

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Fort Myers Division

CASE NO: _____

FIDEL BORGES SANCHEZ,
(A-)

Petitioner,

v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

WARDEN, *Florida Soft Side South Detention Center*; GARRETT J. RIPA, *Field Office Director of U.S. Immigration and Customs Enforcement Miami Office*; TODD LYONS, *Acting Director of Immigration and Customs Enforcement*; KRISTI NOEM, *Secretary of the United States Department of Homeland Security*, and PAM BONDI, *Attorney General of the United States*, in their official capacities,

Respondents.

_____)

INTRODUCTION

1. Petitioner, Fidel Borges Sanchez, brings this Petition for Writ of Habeas Corpus to seek enforcement of their rights under 28 U.S.C. § 2241.

2. Petitioner is a Cuban citizen born on  in Havana, Cuba. Petitioner entered the United States on or about August of 2009, at or near South Florida, following past persecution in Cuba and fears future persecution in Cuba, should he be forced to return. Petitioner has lived in the country ever since.

3. On or about December 3, 2025, Petitioner presented to the Sheriff's Office in Miami-Dade County Florida, for purposes of meeting with his probation officer, where members of U.S. Immigration and Customs Enforcement were present and thereafter detained him.

4. Petitioner has been detained in immigration custody since December 3, 2025, which came over six (6) years following Petitioner's receipt of an Order of Removal from an Immigration Judge on March 26, 2019. Petitioner's detention became unconstitutional six (6) months after the removal order in his case became administratively final because removal is not reasonably foreseeable.

5. Petitioner's prolonged detention also violates the Due Process Clause of the Fifth Amendment as his detention has become both prolonged and unreasonable. Petitioner suffers from numerous medical conditions, requiring specific and immediate medical attention. Petitioner's detention has been a deliberate indifference to his serious medical needs.

6. Petitioner hereby petitions this Court for a writ of habeas corpus to remedy his unlawful detention by Respondents, specifically determine that Petitioner's detention is not justified because the government has not established by clear and convincing evidence that Petitioner presents a risk of flight or danger in light of available alternatives to detention, with appropriate conditions of supervision if necessary, taking into account Petitioner's ability to pay a bond.

7. Additionally, Petitioner requests that the Court issue a writ of habeas corpus and order Petitioner's immediate release due to Petitioner's medical conditions. Petitioner respectfully requests that Respondents schedule a hearing before an immigration judge where: (1) to continue detention, the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could

mitigate any risk that Petitioner's release would present; and (2) if the government cannot meet its burden, the immigration judge shall order Petitioner's release on appropriate conditions of supervision, taking into account Petitioner's ability to pay a bond.

CUSTODY

8. Petitioner is presently detained at Florida Soft Side South, located in Ochopee, Florida, under direct control and custody of Respondents and Respondents' agents, who are responsible for all decisions and actions regarding the Petitioner's detention at this facility.

JURISDICTION

9. This action arises under the United States Constitution and the Immigration and Nationality Act of 1952, 8 U.S.C. § 1101 et seq. ("INA").

10. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 165.1

VENUE

11. Venue in this District is proper under 28 U.S.C. § 1391(e)(2) because the Officer in Charge who makes custody decisions in Petitioner's case is located within this judicial district and Petitioner is detained within this judicial district; and venue is proper under § 1391(b)(2) because a substantial part of the events giving rise to these claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

12. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a

return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

13. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

14. Petitioner, a Cuban citizen, is in the custody, and under the direct control, of Respondents and their agents at Florida Soft Side South.

15. Respondent Warden of Florida Soft Side South is the acting Warden of Florida Soft Side South, and he has immediate physical custody of Petitioner pursuant to the facility’s contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

16. Respondent Garret J. Ripa, in his official capacity as Field Office Director of U.S. Immigration and Customs Enforcement, Miami Office, is responsible for the Miami Field Office of ICE with administrative jurisdiction over Petitioner’s case. They are legal custodian of Petitioner and are named in their official capacity.

17. Respondent Todd Lyons, in his official capacity as Acting Director of Immigration and Customs Enforcement, has administrative jurisdiction over Petitioner’s case and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner’s detention and custody. Respondent Lyons is a legal custodian of Petitioner.

18. Respondent Kristi Noem is sued in her official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Noem is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent Noem is a legal custodian of Petitioner.

19. Respondent Pamela Bondi is sued in her official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity she has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Bondi is a legal custodian of Petitioner.

STATEMENT OF FACTS

20. Petitioner, Fidel Borges Sanchez, is a native and citizen of Cuba, and has resided in the United States since approximately August of 2009 with his US Citizen son, A [REDACTED]s, his lawful permanent resident son, F [REDACTED] and his two US Citizen daughters-in law, R [REDACTED]

21. On March 26, 2019, an Immigration Judge issued an order of removal against Petitioner in immigration proceedings following a criminal conviction on or around April 17, 2018.

22. Petitioner has acknowledged his prior conviction and has demonstrated meaningful rehabilitation. A detailed letter from Elsa M. Marban, Psy.B., Licensed Clinical Psychologist, confirms that he commenced the SPARC treatment program on April 11, 2019, made substantial clinical progress, and has since accepted full responsibility for his conduct. At the time Petitioner was taken into ICE detention, he was in the final phase of treatment and preparing for successful

termination of the program. A true and correct copy of the Correspondence by Elsa M. Marban, Psy.B. is attached hereto as **Exhibit “A.”**

23. Following the issuance of the removal order, Petitioner was released from custody and placed on supervision, where he complied with all reporting requirements imposed by the U.S. Immigration and Customs Enforcement (“ICE”).

24. Petitioner’s substantial ties to the United States include the family members listed above, who have expressed willingness to assist with his care and compliance with any conditions of release. A true and correct copy of letters of support submitted in support of Petitioner’s request for Humanitarian Parole are attached hereto as Composite **Exhibit “B.”**

25. Petitioner suffers from serious and chronic medical conditions, including advanced diabetes and severe complications related to that condition. As a result of his diabetic condition, Petitioner has experienced significant circulation problems and loss of sensation in his extremities, and has previously undergone amputations of extremities due to diabetic complications. Petitioner also suffers from Persistent chest pain, dizziness, and progressive vision loss, which require ongoing medical monitoring and specialized treatment. *Id.*

26. While detained, Petitioner’s condition has continued to deteriorate. Petitioner has experienced loss of vision in one eye and worsening vision in the other eye, for which medical providers had recommended surgical intervention to prevent further deterioration. A true and correct copy of Petitioner’s relevant medical records is attached hereto as Composite **Exhibit “C.”**

27. At one point, Petitioner was scheduled to undergo eye surgery intended to prevent further loss of vision, but that procedure was not performed after Petitioner was transferred between numerous detention facilities.

28. Petitioner has also experienced severe complications related to his diabetes while in detention, including dangerously elevated blood sugar levels. While transferring between detention facilities, Petitioner did not receive his required insulin medications for approximately and at least two (2) days, which led to his blood sugar levels to rise to approximately 250-280, placing him at significant medical risk. Petitioner has also reported that medical staff at the detention facility administered insulin without first checking his blood sugar levels, unless Petitioner specifically requested that testing be performed.

29. Petitioner has additionally reported persistent chest pain, dizziness, and episodes of shortness of breath, and he has been transported to the hospital on multiple occasions for these symptoms.

30. Petitioner has further reported experiencing repeated falls due to dizziness and visual impairment, placing him at substantial risk of serious injury.

31. Petitioner's counsel repeatedly notified ICE officials of Petitioner's serious and deteriorating medical condition and requested that ICE ensure appropriate medical care and treatment. In fact, counsel informed ICE that Petitioner was suffering from progressive vision loss due to diabetic complications, and that delays in treatment significantly increased the risk that Petitioner would suffer permanent blindness. Counsel also informed ICE officials that Petitioner had been transferred between facilities multiple times, disrupting his medical care and preventing scheduled treatment from being performed. A true and correct copy of correspondence is attached hereto as **Exhibit "D."**

32. Counsel also requested that ICE consider release on humanitarian parole or release under supervision, given Petitioner's serious medical conditions and the risks associated with

continued detention. A true and correct copy of Petitioner's Request for Humanitarian Parole without attachments is attached hereto as **Exhibit "E."**

33. Despite repeated notice of Petitioner's serious medical conditions, ICE failed to ensure that Petitioner received consistent and appropriate medical care.

34. Petitioner nonetheless remains detained despite his serious medical conditions and the repeated requests made to ICE to address the deficiencies in his medical care.

35. Petitioner's continued detention under these circumstances places him at substantial risk of serious and irreversible medical harm, including permanent blindness, severe complications related to diabetes, or death.

36. There is no statutory or regulatory pathway for Petitioner to seek a bond hearing before a neutral decision maker.

37. Absent intervention by this Court, Petitioner cannot and will not be provided with a bond hearing by a neutral decision maker to assess the propriety of Petitioner's continued detention.

LEGAL GROUNDS FOR PETITIONER'S RELEASE FROM CUSTODY

"It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings." *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). "Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty" that the Due Process Clause protects. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) ("Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention."). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721

(Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious”).

Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

Due process requires that the government provide bond hearings to noncitizens facing prolonged detention. “The Due Process Clause foresees eligibility for bail as part of due process” because “[b]ail is basic to our system of law.” *Jennings*, 138 S. Ct. at 862 (Breyer, J., dissenting) (internal quotation marks omitted). While the Supreme Court upheld the mandatory detention of a noncitizen under Section 1226(c) in *Demore*, it did so based on the petitioner’s concession of deportability and the Court’s understanding at the time that such detentions are typically “brief.” *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a prolonged period or is pursuing a substantial defense to removal or claim to relief, due process requires an individualized determination that such a significant deprivation of liberty is warranted. *Id.* at 532 (Kennedy, J., concurring) (“[I]ndividualized determination as to his risk of flight and dangerousness” may be warranted “if the continued detention became unreasonable or unjustified”); see also *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (holding that detention beyond the “initial commitment” requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (holding that “lesser safeguards may be appropriate” for “shortterm confinement”); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (holding that, in the Eighth

Amendment context, “the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards”); *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021) (holding that “the Due Process Clause imposes some form of reasonableness limitation upon the duration of detention” under section 1226(c)) (internal quotation marks omitted).

Furthermore, 8 U.S.C. § 1231(a)(1)-(2) authorizes detention of noncitizens during “the removal period,” which is defined as the 90-day period beginning on “the latest” of either “[t]he date the order of removal becomes administratively final”; “[i]f the removal order is judicially reviewed and if a court orders a stay of the removal of the [noncitizen], the date of the court’s final order”; or “[i]f the [noncitizen] is detained or confined (except under an immigration process), the date the [noncitizen] is released from detention or confinement.”

Although 8 U.S.C. § 1231(a)(6) permits detention “beyond the removal period” of noncitizens who have been ordered removed and are deemed to be a risk of flight or danger, the Supreme Court has recognized limits to such continued detention. In *Zadvydas*, the Supreme Court held that “the statute, read in light of the Constitution’s demands, limits [a noncitizen’s] post-removal-period detention to a period reasonably necessary to bring about that [noncitizen’s] removal from the United States.” 533 U.S. at 689. “[O]nce removal is no longer reasonably foreseeable, continued detention is no longer authorized by statute.” *Id.* at 699. In this circumstance, if the noncitizen “provides good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, the Government must respond with evidence sufficient to rebut that showing.” *Id.*

The Court’s ruling in *Zadvydas* is rooted in due process’s requirement that there be “adequate procedural protections” to ensure that the government’s asserted justification for a noncitizen’s physical confinement “outweighs the ‘individual’s constitutionally protected interest

in avoiding physical restraint.” *Id.* at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)). In the immigration context, the Supreme Court only recognizes two purposes for civil detention: preventing flight and mitigating the risks of danger to the community. *Zadvydas*, 533 U.S. at 690; *Demore*, 538 U.S. at 528. The government may not detain a noncitizen based on any other justification.

The first justification of preventing flight, however, is “by definition . . . weak or nonexistent where removal seems a remote possibility.” *Zadvydas*, 533 U.S. at 690. Thus, where removal is not reasonably foreseeable and the flight prevention justification for detention accordingly is “no longer practically attainable, detention no longer ‘bears [a] reasonable relation to the purpose for which the individual [was] committed.’” *Id.* (quoting *Jackson v. Indiana*, 406 U.S. 715, 738 (1972)). As for the second justification of protecting the community, “preventive detention based on dangerousness” is permitted “only when limited to specially dangerous individuals and subject to strong procedural protections.” *Zadvydas*, 533 U.S. at 690–91.

Thus, under *Zadvydas*, “if removal is not reasonably foreseeable, the court should hold continued detention unreasonable and no longer authorized by statute.” *Id.* at 699–700. If removal is reasonably foreseeable, “the habeas court should consider the risk of the [non citizens] committing further crimes as a factor potentially justifying the confinement within that reasonable removal period.” *Id.* at 700.

Furthermore, the Fifth Amendment of the U.S. Constitution also guarantees that civil detainees, including noncitizen detainees, may not be subject to conditions of confinement or denial of medical care that “amount to punishment.” *Bell v. Wolfish*, 441 U.S. 520, 535 (1979); *see also Jones v. Wolf*, 467 F. Supp. 3d 74, 82 (W.D.N.Y. 2020) (noting detainees “may not be punished prior to an adjudication of guilt in accordance with due process of law.”) (internal

citation and quotation marks omitted). The federal government violates a detained individual's substantive due process rights if it subjects "takes [that] person into custody, severely limiting his ability to care for himself, and then is deliberately indifferent to his medical needs[.]" *Charles v. Orange Cnty.*, 925 F.3d 73, 85 (2d Cir. 2019); *see also Helling v. McKinney*, 509 U.S. 25, 32 (1993) ("[W]hen the State by the affirmative exercise of its power so restrains an individual's liberty that it renders him unable to care for himself, and at the same time fails to provide for his basic human needs—e.g., . . . medical care and reasonable safety—it transgresses the substantive limits on state action set by the Eighth Amendment.").

CLAIMS FOR RELIEF

COUNT I: POST-REMOVAL-ORDER DETENTION VIOLATES DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

38. Petitioner realleges and incorporates by reference all preceding paragraphs.

39. Petitioner was detained on or about December 3, 2025, more than six (6) years following an Order of Removal issued on March 26, 2019, and has since remained in detention.

40. Under 8 U.S.C. §1231(a), the Government may detain a noncitizen for a period reasonably necessary to effectuate the removal.

41. The Supreme Court held in *Zadvydas v. Davis* that post removal order detention is constitutionally limited to the time reasonably necessary to secure the noncitizen's removal from the United States. The Court further recognized that detention becomes presumptively unreasonable where removal is not reasonably foreseeable.

42. Although Petitioner has been detained since approximately December 3, 2025, there is good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.

43. Petitioner is a citizen of Cuba, a country to which removals are historically limited and often delayed due to diplomatic constraints and the limited repatriation of Cuban nationals.

44. Moreover, despite the issuance of a removal order in 2019, the Government did not remove Petitioner during the six (6) years that followed the removal order, instead releasing him under supervision. During that time, Petitioner complied with ICE reporting requirements and did not abscond from supervision.

45. The Government's inability to remove Petitioner during that six-year period strongly indicates that removal is not reasonably foreseeable. Where removal is not reasonably foreseeable, continued detention no longer serves the statutory purpose of facilitating removal.

46. Accordingly, Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment.

COUNT II: DELIBERATE INDIFFERENCE TO SERIOUS MEDICAL NEEDS IN VIOLATION OF THE FIFTH AMENDMENT

47. Petitioner realleges and incorporates by reference all preceding paragraphs.

48. Civil immigration detainees are protected by the Due Process Clause of the Fifth Amendment, which prohibits government officials from acting with deliberate indifference to serious medical needs.

49. Petitioner suffers from severe and chronic medical conditions, including advanced diabetes with serious complications. Petitioner's diabetic condition has already resulted in amputations of extremities, and he continues to suffer from significant circulation problems, chest pain, dizziness, and progressive vision loss. These medical conditions constitute serious medical needs requiring ongoing medical treatment and monitoring.

50. Since being detained, Petitioner's medical condition has deteriorated significantly. Specifically, Petitioner has experienced progressive vision loss due to diabetic complications, for

which medical providers recommended surgical intervention to prevent permanent blindness. Petitioner has also experienced dangerously elevated blood sugar levels, placing him at serious medical risk.

51. Notwithstanding counsel's repeated notification to ICE officials of these urgent medical concerns, Respondents failed to ensure that Petitioner receive adequate medical care, placing him back in the subject detention center, knowing said detention center is unable to provide the necessary level of care.

52. Respondents' failure to provide consistent insulin administration, necessary medical monitoring, and recommended medical treatment places Petitioner at risk of irreversible harm, including permanent blindness or death.

53. Respondents' conduct constitutes deliberate indifference to Petitioner's serious medical needs.

54. Such deliberate indifference violates Petitioner's rights under the Due Process Clause of the Fifth Amendment.

**COUNT III: ARBITRARY AND EXCESSIVE DETENTION IN VIOLATION OF THE
DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT**

55. Petitioner realleges and incorporates by reference all preceding paragraphs.

56. The Fifth Amendment does not permit the government to incarcerate a civil detainee for months on end without requiring the government to demonstrate, by clear and convincing evidence, that continued detention is necessary to serve its legitimate purposes. Where liberty is at stake, heightened procedural safeguards are required.

57. Immigration detention must bear a reasonable relationship to its regulatory purpose. Petitioner's continued detention no longer serves its regulatory purpose.

58. Removal has not taken place during the six (6) years following the issuance of his removal order, and instead permitted him to remain in the United States under supervision. Petitioner complied with all reporting requirements during that time. Notwithstanding, Petitioner has remained under custody of Respondents for more than 90 days.

59. Petitioner's continued detention under these circumstances is arbitrary and excessive in relation to any legitimate governmental purpose.

60. Petitioner's detention, without any individualized review, is unreasonable under the *Mathews v. Eldridge* due process test. Alternatively, Petitioner prevails under the multi-factor reasonableness test the Third Circuit adopted in *German Santos v. Warden Pike Correctional Facility*, 965 F.3d 203, 211 (3d Cir. 2020).

61. Each year, thousands of noncitizens are incarcerated for lengthy periods pending the resolution of their removal proceedings. See *Jennings*, 138 S. Ct. at 860 (Breyer, J., dissenting) (observing that class members, numbering in the thousands, had been detained "on average one year" and some had been detained for several years). For noncitizens who have some criminal history, their immigration detention often dwarfs the time spent in criminal custody, if any. *Id.*

62. Petitioner faces severe hardships while detained by ICE. Petitioner is held in a locked down facility, with limited freedom of movement and access to Petitioner's family or support network: "[T]he circumstances of their detention are similar, so far as we can tell, to those in many prisons and jails." *Jennings*, 138 S. Ct. at 861 (Breyer, J., dissenting).

63. The *Mathews* test for procedural due process claims balances: (1) the private interest threatened by governmental action; (2) the risk of erroneous deprivation of such interest and the value of additional or substitute safeguards; and (3) the government interest. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Here, each factor weighs in Petitioner's favor, requiring this

Court to promptly hold a hearing to evaluate whether the government can justify their ongoing detention.

64. First, Petitioner indisputably has a weighty interest in their liberty, the core private interest at stake here. *Zadvydas*, 533 U.S. at 690 (“Freedom from imprisonment. . . lies at the heart of the liberty [the Due Process Clause] protects.”)

65. Second, Petitioner will suffer the erroneous risk of deprivation of their liberty without an individualized evidentiary hearing. The risk of erroneous deprivation of their liberty is high, as they have been detained since September of 2025, without any evaluation of whether the government can justify detention under their individualized circumstances. “[T]he risk of an erroneous deprivation of liberty in the absence of a hearing before a neutral decisionmaker is substantial.” *Diouf*, 634 F.3d at 1092. Conversely, the probable value of additional procedural safeguards is high, because Respondents have provided virtually no procedural safeguards at all.

66. Third, the government’s interest is very low in continuing to detain Petitioner without providing any neutral review. *See Mathews*, 424 U.S. at 335. The specific interest at stake here is not the government’s ability to continue to detain Petitioner, but rather the government’s ability to continue to detain them for months on end without any individualized review. Without such safeguards, Petitioners continued detention violates procedural due process.

EXHAUSTION

67. Petitioner believes any appeal to the BIA would be futile considering the September 5, 2025, BIA decision where the BIA adopted DHS’ interpretation of the INA as mandating detention without bond for millions of noncitizens who reside in the U.S. *See Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). The BIA’s decision held that immigration judges lack

jurisdiction to hold bond hearings or grant bail to all individuals charged with entering the country without inspection. *Id.* 65.

68. Based on the above, the Court should find administrative exhaustion would be futile. *See Vasquez- Rodriguez v. Garland*, 7 F.4th 888, 896 (9th Cir. 2021) (“where the agency's position appears already set and recourse to administrative remedies is very likely futile, exhaustion is not required.”). BIA decisions are binding on immigration judges, and *Hurtado* thus precludes an immigration judge from finding jurisdiction over noncitizens like petitioner to hold a custody redetermination hearing. Judicial intervention is needed to stop Respondents from blocking petitioner’s bond hearing under *Hurtado*, so petitioner can pursue administrative remedies. Therefore, the Court should consider the merits of the Petition.

RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- a. Assume jurisdiction over this matter;
- b. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- c. Declare that Petitioner’s detention violates the Immigration and Nationality Act, 8 U.S.C. § 1231(a), and the Due Process Clause of the Fifth Amendment to the United States Constitution;
- d. Issue a Writ of Habeas Corpus ordering Petitioner’s immediate release by Respondents;
- e. Award Petitioner attorney’s fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412 and on any other basis justified under law.
- g. Grant such other relief as this Court may deem just and proper.

Dated: March 9, 2026

Respectfully submitted,

CANO LAW FIRM, P.A.,
Counsel for Petitioner
9100 SW 24th St., STE 1
Miami, FL 33156
Phone No.: 786-432-2587
Email: mcano@canolawfirm.com

By: /s/ Mariela E. Cano
Mariela E. Cano, Esq.
Florida Bar No.: 1015817

CERTIFICATE OF SERVICE

I hereby certify that on March 9, 2026, a true and correct copy of the foregoing was electronically filed with the Clerk of Court and served via the CM/ECF system on all counsel or parties of record on the Service List below.

By: /s/ Mariela E. Cano
Mariela E. Cano, Esq.

SERVICE LIST

U.S. Attorney's Office
Middle District of Florida – Fort Myers Division
2110 First Street
Fort Myers, FL 33901

ICE Field Office Director
2805 SW 145th Avenue
Miramar, FL 33027

Florida Soft Side South Detention Center
54575 Tamiami Trl E NA
Ochopee, FL 34141

ICE Office of Chief Counsel

333 S. Miami Avenue, Suite 200
Miami, FL 33130