential exhaustion. In addition to the rule that prudential exhaustion is not required “where the administrative remedy will not provide relief commensurate with the claim,” *Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001) (citation omitted), the same is also true where “the nature of a challenge to agency procedures is such that relief at the administrative review level would be unlikely,” *Haitian Refugee Ctr., Inc. v. Nelson*, 872 F.2d 1555, 1561 (11th Cir. 1989). This analysis is conducted by balancing the nature of a claim against “the policies advanced by allowing the administrative process to run its full course,” to determine whether such policies “are not thwarted by judicial intervention in a case.” *Haitian Refugee Ctr. v. Smith*, 676 F.2d 1023, 1034 (5th Cir. Unit B 1982) (precedential under *Stein v. Reynolds Sec.*,

Inc., 667 F.2d 33, 34 (11th Cir. 1982), disapproved of on other grounds by *Jean v. Nelson*, 727 F.2d 957, 976 n.27 (11th Cir. 1984) (en banc). As noted by precedent, “the Supreme Court has deemed it insignificant that an agency ... possesses the power to change the content of its procedures and thus could ... pretermitt the necessity for judicial intervention.” *Haitian Refugee Ctr. v. Smith*, 676 F.2d at 1034 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)). As the Supreme Court further explained, “It is unrealistic to expect that the agency head would consider substantial changes in the current administrative review system at the behest of a single regulated party raising a legal challenge in an adjudicatory context.” *Id.* (quoting *Mathews*, 424 U.S. at 330). In the immigration context, “an assumption that the INS or the BIA would ... substantially revise the procedures established for a specific program is equally naïve.” *Id.*

21) The Petitioner now argues that the Respondent is failing to comply with the existing regulatory and statutory framework for several reasons, and there is no established administrative process by which those claims can be presented.

FACTUAL BACKGROUND

22) The petitioner is a 22-year-old native and citizen of Peru who entered the U.S. with a B2 visitor visa on August 11, 2015.

23) Sometime after being admitted, the Petitioner filed an asylum application that was affirmatively filed with U.S. Citizenship Immigration Services (hereinafter "USCIS"). Since then, Petitioner has been waiting for an interview date for its adjudication.

24) On January 21, 2026, Petitioner was arrested pursuant to an Arrest Warrant for failure to appear at a traffic hearing that was unknown to the Petitioner. On January 23, 2026, ICE took Petitioner into custody and transferred him to the detention center.

25) As of the date of this filing, an NTA has not been filed in Petitioner's case with the Immigration Court and removal proceedings have not commenced against him. If and when removal proceedings against him commenced, he is ready to participate in the proceedings and submit himself to the immigration court's jurisdiction for adjudication of his asylum application.

26) The Petitioner now challenges Respondents' constitutional and statutory authority to detain him, with or without a bond, where Respondents have presented no legal justification for his ongoing detention.

27) Respondents have provided no meaningful procedures and deprived Petitioner of procedural and substantive due process and acted contrary to established law in an arbitrary and capricious manner. *See Jennings*, 583 U.S. at 291-298; *Id.* at 355-356 (Breyer, J., dissenting); *Zadvydas*, 533 U.S. at 688 (Explaining the court's authority to consider a habeas challenge to detention

that is without statutory authority notwithstanding Congress' attempt to limit judicial review in immigration matters).

LEGAL BACKGROUND

28) Noncitizens who enter the US are entitled to due process under the Fifth Amendment to the US Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

29) Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979).

30) Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear in immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. at 690.

31) The Immigration and Nationality Act (hereinafter "INA") distinguishes between detention of applicants for admission under 8 U.S.C. § 1225 and detention of other noncitizens under 8 U.S.C. § 1226.

32) The Petitioner, an asylum seeker with no disqualifying convictions, falls within the discretionary framework of § 1226(a) rather than the mandatory provisions of § 1226(c). His prolonged detention - surpassing one month with a "no action" bond decision - without individualized review may trigger constitutional scrutiny. The Fifth Amendment prohibits arbitrary or indefinite detention, particularly where the noncitizen poses no threat or

flight risk and removal is not imminent.

33) Accordingly, this Court should consider whether continued detention without bond or justification violates statutory authority and the due process protections articulated in *Zadvydas v. Davis*, 533 U.S. 678 (2001), *Demore v. Kim*, 538 U.S. 510 (2003), and *Jennings v. Rodriguez*, 583 U.S. ____ (2018).

CLAIMS FOR RELIEF

COUNT I: Unlawful Restraint/Detention in Violation of Constitutional Due Process

34) Petitioner re-alleges and incorporates paragraphs 1 through 33 above.

35) The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. Amend. V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

36) Civil immigration detention violates due process if it is not reasonably related to its purpose. See *Zadvydas*, 533 U.S. at 690 (citing *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)); *Demore*, 538 U.S. at 513. As categorical detention becomes increasingly prolonged, a sufficiently strong special justification is required to outweigh the significant deprivation of liberty. *Zadvydas*, 533 U.S. at 690-91.g

37) Civil detention also violates due process unless it is accompanied by strong

procedural protections to guard against the erroneous deprivation of liberty. *Zadvydas v. Davis*, 533 U.S. 678, 690–91 (2001); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). To justify Petitioner’s ongoing detention, due process requires that the government provide an adequate and continuing legal justification for that confinement. *United States v. Salerno*, 481 U.S. 739, 750, 752 (1987); *Svetlana Doe v. Noem*, No. 25-cv-10495 (D. Mass. Apr. 14, 2025).

38) The Petitioner has not been afforded the necessary procedural safeguards to guarantee against the erroneous deprivation of his liberty. This is particularly true as the Petitioner’s period of detention grows and where the government provides no legal justification for his ongoing detention.

39) Under these circumstances, Petitioner’s detention violates both substantive and procedural due process.

COUNT II: Civil Immigration Detention Not Authorized by Statute

40) The allegations in paragraphs 1-39 are realleged and incorporated herein.

41) Because the petitioner is not subject to an administratively final order or removal, he is not subject to civil immigration detention under any of 8 U.S.C. § 1231’s provisions.

42) Because the petitioner is not “an applicant for admission,” § 1225(a)(1), he is not subject to civil immigration detention under any of § 1225’s provisions.

43) And because there is no proceeding “pending on a decision on whether the alien is to be removed from the United States,” § 1226(a), the petitioner is not

subject to civil immigration detention under any of § 1226's provisions.

44) There is no other statutory basis for civil immigration detention that exists.

45) "An order of an agency made in excess of its delegated powers" is an action

not made within its jurisdiction. *Leedom v. Kyne*, 358 U.S. 184, 188 (1958).

Such an action is ultra vires agency action. *Fed. Express Corp. v. U.S. Dep't of*

Com., 39 F.4th 756, 763–64 (D.C. Cir. 2022) (citing *Leedom*, 358 U.S. at 188).

And as has long been understood, an act without jurisdiction is void. *Harris*

v. Hardeman, 55 U.S. (14 How.) 334, 339, 342 (1852).

46) Thus, the Petitioner's continued detention is ultra vires - that is, wholly

beyond and in excess of the Respondents' statutory authority.

47) Further, because no statute authorizes the Petitioner's civil detention, and he

is no subject to a duly authorized jury verdict of conviction for a crime, the

Petitioner's ongoing detention violates substantive and procedural due

process and is unconstitutionally punitive without authorization by a

verdict of the petitioner's peers.

48) Therefore, the Petitioner is entitled to a writ of habeas corpus ordering that

he be immediately released from the respondent's custody.

PRAYER FOR RELIEF

WHEREFORE, the petitioner prays that the Court grant the following relief:

- a) Assume jurisdiction over this matter;
- b) Set this matter for expedited consideration pursuant to 28 U.S.C. § 1657;
- c) Order the Respondent to show cause why the writ should not be granted within three days, and allow the Petitioner three days to file a traverse, and, if necessary, set a hearing on this petition within five days of the submission of the return, pursuant to 28 U.S.C. § 2243;
- d) Order the Respondent to refrain from transferring the Petitioner out of the jurisdiction of this Court during the pendency of this proceeding and while the Petitioner remains in the Respondents' custody;
- e) Enjoin the Respondent from removing the Petitioner from the United States while this case is pending;
- f) Grant, with respect to Count I and II, the Petitioner a writ of habeas corpus ordering his immediate release from the Respondent's custody because that custody is unlawful; unless he is afforded the full reasonable fear and asylum proceeding process;
- g) Award reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act, 5 U.S.C. § 504 and 28 U.S.C. § 2412; and
- h) Grant any other and further relief that the Court deems just and proper.

Respectfully submitted,

Dated: March 2, 2026

/s/ Andy Medina, Esq.

Counsel for Petitioner

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VERIFICATION BY SOMEONE ACTING ON THE PETITIONER'S BEHALF

PURSUANT TO 28 U.S.C. § 2242

I, Andy Medina, Esq., am submitting this verification on behalf of the Petitioner because I am the Petitioner's attorney in these proceedings. Based upon a review of the records available to me, discussions with the Petitioner's family, I hereby verify that the statements made in the foregoing Verified Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: March 4, 2026

/s/ Andy Medina, Esq.

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