

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

Case No. _____

FERNANDO ESPINOZA-LOPEZ,

Petitioner,

v.

MIAMI ICE FIELD OFFICE DIRECTOR,
in her official capacity as Field Office Director
of U.S. Immigration and Customs Enforcement
Miami Field Office;

WARDEN OF ALLIGATOR ALCATRAZ,
in his official capacity;

KRISTI NOEM, in her official capacity as
the Secretary of the U.S. Department of
Homeland Security;

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

Respondents.

_____/

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Fernando Espinoza-lopez, submits this petition for writ of habeas corpus and alleges as follows:

1. Petitioner is currently detained by the Department of Homeland Security ("DHS") pursuant to removal proceedings initiated after immigration authorities determined that he was present in the United States without admission or parole. DHS has classified Petitioner as subject to mandatory detention under 8 U.S.C. §1225(b)(2) based solely on the fact that he entered the United States without inspection in 2005. As a result of this classification, Petitioner has been detained without the opportunity to seek release on bond.

2. Petitioner is a native and citizen of Mexico who entered the United States without inspection in approximately 2005. Since that time, he has resided continuously in the United States for nearly two decades. During this period, Petitioner has built extensive family, employment, and community ties. He has been married since December 14, 1996, and lives with his wife, their children, including a United States citizen child, and extended family members in Homestead, Florida. Petitioner has maintained steady employment throughout his time in the United States and began paying taxes in 2006.

3. Petitioner has no history of violent conduct and presents no danger to the community. His known criminal history consists solely of two charges for No Valid Driver's License ("NVDL"), one in 2008 and another dated February 17, 2026. These matters are regulatory traffic-related offenses that do not involve violence, controlled substances, weapons, fraud, or any conduct suggesting a threat to public safety. Petitioner is insured and has otherwise maintained a stable and law-abiding life in the United States.

4. Petitioner has significant equities in the United States that make him eligible to seek relief from removal. In particular, Petitioner is eligible to apply for Cancellation of Removal under INA § 240A(b), as well as Withholding of Removal and protection under the Convention Against Torture ("CAT"). His eligibility for relief provides a strong incentive to comply with all court orders and to pursue his case through lawful channels.

5. Despite these strong equities, Petitioner remains detained without any individualized determination of whether his continued detention is necessary. DHS and the Immigration Court have treated Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2) based on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

6. However, on February 18, 2026, the United States District Court for the Central District of California vacated *Matter of Yajure Hurtado* in *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). The court held that DHS and EOIR's policy of categorically subjecting individuals who entered without admission or parole to mandatory detention under § 1225(b)(2) was unlawful and entered final declaratory relief governing the treatment of class members.

7. Petitioner is a member of the nationwide class certified in *Maldonado Bautista*. Accordingly, the vacatur of *Matter of Yajure Hurtado* eliminates any precedential basis for categorically treating Petitioner as subject to mandatory detention under § 1225(b)(2). Instead, Petitioner's detention is governed by INA § 236(a), which provides for release on bond or conditional parole after an individualized custody determination.

8. Nevertheless, on March 4, 2026, the Immigration Judge denied Petitioner's request for a bond redetermination hearing, concluding that the Immigration Court lacked jurisdiction because Petitioner was subject to mandatory detention under 8 U.S.C. § 1225(b)(2). The Immigration Judge therefore refused to conduct an individualized custody determination.

9. As a result, Petitioner remains detained without any meaningful opportunity to seek release on bond, notwithstanding the vacatur of the precedent previously relied upon to deny bond jurisdiction and the declaratory relief issued in *Maldonado Bautista*.

10. Respondents' continued detention of Petitioner without providing an individualized bond hearing under INA § 236(a) is unlawful. Petitioner therefore seeks a writ of habeas corpus requiring that he be released from custody unless Respondents provide him with a constitutionally adequate bond hearing before an Immigration Judge within fourteen (14) days.

JURISDICTION & VENUE

11. This Court has subject matter jurisdiction under Art. I § 9, cl. 2 of the U.S. Constitution (the Suspension Clause), 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question jurisdiction); and 28 U.S.C. § 2201 (Declaratory Judgment Act).

12. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

13. Venue is proper in this district and division pursuant to 28 U.S.C. § 2241(c)(3) and 28 U.S.C. § 1391(b)(2) and (e)(1) because Petitioner is detained in this district as of the date of this Petition and events or omissions giving rise to this action occurred in this district and division.

PARTIES

14. Petitioner, Fernando Espinoza-Lopez, is a native and citizen of Mexico detained at Alligator Alcatraz as of the date of today's Petition.

15. Respondent Kelei Walker is the Field Office Director for the ICE Miami Field Office. In that capacity, she is charged with overseeing Alligator Alcatraz, also known as Florida Soft Side South facility. Therefore, Respondent Walker is custodian of Petitioner. She is sued in her official capacity.

16. Respondent Warden of Alligator Alcatraz is sued in his official capacity as the immediate custodian of persons detained at said facility.

17. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (DHS). She supervises ICE, an agency within DHS that is responsible for the administration and enforcement of immigration laws, and she has supervisory responsibility for and authority over the detention and removal of non-citizens throughout the United States.

Secretary Noem is the ultimate legal custodian of Petitioner. Respondent Noem is sued in her official capacity.

18. Respondent Pamela Bondi is the Attorney General of the United States. As the Attorney General, she oversees the Executive Office for Immigration Review (EOIR), including all immigration judges (IJs) and the BIA. Respondent Bondi is sued in her official capacity.

LEGAL BACKGROUND

A. Detention During Removal Proceedings

19. Section 1229a of Title 8 of the U.S. Code (Section 240 of the INA) describes the primary process through which the government seek to remove non-citizens from the United States. It specifies that “[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be . . . removed from the United States.” 8 U.S.C. § 1229a(a)(3).

20. To initiate removal proceedings against a non-citizen under Section 1229a, the Government must issue the non-citizen an NTA. 8 U.S.C. § 1229(a)(1). Most non-citizens go through removal proceedings from outside detention. But ICE is increasingly detaining non-citizens during their removal proceedings.

21. Section 1226 of Title 8 of the U.S. Code (Section 236 of the INA) is the default provision that governs the arrest and detention of non-citizens pending removal proceedings. It states that “on a warrant issued by the Attorney General,¹ a[] [non-citizen] may be arrested and detained pending a decision on whether the [non-citizen] is to be removed from the United States”

¹ In 2003, the Immigration and Naturalization Service (INS) within the Department of Justice (DOJ) became what is now ICE, which is housed within DHS. Therefore, some statutory references to the “Attorney General,” like this one, now refer to the Secretary of DHS.

8 U.S.C. § 1226(a). Non-citizens arrested upon a warrant and in ongoing removal proceedings are eligible to seek bond from an IJ. *Id.* § 1226(a)(2).

22. A separate provision governs the detention of people who seek admission to the United States at the border. It states that “in the case of a [non-citizen] who is an applicant for admission, if the examining immigration officer determines that a [non-citizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the non-citizen shall be detained for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). IJs do not have jurisdiction to grant bond for such “applicant[s] for admission,” though DHS retains the discretion to release such non-citizens on a specific type of parole “for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A).

23. 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 (CA11 2015).

24. Regardless, “[w]here Congress does not say there is a jurisdictional bar, there is none.” *Santiago-Lugo v. Warden*, 785 F.3d 467, 473 (11th Cir. 2015). The fact that it did not limit courts’ subject matter jurisdiction to decide unexhausted § 2241 claims compels the conclusion that any failure of [the respondent] to exhaust administrative remedies is not a jurisdictional defect.” *Id.* at 474.

25. In the absence of a statutorily mandated exhaustion requirement, whether to apply a common law exhaustion requirement is a decision that rests soundly within the broad discretion of district courts. *See J.N.C.G. v. Warden, Stewart Detention Ctr.*, No. 4:20-CV- 62-MSH, 2020 WL 5046870, at *3 (M.D. Ga. Aug. 26, 2020) (citing *McCarthy v. Madigan*, 503 U.S. 140, 144

(1992)); *see also Richardson v. Reno*, 162 F.3d 1338, 1374 (11th Cir. 1998); *Yahweh v. U.S. Parole Comm'n*, 158 F. Supp. 2d 1332, 1341 (S.D. Fla. 2001).

26. Here, exhaustion of administrative remedies should not be required because Petitioner has no meaningful administrative avenue to obtain relief. On February 18, 2026, the United States District Court for the Central District of California vacated *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), in *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026).

27. Despite the vacatur of the precedent previously relied upon to deny bond jurisdiction, immigration courts have received no clear nationwide guidance regarding how to implement the district court's decision. In practice, immigration judges have continued to decline bond jurisdiction for individuals in Petitioner's posture, often relying on the same reasoning previously grounded in *Matter of Yajure Hurtado*. That is precisely what occurred here. Petitioner requested a bond redetermination hearing, but the Immigration Judge denied the request and concluded that the court lacked jurisdiction because Petitioner was subject to mandatory detention under 8 U.S.C. § 1225(b).

28. Meanwhile, the DHS continues to argue that immigration judges lack jurisdiction to conduct bond hearings in these circumstances. Because the Immigration Court has already denied jurisdiction and because the agency continues to maintain that no bond authority exists, further administrative review would be futile and would not provide relief commensurate with Petitioner's claims. *See Boz v. United States*, 248 F.3d 1299, 1300 (11th Cir. 2001) ("[A] petitioner need not exhaust administrative remedies where the administrative remedy will not provide relief commensurate with the claim."); *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982)

("[E]xhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile.").

29. Accordingly, 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).

STATEMENT OF FACTS

30. Petitioner is a native and citizen of Mexico who entered the United States without inspection in approximately 2005, when he was twenty-nine (29) years old. Since that time, he has resided continuously in the United States and established deep family and community ties. See Exh. "A," Passport.

31. Petitioner has been married since December 14, 1996. He resides with his wife and their children at their long-standing family residence in Homestead, Florida. See Exhs. "B," Marriage Certificate; "C," Evidence of Stable Housing.

32. Petitioner is the father of two children who rely on him for emotional and financial support. One of his sons is a United States citizen, and the other son currently holds Deferred Action for Childhood Arrivals ("DACA"). Petitioner plays an active role in raising, supporting, and caring for both of his children. See Exh. "D," Birth Certificate and Identification.

33. Petitioner has maintained steady employment throughout his time in the United States and has consistently paid taxes since 2006. His long history of tax compliance demonstrates his strong economic ties and commitment to supporting his family. Petitioner's criminal history is minimal.

34. His record reflects two charges for No Valid Driver's License ("NVDL"), one in 2008 and another dated February 17, 2026. See Exh. "E," FDLE Search Results and Criminal

Record. These are regulatory traffic-related matters that do not involve violence, controlled substances, weapons, or fraud. Petitioner is insured and maintains lawful automobile insurance.

See Exh. "F," Car Insurance.

35. Petitioner is an active member of [REDACTED] and is well regarded within his community. Numerous friends, family members, and community members have submitted letters of support attesting to Petitioner's good moral character, work ethic, and dedication to his family. See Exhs. "G," Letters of Support; "H," Church Membership Letter.

36. Petitioner also has a sponsor who is prepared to support him upon release and ensure that he complies with all conditions imposed by the Court. See Exh. "I," Sponsor Documentation.

37. Petitioner requested a bond redetermination hearing before the immigration court in Miami, Florida. However, today on March 4, 2026, the Immigration Judge denied the request, concluding that the court lacked jurisdiction because Petitioner was subject to mandatory detention under 8 U.S.C. § 1225(b). See Exh. "J," IJ Bond Order.

38. The Immigration Judge's ruling occurred after the United States District Court for the Central District of California vacated *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), in *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). Despite the vacatur of that precedent, the DHS continues to argue that immigration judges lack jurisdiction to conduct bond hearings for individuals in Petitioner's position, and immigration courts have continued to deny bond jurisdiction on that basis.

39. As a result of Respondents' unlawful interpretation of the immigration detention statutes and the immigration court's refusal to exercise bond jurisdiction, Petitioner remains

detained without any opportunity for an individualized custody determination, in violation of the Immigration and Nationality Act and the Due Process Clause of the United States Constitution.

ARGUMENT

A. Petitioner's Continued Detention Is Unlawful Because He Is Not Subject to Mandatory Detention Under 8 U.S.C. § 1225(b)(2)

40. Petitioner contends that Respondents have unlawfully subjected him to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2), despite the fact that he was apprehended inside the United States after having resided here for several years. Petitioner was apprehended well inside the United States after residing here for nearly two decades. As a result, Respondents have deprived him of his liberty without due process, contrary to the Fifth Amendment and the INA.

41. Although Petitioner is currently detained in immigration custody, he has not received an individualized bond hearing. Petitioner requested a bond redetermination hearing before the Immigration Court, but the Immigration Judge denied the request, concluding that the court lacked jurisdiction because Petitioner was subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Respondents continue to take the position that Petitioner is properly detained under § 1225(b)(2) and therefore is not eligible for release on bond. However, the United States District Court for the Central District of California recently vacated *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), in *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026), eliminating the precedential basis for categorically treating individuals in Petitioner's posture as subject to mandatory detention under § 1225(b). Petitioner disputes Respondents' legal interpretation and submits that his detention falls within the scope of 8 U.S.C. § 1226(a), which provides for discretionary detention and authorizes release on bond or conditional parole pending the completion of removal proceedings.

42. Respondents’ position previously rested entirely on the BIA’s decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), which purports to classify noncitizens who entered without inspection and have resided in the United States for years as “applicants for admission” subject to mandatory detention under § 1225(b)(2). That decision has now been vacated by the United States District Court for the Central District of California in *Maldonado Bautista v. Santacruz*. District courts across the country have overwhelmingly rejected this interpretation. *See e.g., Barrera v. Tindall*, No. 3 :25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Zumba v. Bondi*, No. 25-CV-14626-KSH-, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Lopez-Campos*, No. 2:25-CV12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV07492-RFL, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025). Because the decision relied upon by Respondents has been vacated, there is no valid precedential basis for treating Petitioner as subject to mandatory detention under § 1225(b)(2). This Court should also decline to follow *Matter of Yajure Hurtado*, whose interpretation of § 1225 is at odds with the text of § 1225 and § 1226, is inconsistent with earlier BIA decisions, and renders superfluous the recent Laken Riley Act amendments to § 1226(c).

43. Specifically, the Chief United States District Judge Cecilia M. Altonaga, recently issued a decision in *Alvarez Puga*, rejecting the Respondents’ reliance on *Matter of Yajure Hurtado*. In that decision, the Court explained:

“Respondents’ reliance on the BIA’s decision in *Matter of Yajure Hurtado* — rejecting the argument that a noncitizen who entered the United States without inspection and has resided here for years is not ‘seeking admission’ under section 1225(b)(2)(A) — is also misplaced. The Court need not defer to the BIA’s interpretation of law simply because the statute is ambiguous. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024) (“[C]ourts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous.” (alteration added)). As explained, the statutory text, context, and scheme of section 1225 do not support a finding that a noncitizen is

‘seeking admission’ when he never sought to do so. Additionally, numerous courts that have examined the interpretation of section 1225 articulated by Respondents — particularly following the BIA’s decision in *Matter of Yajure Hurtado* — have rejected their construction and adopted Petitioner’s. ... For these reasons, the Court finds that section 1226(a) and its implementing regulations govern Petitioner’s detention, not section 1225(b)(2)(A). Petitioner is entitled to an individualized bond hearing as a detainee under section 1226(a).”

See Alvarez Puga v. Assistant Field Office Director, Krome North Service Processing Center et al., No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025) at *10.

44. This case turns on the statutory distinction between § 1226(a) and § 1225(b)(2) of the INA. Section 1226(a) governs the arrest and detention of noncitizens already present in the United States pending removal proceedings, while § 1225(b)(2) governs the detention of noncitizens arriving at the border or ports of entry. In enacting these provisions, Congress expressly recognized the greater due process rights of noncitizens residing within the United States as compared to those of “arriving” noncitizens. *See* H.R. REP. 104-469, pt. 1, at 163–66 (“an alien present in the U.S. has a constitutional liberty interest to remain in the U.S.”), citing *Knauff v. Shaughnessy*, 338 U.S. 537 (1950).

45. Consistent with this statutory framework, immigration agencies and courts have long applied § 1226(a)—not § 1225(b)(2)—to noncitizens apprehended inside the United States who were not seeking admission at the border. *See Maldonado v. Feely*, No. 25-cv-01542-RFB-EJY (D. Nev. Sept. 17, 2025) (“Despite being applicants for admission, aliens who are present without admission or parole will be eligible for bond and bond redetermination... inadmissible aliens, except for arriving aliens, have available to them bond redetermination hearings before an immigration judge, while arriving aliens do not.”) (citing *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)).

46. Nonetheless, on July 8, 2025, DHS issued a notice instructing ICE officers to detain all noncitizens “who have not been admitted” under § 1225(b)(2), regardless of where they were apprehended. *See* ICE Memo: *Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025). The Notice purports to eliminate bond eligibility for such individuals, directing that they “may not be released from ICE custody except by INA § 212(d)(5) parole.”

47. This expansive interpretation contradicts the statutory text, legislative history, and consistent judicial authority in multiple circuits. *See, e.g., Merino v. Noem*, No. 25-cv-23845 (S.D. Fla. Oct. 15, 2025), *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025). Each of these courts rejected DHS’s position and held that noncitizens residing in the United States when taken into custody are detained under § 1226(a) and therefore entitled to a bond hearing.

48. Petitioner, who has lived in the United States for two decades and was apprehended well inside the country, is therefore not properly classified as an “arriving alien.” His detention under § 1225(b)(2) is unlawful. Because § 1226(a) governs his custody, Petitioner is entitled to a custody redetermination and to consideration for bond based on individualized factors. The government’s continued reliance on § 1225(b)(2) to deny bond violates both the statute and Petitioner’s constitutional right to due process. The Fifth Amendment guarantees that no person shall be deprived of life, liberty, or property without due process of law. U.S. CONST. amend. V. This protection extends to all persons within the United States—citizens and noncitizens alike—

regardless of immigration status. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Because Petitioner has been detained for an extended period without a meaningful opportunity to seek release, his detention offends both procedural and substantive due process.

B. Petitioner's Continued Detention Violates His Substantive and Procedural Due Process Rights

49. Civil immigration detention must always “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has made clear that there are only two plausible purposes for immigration detention: ensuring a non-citizen’s appearance at his removal proceedings and/or preventing danger to the community. *Zadvydas*, 533 U.S. at 690. Indeed, where civil detention “is of potentially *indefinite* duration,” courts have “also demanded that the dangerousness rationale be accompanied by some other special circumstance.” *Id.* If immigration detention is not reasonably related to one of these purposes, it is essentially punitive and therefore violative of the Due Process Clause. *See id.*

50. To determine whether the Government’s procedures satisfy procedural due process, courts apply the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022). Under *Mathews*, courts consider: (1) the private interest affected by the government action; (2) the risk of erroneous deprivation of that interest through existing procedures and the probable value of additional safeguards; and (3) the government’s interest, including administrative or fiscal burdens of additional process. *Mathews*, 424 U.S. at 335. Each of these factors strongly favors Petitioner.

51. First, the Petitioner’s liberty interest is undoubtedly substantial. Freedom from physical constraint is “the most elemental of liberty interests.” *Hamdi v. Rumsfeld*, 542 U.S. 507,

525 (2004). Petitioner has been detained for nearly a month without any individualized assessment of flight risk or danger, despite his long residence in the United States, extensive family ties, and absence of any criminal history that would justify mandatory detention. These core factors were never weighed because the Immigration Judge concluded—erroneously—that the court lacked jurisdiction to consider bond at all.

52. Second, the risk of erroneous deprivation is extraordinarily high. By refusing to consider bond based on DHS’s assertion that Petitioner is subject to “mandatory detention” under 8 U.S.C. § 1225(b)(2), the Immigration Court deprived Petitioner of the only procedural safeguard designed to test the necessity of continued confinement. This categorical denial eliminated individualized review altogether, transforming what should have been a meaningful custody determination into a nullity. Courts have repeatedly held that procedures which foreclose individualized assessment of detention impermissibly heighten the risk of erroneous deprivation and violate due process. *See Günaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154 (D. Minn. May 21, 2025) (describing DHS’s unilateral detention authority as creating “not just a risk, but a likelihood” of erroneous deprivation).

53. Third, the Government’s interests are adequately protected by the individualized bond determination procedure already contemplated by §1226(a). As the Ninth Circuit recognized in *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017), “the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future proceedings can be reasonably ensured by less restrictive conditions.” Far from imposing any undue burden, allowing bond hearings for noncitizens apprehended inside the United States promotes fairness and efficiency.

54. Accordingly, under *Mathews*, the procedures used to detain Petitioner fail to satisfy procedural due process. The IJ's refusal to exercise jurisdiction, based solely on DHS's misclassification of Petitioner as subject to §1225(b)(2), constituted a denial of any meaningful opportunity to be heard. The Government's blanket invocation of "mandatory detention" cannot substitute for constitutionally required process.

55. Even apart from procedural deficiencies, Petitioner's continued confinement violates substantive due process. Government detention is constitutionally permissible only when it occurs in a criminal context with robust procedural protections, or in civil circumstances where a "special justification" outweighs the individual's liberty interest. *Zadvydas*, 533 U.S. at 690. No such justification exists here.

56. Petitioner's confinement is purely civil and ostensibly intended to ensure his presence for removal proceedings. Yet the Government has offered no individualized justification for his ongoing detention, no finding that he poses a danger or flight risk, because the IJ never reached those issues. Detaining a long-term Florida resident without such a finding serves no legitimate regulatory goal and instead amounts to impermissible punishment.

57. Respondents continue to rely on the reasoning previously articulated in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), to argue that the IJ lacked jurisdiction to consider bond because Petitioner is "an arriving alien" detained under §1225(b)(2). That reliance is misplaced because *Matter of Yajure Hurtado* was vacated by the United States District Court for the Central District of California in *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). As discussed *supra*, Petitioner was apprehended well inside the United States after residing here for many years. He is therefore properly detained under §1226(a), which provides for discretionary release on bond. With the vacatur of *Yajure Hurtado*,

there is no valid precedential basis for categorically treating Petitioner as subject to mandatory detention under §1225(b)(2).

58. By adopting DHS's erroneous interpretation, the IJ denied Petitioner any opportunity for an individualized bond determination. This denial renders his continued detention arbitrary, indefinite, and unconstitutional. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025) (holding that detention of noncitizens apprehended within the U.S. under §1225(b)(2) violates due process and exceeds statutory authority).

59. Because Petitioner's detention is governed by 8 U.S.C. § 1226(a), he is entitled to a prompt and meaningful individualized bond hearing at which the Government bears the burden of justifying continued detention by clear and convincing evidence. The Immigration Court's refusal to conduct such a hearing, based on DHS's continued reliance on the now-vacated *Matter of Yajure Hurtado* decision, deprived Petitioner of any meaningful opportunity to challenge his confinement and violated the Due Process Clause of the Fifth Amendment.

CLAIMS FOR RELIEF

COUNT I

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT Substantive Due Process

60. The Supreme Court has found that the "Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence is lawful, unlawful, temporary, or permanent." *Zadvydas*, 533 U.S. at 682.

61. Immigration detention must always "bear[] a reasonable relation to the purpose for which the individual was committed." *Demore*, 538 U.S. at 527. Petitioner has been detained since September 30, 2025 without any individualized custody determination. Because the Immigration

Judge concluded, based on Respondents' reliance on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), that the court lacked jurisdiction to consider bond, the Immigration Court refused to assess whether Petitioner posed a danger to the community or a risk of flight. This denial occurred even though *Matter of Yajure Hurtado* was subsequently vacated by the United States District Court for the Central District of California in *Maldonado Bautista v. Santacruz*, No. 25-cv-01873-SSS-BFM, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). As a result, Petitioner remains confined without any finding that his detention is necessary to serve a legitimate regulatory purpose. Detention imposed without individualized justification bears no reasonable relation to ensuring appearance at removal proceedings or protecting public safety.

62. By categorically denying Petitioner the opportunity for individualized review, Respondents have transformed a civil regulatory scheme into punitive confinement in violation of substantive due process. The Fifth Amendment forbids detention that is arbitrary, excessive in relation to its purpose, or unsupported by individualized justification. *See Zadvydas*, 533 U.S. at 690. Because Petitioner has never been found to be a danger or flight risk, and because Respondents have provided no special justification for continued incarceration, his detention is not reasonably related to its purpose and thereby violates his due process rights.

COUNT II

VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

Procedural Due Process

63. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals' due process rights.

64. Petitioner has been denied any meaningful process to challenge his confinement. Petitioner requested a bond redetermination hearing before the Immigration Court, but the

Immigration Judge denied the request, concluding that the court lacked jurisdiction because Respondents classified Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Respondents continue to rely on the reasoning previously articulated in *Matter of Yajure Hurtado* to argue that immigration judges lack jurisdiction to conduct bond hearings for individuals in Petitioner's position, notwithstanding the vacatur of that decision in *Maldonado Bautista v. Santacruz*. As a result, Petitioner has been deprived of any opportunity for an individualized determination of whether he poses a danger to the community or a risk of flight. Respondents' reliance on the now-vacated *Yajure Hurtado* decision to foreclose bond jurisdiction entirely, and thereby eliminate any procedural mechanism to challenge continued detention, violates the procedural component of the Due Process Clause of the Fifth Amendment.

COUNT III

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT, 8 U.S.C. § 1226(a)

No Authority to Detain

65. 8 U.S.C. § 1226(a) authorizes immigration detention during pending removal proceedings but provides for discretionary custody and release on bond. Petitioner, who was apprehended well inside the United States after residing here for nearly two decades, falls squarely within the class of noncitizens detained under § 1226(a). Respondents' reliance on § 1225(b)(2) to deny Petitioner a bond hearing and to classify him as subject to mandatory detention is contrary to the plain language and structure of the INA, as well as its legislative history and judicial interpretation.

66. Because Petitioner is not subject to mandatory detention, Respondents lack authority to detain him without providing a meaningful opportunity for release on bond. The continued classification of Petitioner under § 1225(b)(2), despite the vacatur of *Matter of Yajure*

Hurtado, exceeds Respondents' statutory authority. Continued confinement under § 1225(b)(2) therefore violates both the INA and the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

- a. Assume jurisdiction over this matter;
- b. Order, under the All Writs Act, 28 U.S.C. § 1651, that Respondents not transfer Petitioner outside of the jurisdiction of the U.S. District Court for the Middle District of Florida during the pendency of this petition;
- c. Declare that Respondents' actions or omissions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution and/or the Immigration and Nationality Act;
- d. Order Respondents to provide Petitioner with a prompt and constitutionally adequate bond hearing before an Immigration Judge with jurisdiction under 8 U.S.C. § 1226(a), at which the Government bears the burden of proving by clear and convincing evidence that continued detention is justified;
- e. In the alternative, order Petitioner's immediate release from custody if a bond hearing is not held within fourteen (14) days of this Court's order;
- f. Award Petitioner reasonable fees under the Equal Access to Justice Act, 5 U.S. Code § 504;
- g. Grant any other further relief this Court deems just and proper.

Respectfully submitted,

Dated: March 4, 2026

/s/ Felix A. Montanez

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Counsel for Petitioner

**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am Petitioner's attorney and have been in communication with Petitioner's authorized representative regarding this matter. I hereby verify that the statements made in this Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Respectfully submitted,

Dated: March 4, 2026

/s/ Felix A. Montanez

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