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UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

Emmanuel, DE JESUS SANCHEZ Petitioner, v. Warden, Florida Soft Side South; Pamela BONDI, U.S. Attorney General; Todd LYONS, Acting Director of Immigration and Customs Enforcement; U.S. Attorney for the Middle District of Florida; Respondents.	Case No. ----- **PETITION FOR** **WRIT OF HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

This action challenges the unlawful detention of Emmanuel De Jesus Sanchez ("Petitioner") by the Department of Homeland Security ("DHS") and Immigration and Customs Enforcement ("ICE"). Petitioner seeks relief under 28 U.S.C. § 2241 because his continued confinement violates federal law and the United States Constitution.

Petitioner is a native and citizen of Nicaragua who entered the United States without inspection as a minor in April 2023. Since that time, he has lived peacefully in the community while pursuing protection through the asylum process as a derivative applicant on his mother's pending application. Petitioner has complied with all immigration requirements, appeared for biometrics with U.S. Citizenship and Immigration Services (USCIS), obtained lawful employment authorization, and has no criminal history. On February 20, 2026, while returning home from work in Vero Beach, Florida, Petitioner was stopped by local law enforcement. During that encounter, he was taken into custody and subsequently transferred to ICE detention at the Florida Soft Side South Detention Facility, where he remains detained without any opportunity to seek release before an immigration judge.

Petitioner's detention is unlawful for several independent reasons. First, prudential exhaustion does not bar this Court's review because the claims raised are constitutional in nature and the administrative process cannot provide an adequate remedy for unlawful detention. Second, Respondents are detaining Petitioner under the wrong statutory authority. Although Respondents appear to rely on the detention framework applicable to applicants for admission under 8 U.S.C. § 1225, Petitioner was apprehended in the interior of the United States after living in the country for nearly three years while complying with the immigration process. His detention therefore falls, at most, within the discretionary detention provisions of 8 U.S.C. § 1226(a). Third, Respondents' continued detention of Petitioner without a prompt individualized bond hearing violates the Due Process Clause of the Fifth Amendment. Finally, the stop and seizure that resulted in Petitioner's arrest violated the Fourth Amendment.

Because Respondents are detaining Petitioner under an improper statutory framework and without the procedural protections required by law, this Court should grant the writ of habeas corpus and order Petitioner's immediate release or, in the alternative, a prompt bond hearing before an immigration judge.

JURISDICTION AND VENUE

This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is held in federal custody within this District and challenges the legality of that custody. See 28 U.S.C. § 2241(c)(3). The habeas petition does not seek review of a final order of removal and therefore is not barred by 8 U.S.C. § 1252(a)(5) or (b)(9). A § 2241 petition for a writ of habeas corpus must be addressed to the federal district court in the district where the prisoner is confined. *Diaz v. United States*, 580 F. App'x 716, 717 (11th Cir. 2014) ("A § 2241 petitioner by a federal prisoner must be brought in the district where the inmate is incarcerated."). As such, venue is proper in the Fort Myers Division because Petitioner is detained at the Florida Soft Side South detention facility in Ochopee, FL, within this Division; and the immediate custodian is located here. *Id.* Therefore, the case is ripe for adjudication.

STATEMENT OF FACTS

Petitioner is a native and citizen of Nicaragua. See Exhibit ("Exh.") A, copy of Petitioner's Birth Certificate with an English translation and Nicaraguan Passport. On April 22, 2023, he entered the United States without inspection when he was still a minor. Shortly after arrival, Petitioner sought protection through the asylum process and was included as a derivative applicant in the pending asylum application filed by his mother, Rosa Emilia Sanchez Zeledon.

As part of the asylum process, Petitioner complied with all required immigration procedures. On August 10, 2023, he appeared for his biometrics appointment with U.S. Citizenship and Immigration Services ("USCIS"). See Exhibit ("Exh.") B, copy of Petitioner's I-589 ASC Biometrics notice. Following the processing of his application, USCIS issued Petitioner an Employment Authorization Document under category C08, valid from October 3, 2024, through January 2, 2029. Petitioner was also issued a Social Security number, which allowed him to work lawfully while his asylum application remained pending. See Exhibit ("Exh.") C for copies of Petitioner's Employment Authorization Document, Social Security Card, I-765 approval notice, and Employment Verification Letter. Since arriving in the United States, Petitioner has lived peacefully in the community, maintained employment, and has no criminal record.

On February 20, 2026, Petitioner was stopped by a police patrol in Vero Beach, Florida, while returning home from work. During that encounter, he was taken into custody and subsequently transferred to Florida Soft Side South Detention Center. See Exhibit ("Exh.") D for Petitioner's Detention Facility Information. Despite his lack of criminal history, and without any intervening criminal conduct or new immigration charges, Petitioner remains detained. ICE has not provided Petitioner with a bond hearing before an immigration judge.

ARGUMENT

I. Prudential Exhaustion is not required.

The Board of Immigration Appeals is applying its precedential decision in *Matter of Yajure Hurtado*, to remove Immigration Judge's jurisdiction over bond hearings. 29 I. & N. Dec. 216 (B.I.A. 2025). As a result, an administrative appeal would serve no purpose.

Generally, "exhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile[.]" *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982) (alterations added; citations omitted); see also *United States v. Barbieri*, No. 18-cr-20060, 2021 WL 2646604, at (S.D. Fla. June 28, 2021) ("The Court recognizes . . . that administrative exhaustion may be unnecessary where the administrative process would be incapable of granting adequate relief." (alteration added; citation omitted)).

Administrative exhaustion is prudential, not statutory, and is excused as futile in light of *Matter of Yajure Hurtado*. The Southern District of Florida has already recognized that, because *Yajure Hurtado* is a published BIA precedent binding in immigration proceedings, the outcome of a custody appeal raising the same "seeking admission" theory is effectively foreordained—making further administrative process futile and non-commensurate with the habeas claim for a bond hearing. See *Alvarez Puga v. Assistant Field Office Director, Krome North Service Processing Center*, No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025) (excusing prudential exhaustion for futility post-*Yajure Hurtado* and ordering § 1226(a) bond hearing or release).

II. Unlawful Detention (Ultra vires Agency Action) – The government is detaining the petitioner under the wrong statutory scheme

The Immigration and Nationality Act ("INA") establishes distinct detention regimes depending on a noncitizen's procedural posture. Section 1225 governs individuals seeking admission to the United States, typically those encountered at or near the border or presenting themselves at a port of entry. Section 1226, by contrast, governs detention of individuals who have already entered the United States and are detained pending a decision regarding removal.

The BIA's decision in *Yajure Hurtado* asserts that anyone who entered without admission is perpetually an "applicant for admission," thus subject to § 1225 mandatory detention under 8 U.S.C. § 1225(b)(2). See *Yajure Hurtado*, 29 I. & N. Dec. at 218–23. There are several reasons why the board's expansive interpretation of 8 U.S.C. § 1225(b)(2) misreads the statute, most recently confirmed in *Maldonado Bautista v. Santacruz*. No. 5:25-CV-01873-SSS-BFM (C.D. Cal.). In *Maldonado Bautista* the court certified the Bond Eligible Class, defined as:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

Maldonado Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3288403, at 9 (C.D. Cal. Nov. 25, 2025). In that case, the Court held that individuals who entered the United States without inspection and were not apprehended at the border are not properly detained as "applicants for admission" under 8 U.S.C. § 1225(b)(2). Rather, their detention falls under 8 U.S.C. § 1226(a), which permits them to seek release through a bond hearing. *Id.*

As the Supreme Court recognized in *Jennings*, § 1225(b) is concerned "primarily [with those] seeking entry," and is generally imposed "*at the Nation's borders and ports of entry*, where the Government must determine whether [a noncitizen] seeking to enter the country is admissible." See *Jennings v. Rodriguez*, 583 U.S. 281, 287, 297 (2018).

Throughout its text, 8 U.S.C. § 1225 repeatedly refers to "inspections," a term not expressly defined in the statute, but which ordinarily connotes an examination conducted at or shortly after physical entry into the United States. See 8 U.S.C. § 1225 (entitled "Inspection by immigration officers; expedited removal of inadmissible arriving aliens; referral for hearing"); 8 U.S.C. §§ 1225(b)(1)–(2); 8 U.S.C. § 1225(d)(1). Many statutory provisions, various regulations, and agency precedent discuss "inspection" in the context of admission processes at ports of entry, further supporting the conclusion that § 1225 has a limited temporal and geographic scope. See, *e.g.* 8 U.S.C. §§ 1187 (h)(2)(B)(i), 1225A; 8 C.F.R. § 1225.1; *Matter of Quilantan*, 25 I&N Dec. 285, 289–90 (BIA 2010).

Consistent with this focus on the moment of physical entry, § 1225(b)(2) is limited to those in the process of "seeking admission." See generally 8 U.S.C. § 1225. Similarly, the implementing regulations at 8 C.F.R. § 1.2 define noncitizens who are presently "coming or attempting to come into the United States." The statutory and regulatory text's use of the present and present progressive tenses excludes noncitizens apprehended in the interior, because they are no longer in the process of arriving in or seeking admission to the United States. See *Martinez v. Hyde*, 2025 WL 2084238, at 6 (D. Mass. July 24, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588, at 6–7 (S.D.N.Y. Aug. 13, 2025); See also *United States v. Wilson*, 503 U.S. 329, 333 (1992).

A number of the courts cited above have agreed that § 1225(b)(2) only reaches individuals who are in the process of entering or who have just entered the United States. See, *e.g.* *Orellana Juarez v. Moniz*, 2025 WL 1698600, at 3–4 (D. Mass. June 11, 2025); *Sampiao v. Hyde*, 2025 WL 2607924, at 5–6 (D. Mass. Sept. 9, 2025).

The statutory history also supports a limited reading of 8 U.S.C. § 1225(b)'s reach. When Congress amended § 1225(b)'s predecessor statute—which authorized detention only of arriving noncitizens—to include individuals who had not been admitted, legislators expressed concerns about recent arrivals to the United States who lacked the documents to remain in the country. See H.R. Rep. No. 104-469, pt. 1, at 157–58, 228–29 (1996); H.R. Rep. No. 104-828, at 209 (1996) (Conf. Rep.). There was no suggestion in the legislative history that Congress intended to subject all people present in the United States after an unlawful entry to mandatory detention and thereby transform immigration detention and sweep millions of noncitizens into § 1225(b).

Similarly, H.R. Rep. No. 104-469, at 18–19 (1996) (Conf. Rep.), confirms that Congress vested the Attorney General with authority under 8 U.S.C. § 1226 to apprehend and detain noncitizens who are present in the United States but have not been formally admitted. Section 1226 governs the arrest and detention of such individuals pending a decision on whether they are to be removed from the United States and authorizes their release on bond or conditional parole while removal proceedings are ongoing. *Id.* This framework applies to individuals like Petitioner, who entered the United States without inspection, has resided in the interior while pursuing immigration relief, and was later taken into custody by immigration authorities. Under § 1226, detention in these circumstances is discretionary and must include the procedural safeguards Congress established, including the availability of release on bond before an immigration judge.

Because the BIA's decision in *Yajure Hurtado* is a deviation from the agency's long-standing interpretation of §§ 1225 and 1226; is not guidance issued contemporaneously with enactment of the relevant statutes; and contradicts the statutory interpretations of dozens of federal courts, a habeas court should give it no weight under *Loper Bright or Skidmore v. Swift & Co.* See *Skidmore v. Swift & Co.,* 323 U.S. 134, 140 (1944).

Under the Supreme Court's recent decision in *Loper Bright v. Raimondo*, a federal habeas court should independently interpret the meaning and scope of § 1225(b) using the traditional tools of statutory construction. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 385, 401 (2024). Even if the phrase "seeking admission" were ambiguous, the Court may not defer to the agency's preferred interpretation merely because ambiguity exists. *Alvarez Puga* applied *Loper Bright* to reject deference to the BIA's reading of § 1225(b)(2)(A) post-*Yajure Hurtado*, explaining that courts must use the traditional tools of statutory construction and may not defer solely on ambiguity. *Alvarez Puga*, No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025) (citing *Loper Bright Enters. v. Raimondo*, 603 U.S. 369 (2024)).

The Board in *Yajure Hurtado* attempts to eliminate judicial bond proceedings for individuals who have lived in the interior for years and have long been under § 1226(a). See generally *Matter of Yajure Hurtado*, 29 I&N Dec. 216, 218–23 (BIA 2025). That reasoning, however, contradicts the Board's prior decision in *Matter of Cabrera Fernandez*, where it specifically clarified that DHS officers have the discretion to classify and detain border entrants under 8 U.S.C. § 1226(a). "The respondents are applicants for admission to the United States due to the circumstances surrounding their arrival and encounter with immigration authorities." See INA § 235(a)(1), 8 U.S.C. § 1225(a)(1); *Matter of Lemus*, 25 I&N Dec. 734, 743 (BIA 2012) (explaining that applicants for admission include those seeking permission to enter and those who are present in the United States without having requested or received permission to enter). Moreover, the Eleventh Circuit recently cautioned against expansive readings of § 1225 that would allow the government to treat individuals encountered in the interior as if they were continuously detained at the border. See *Labrada-Hechavarria v. U.S. Att'y Gen.*, No. 23-13664, slip op. at 5–6 (11th Cir. Feb. 23, 2026). The court emphasized that immigration detention authority must be grounded in the proper statutory framework and cannot be stretched beyond the circumstances contemplated by Congress. *Id.*

For applicants for admission charged as inadmissible, DHS has authority to determine whether to initiate expedited removal proceedings under section 235(b)(1)(A)(i) of the INA, 8 U.S.C. § 1225(b)(1)(A)(i), or removal proceedings under section 240 of the INA, 8 U.S.C. § 1229a.[1]" See *Matter of Cabrera-Fernandez*, 28 I&N Dec. 747, 748 (BIA 2023).

Most concerning, Respondents contradict the reasoning provided by *Jennings,* reiterating the government's unfettered right to detain aliens under either §§ 1225 or 1226. See *Jennings v.*

[1] This authority is illustrated in the Attorney General's decision in Matter of D-J-, 23 I&N Dec. 572, 572–76 (A.G. 2003), which involved a similar fact pattern. In that case, DHS apprehended a respondent shortly after he entered the United States without admission or parole and charged him with the same ground of inadmissibility at issue here. The Attorney General reviewed his eligibility for release from custody under section 236(a) of the INA, 8 U.S.C. § 1226(a). Cf. Matter of M-S-, 27 I&N Dec. 509, 510–13 (A.G. 2019) (addressing the detention and release of respondents whom DHS initially elects to place in expedited removal proceedings, but who are later transferred to section 240 removal proceedings after establishing a credible fear of persecution or torture).

Rodriguez, 583 U.S. 281 (2018). "In sum, U.S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens already in the country pending the outcome of removal proceedings under §§ 1226(a) and (c)." See *Jennings v. Rodriguez*, 583 U.S. 281, 289, 138 S. Ct. 830, 838, 200 L. Ed. 2d 122 (2018).

Consistent with the statements in *Jennings v. Rodriguez* that all noncitizens detained under 8 U.S.C. § 1225(b) may only be released via 8 U.S.C. § 1182(d)(5)(A), it follows that noncitizens who are detained shortly after entering without inspection, placed in 8 U.S.C. § 1229a proceedings and then released on conditional parole under 8 U.S.C. § 1226(a)(2)(B) must have been initially held pursuant to 8 U.S.C. § 1226(a). (The Petitioner's case and procedural posture). See *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018); INA §§ 1182(d)(5)(A), 1226(a)(2)(B).

This interpretation is inconsistent with the board's reasoning in *Cabrera-Fernandez*, which held that noncitizens who Entered Without Inspection ("EWI") and are apprehended near the border can be released pursuant to 8 U.S.C. § 1226(a)(2) (implying that their initial detention was also pursuant to 8 U.S.C. § 1226(a), see *Matter of Cabrera-Fernandez*, 28 I&N Dec. at 748–49. Indeed, the statutory structure makes clear that 8 U.S.C. § 1226 also reaches individuals who have not been admitted and have entered without inspection. See 8 U.S.C.§ 1226.

Section 1226(c) exempts specific categories of noncitizens from the default eligibility to seek release on bond in § 1226(a), including noncitizens subject to certain grounds of inadmissibility. See 8 U.S.C. § 1226(c). Moreover, Congress recently added new mandatory detention grounds to 8 U.S.C. § 1226(c) that apply only to noncitizens who have not been admitted, expressly including those who are inadmissible under § 1182(a)(6)(A), or (7)--that is, persons who entered without being admitted. See Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. §§ 1182(a)(6)(A), 1182(a)(7), 1226(c)(1)(E). If 8 U.S.C. § 1226(a) did not apply to inadmissible noncitizens, then the carve out in § 1226(c) that refers to inadmissibility and Congress' most recent amendments would all be surplusage. *Id.*

The Laken Riley Act ("LRA") amendment confirms that § 1226 reaches inadmissible EWI's and defeats the government's effort to make § 1225(b)(2) universal. *Alvarez Puga* reasoned that if Respondents were correct that § 1225(b)(2)(A) mandates detention for all non-admitted noncitizens present in the United States, Congress would have had no reason to enact the LRA's new mandatory detention provision within § 1226(c)(1)(E), which expressly covers inadmissibility categories including § 1182(a)(6)(A) and § 1182(a)(7). *Alvarez Puga*, No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025) (invoking the rule against surplusage and citing *Corley v. United States*, 556 U.S. 303, 314 (2009), and *Bilski v. Kappos*, 561 U.S. 593, 608 (2010)). This Court should apply the same structural reasoning here.

This case tracks the statutory posture that courts have treated as quintessentially governed by § 1226(a): a noncitizen re-detained in the interior pursuant to ICE custody authority. In *Alvarez Puga*, the Court emphasized that § 1226 is the detention scheme that "authorizes the Government to detain certain aliens already in the country" and noted that several courts have suggested § 1226—not § 1225(b)—governs detention of noncitizens arrested on a warrant while residing in the United States. *Alvarez Puga*, No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025) (discussing *Jennings* and warrant-based arrest posture).

The government's post hoc reclassification maneuver underscores why habeas relief is warranted. In *Alvarez Puga*, ICE initially issued a Notice of Custody Determination stating detention was "[p]ursuant to" INA § 236 (8 U.S.C. § 1226), and only later cancelled it as "improvidently issued," contending instead that detention was under INA § 235(b)(2)(A) (8 U.S.C. § 1225(b)(2)(A)). *Alvarez Puga*, No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025). That sequence mirrors the structural problem here: the agency cannot deprive Petitioner of the procedures attached to the detention authority it actually invoked and operationalized, then retroactively relabel custody to evade bond jurisdiction.

Under longstanding Supreme Court precedent, courts must read statutes and agency action as prospective unless Congress has "unambiguously instructed" retroactive application. *Landgraf v. USI Film Prods.*, 511 U.S. 244, 263–65 (1994). A law or agency action has impermissible retroactive effect where it "attaches a new disability, in respect to transactions or considerations already past." *Id.* at 269–70; *INS v. St. Cyr*, 533 U.S. 289, 321 (2001). This presumption applies with particular force in the immigration context, where retroactive application of new legal consequences that upset settled expectations and reliance interests is strongly disfavored. *St. Cyr*, 533 U.S. at 321–23; *Vartelas v. Holder*, 566 U.S. 257, 266 (2012).

In *Vartelas*, the Government argued that no retroactive effect existed because the relevant event was the noncitizen's post-enactment travel, rather than his pre-enactment conviction. The Supreme Court rejected that argument as "disingenuous," holding that the "new disability" flowed from past conduct and could not be imposed retroactively absent clear congressional authorization. *Vartelas*, 566 U.S. at 271–73. The Court emphasized that retroactivity doctrine is violated where the Government seeks to impose new legal consequences by relabeling later conduct as the trigger, when the operative facts occurred earlier. *Id.*

Here, Respondents are detaining Petitioner pursuant to immigration custody authority following an interior encounter with local law enforcement, despite the fact that Petitioner has been physically present in the United States since April 2023 and has been actively participating in the immigration process. Petitioner appeared for biometrics with USCIS, was granted employment authorization, and has lived and worked lawfully in the community while his derivative asylum application remains pending. Nevertheless, Respondents now seek to subject Petitioner to detention without the procedural protections afforded under 8 U.S.C. § 1226(a), including eligibility for an individualized bond hearing. By effectively treating Petitioner as though he were subject to detention under 8 U.S.C. § 1225(b) despite his longstanding presence in the interior of the United States and ongoing immigration proceedings, Respondents have imposed a regime of mandatory detention that Congress did not authorize for individuals in Petitioner's circumstances.

As in *Vartelas* and *St. Cyr*, the Government's action here "attaches a new disability in respect to transactions already past" and therefore has impermissible retroactive effect. *Landgraf*, 511 U.S. at 269–70; *St. Cyr*, 533 U.S. at 321. The presumption against retroactivity forecloses DHS's attempt to evade bond jurisdiction by post-hoc reclassification of Petitioner's detention.

Because the agency's action alters the legal consequences of completed custody determinations without statutory authorization, it is unlawful and cannot support Petitioner's continued detention.

III. The Government Violated the Fifth Amendment by Failing to Afford a Pre Deprivation Hearing prior to Re-detaining Petitioner

Noncitizens released on parole acquire a due process-protected liberty interest in their continued freedom when DHS releases them pending final removal decisions on condition that they abide by reporting requirements. *Esquivel Pacheco v. LaRose*, No. 3:25-CV-2421-JO-AHG, 2026 WL 242300, at 6 (S.D. Cal. Jan. 29, 2026). This liberty interest is similar to, if not greater than, the liberty interests of people on pre-parole, parole, and probation. *Jorge M.F. v. Jennings*, 534 F. Supp. 3d 1050, 1054 (N.D. Cal. 2021). Courts have distinguished between the initial parole decision, which is part of the admissions process, and the revocation of parole after release, with the latter implicating stronger constitutional protections. *Guillermo M. R. v. Kaiser*, 791 F. Supp. 3d 1021, 1031 (N.D. Cal. 2025).

The released individual's interest in avoiding re-detention differs from a detainee's interest in having ongoing periodic reviews of prolonged detention, as revocation implicates a liberty interest that inheres in the Due Process Clause while denial of eligibility for release does not. *Id.* at 1033. Even if immigration detainees must wait months before periodic re-review of their detention, those already released on immigration bond possess an interest in their continued liberty that grows over time and creates a due process right to a hearing before being re-detained. *Id.* at 1031.

Courts apply the three-factor balancing test from *Mathews v. Eldridge* to determine what process is due before revoking parole. See *Mathews v. Eldridge*, 424 U.S. 319 (1976). The first factor—the private interest affected—weighs heavily in favor of parolees, as they have a significant interest in remaining free from physical detention. *J.G. v. Warden,* Irwin Cnty. Det. Ctr., 501 F. Supp. 3d 1331, 1337 (M.D. Ga. 2020). The second factor examines the risk of erroneous deprivation, which courts have found to be high when the government deprives an individual of any procedure before a neutral adjudicator to determine whether he poses a flight risk and a danger to the community. *Moore v. Nielsen*, No. 418CV01722LSCHNJ, 2019 WL 2152582, at 13 (N.D. Ala. May 3, 2019). When noncitizens are arrested immediately after appearing in court with inconsistent justifications and no prior assessment of changed circumstances, the risk of erroneous deprivation is substantial. *Id.*

The third factor—the government's interest—has been found to carry little weight when balanced against constitutional protections. *J.G. v. Warden*, Irwin Cnty. Det. Ctr., 501 F. Supp. 3d 1331, 1340 (M.D. Ga. 2020). Although providing pre-deprivation hearings requires expenditure of finite resources, these costs are far outweighed by the risk of erroneous deprivation of liberty. *Id.* Courts have noted that when an individual did not pose a risk of flight or danger, those factors should be assessed before detention. *Id.* at 1342.

The Eleventh Circuit has repeatedly affirmed the vitality of *Mathews v. Eldridge* in recent decisions. In *Moore v. Nielsen*, the court explicitly relied on the balancing test in *Mathews v. Eldridge* to determine that continued detention without an individualized bond hearing fails to "comport with the 'fundamental fairness' demanded by the Due Process Clause." No. 418CV01722LSCHNJ, 2019 WL 2152582, at 12 (N.D. Ala. May 3, 2019).

The Eleventh Circuit has historically held that excludable aliens do not have the same procedural due process rights in connection with initial revocation of immigration parole as those granted to criminal parolees. *Fernandez-Roque v. Smith*, 734 F.2d 576, 582 (11th Cir. 1984). In *Fernandez-Roque v. Smith*, the Eleventh Circuit ruled that immigration parole is part of the admissions process, and its denial or revocation does not rise to the level of a constitutional infringement. *Id.*

However, this older Eleventh Circuit precedent from 1984 predates the subsequent wave of district court decisions that have found pre-deprivation hearings constitutionally required. The Eleventh Circuit's position that excludable aliens can raise constitutional challenges to deprivations of liberty or property outside the context of entry or admission reflects a more deferential approach to executive immigration decisions that may be in tension with current constitutional analysis. See *Alexis v. U.S. Att'y Gen.*, 431 F.3d 1291, 1295 (11th Cir. 2005) (quoting *Jean v. Nelson*, 727 F.2d 957, 972 (11th Cir. 1984)) (noting that excludable aliens "can raise constitutional challenges to deprivations of liberty or property outside the context of entry or admission, when the plenary authority of the political branches is not implicated").

IV. The Interior Stop and Seizure Violated the Fourth Amendment Because ICE Lacked Reasonable Suspicion or a Judicial Warrant

The Fourth Amendment protects "[t]he right of the people to be secure in their persons, houses, papers, and effects, against unreasonable searches and seizures." *See* U.S. Const. amend. IV. Ordinarily, a search or seizure is unreasonable "in the absence of individualized suspicion of wrongdoing." *City of Indianapolis v. Edmond*, 531 U.S. 32, 37 (2000) (citation omitted).

In *United States v. Martinez-Fuerte*, the Supreme Court upheld the constitutionality of immigration checkpoints at which government agents stop travelers without individualized suspicion for questioning about immigration status. 428 U.S. 543, 561 (1976). However, the scope of such immigration checkpoint stops "is limited to the justifying, programmatic purpose of the stop: determining the citizenship status of persons passing through the checkpoint." *Jasinski v. Adams*, 781 F.2d 843, 847 (11th Cir. 1986). Whereas a police stop exceeding the time needed to handle the matter for which the stop was made violates the Constitution's shield against unreasonable seizures. *Rodriguez v. United States*, 575 U.S. 348, 350–51 (2015). A seizure justified only by a police-observed traffic violation, therefore, "become[s] unlawful if it is prolonged beyond the time reasonably required to complete th[e] mission" of issuing a ticket for the violation. *Id.* at 350 (citing *Illinois v. Caballes,* 543 U.S. 405, 407 (2005)). Petitioner's Fourth Amendment rights were violated because he was not detained at an immigration checkpoint, and there was an absence of individualized suspicion of wrongdoing when he was stopped.

On information and belief, on February 20, 2026, while returning home from work in Vero Beach, Florida, Petitioner was stopped by a local police patrol. During the encounter, officers reviewed Petitioner's identification and documentation. Despite Petitioner's lawful employment authorization, lack of criminal history, and pending immigration proceedings; he was taken into custody. Following the encounter, Petitioner was transferred to the Florida Soft Side South Detention Center, where he remains detained. See Exh. D.

There was no judicial warrant. There was no probable cause of criminal conduct. There was no articulated reasonable suspicion of immigration violation at the time of the stop. To this day, neither Petitioner nor Petitioner's counsel has seen, reviewed, or received any cotemporaneous report by ICE as to the facts and circumstances regarding Petitioner's stop, interrogation, detainment, or under what authority ICE and police officers were acting on.

Petitioner is currently still detained by ICE at the Florida Soft Side South Detention Center in Ochopee, FL. See Exh. D.

The Supreme Court has held that roving immigration patrol stops must be supported by reasonable suspicion. In *United States v. Brignoni-Ponce*, the Court rejected stops based solely on apparent Mexican ancestry. 422 U.S. 873, 882 (1975). In *Almeida-Sanchez v. United States*, the Court invalidated warrantless roving patrol searches conducted away from the border. 413 U.S. 266, 273, (1973). Those principles apply here. Petitioner was stopped in the interior, not at a port of entry, not at a fixed checkpoint, and not at the functional equivalent of the border. Immigration enforcement does not create a Fourth Amendment-free zone. A civil detention is still a seizure. If ICE, and/or police officers, lacked reasonable suspicion that Petitioner was unlawfully present or engaged in immigration violations at the time of the stop, the seizure was unconstitutional. The subsequent arrest and detention are fruits of that unlawful seizure. Continued custody based upon an unconstitutional stop violates the Fourth Amendment and is therefore unlawful under § 2241. 28 U.S.C. § 2241.

CONCLUSION

For the foregoing reasons, Petitioner's continued detention is unlawful. Prudential exhaustion does not bar this Court's review of Petitioner's claims because the issues presented are constitutional in nature and the administrative process cannot provide an adequate remedy for unlawful detention. The stop and seizure that resulted in Petitioner's arrest violated the Fourth Amendment, Respondents are detaining Petitioner under the wrong statutory framework, and

Petitioner's continued confinement without a prompt individualized bond hearing violates the Due Process Clause of the Fifth Amendment.

Petitioner has lived in the United States since April 2023, has complied with all immigration requirements, and has no criminal history. Nevertheless, Respondents continue to detain him without lawful statutory authority and without the procedural protections that Congress and the Constitution require. Because Respondents lack a lawful basis to continue Petitioner's detention under these circumstances, this Court should grant the writ of habeas corpus and order Petitioner's immediate release. In the alternative, the Court should order Respondents to provide Petitioner with a prompt individualized bond hearing before an immigration judge at which the Government bears the burden of justifying continued detention.

Petitioner therefore respectfully requests that this Court grant the Petition for Writ of Habeas Corpus and award such other and further relief as the Court deems just and proper. Specifically, the Court should order the Respondents to conduct a new bond hearing before a neutral officer in compliance with the regulation or immediate release if compliance cannot be timely achieved. This is the precise remedy ordered in *Alvarez Puga*: Respondents must provide an individualized § 1226(a) bond hearing **or** otherwise release Petitioner. *Alvarez Puga*, No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025).

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **PETITION FOR WRIT OF HABEAS CORPUS** was filed via **CM/ECF** and served on all counsels of record on this **6th** day of **MARCH** 202**6**.

Respectfully submitted,

/s/ Arno Lemus

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