

Arno Javier Lemus
Counsel for Petitioner
Lemus Law Group
1024 NW 102 PL
Miami, Florida 33172
786-816-2795
lemusarno@gmail.com
BAR 0103075

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

Franchel BRAVO PEREZ

Petitioner,

v.

Warden, Glades County Detention Center;

Pamela BONDI, U.S. Attorney General;

Todd LYONS, Acting Director of Immigration
and Customs Enforcement; and

U.S. Attorney for the Middle District of Florida,

Respondents.

Case No. 2:26-cv-00678-SPC-DNF

**PETITIONER'S MOTION TO
ENFORCE JUDGEMENT AND FOR
FURTHER RELIEF**

**PETITIONER'S MOTION TO ENFORCE JUDGEMENT AND FOR FURTHER
RELIEF**

INTRODUCTION

Petitioner Franchel Bravo Perez, by and through undersigned counsel, respectfully moves this Court to enforce its March 24, 2026 Opinion and Order (the “Order”) granting habeas corpus relief. Doc. 5. In that Order, this Court unambiguously held that Petitioner’s detention under 8 U.S.C. § 1225(b)(2) is unlawful, that his detention is governed by 8 U.S.C. § 1226(a), and that Respondents must either bring Petitioner before an immigration judge for an individualized bond hearing within ten days, or release him. The deadline expires on April 3, 2026.

On March 30, 2026—six days after this Court’s Order—Petitioner was brought before an Immigration Judge (“IJ”) at the Miami Krome Immigration Court. Rather than conducting the individualized bond hearing this Court ordered, the IJ denied jurisdiction over the bond request, citing 8 C.F.R. § 1003.19(h)(2)(ii) on the grounds that Petitioner is charged as an “arriving alien.” The IJ’s order also checked a box indicating “Habeas granted,” apparently acknowledging the existence of this Court’s order, while simultaneously refusing to implement it. See Exhibit (“Exh.”) A for Order Denying Bond. Critically, and compounding this violation, Respondents failed to physically produce Petitioner at the March 30 hearing. The IJ made his jurisdictional ruling and denied bond in the complete absence of the very individual subject to the bond. Counsel for Petitioner objected to proceeding without his client; those objections were disregarded. See Exh. B for Counsel’s Declaration. A bond hearing cannot lawfully be conducted without the detainee present—there is no opportunity to assess flight risk, danger to the community, or the equities of release without the individual before the court. Respondents’ failure to produce Petitioner at the hearing they scheduled constitutes an independent violation of this Court’s Order and a deprivation of Petitioner’s due process rights.

This is precisely the outcome this Court anticipated. In its March 24 Order, this Court expressly recognized that the Executive Office for Immigration Review (“EOIR”) “may decide

not to hold a hearing that satisfies these requirements,” and made clear that if Respondents are unable to ensure Petitioner receives a compliant bond hearing within ten days, “they must release him.” Doc. 5 at 3–4. That contingency has now materialized. The immigration court’s refusal to conduct a proper bond hearing cannot serve as a shield for Respondents’ continued non-compliance with a lawful federal court order. As it stands, Petitioner remains detained—unlawfully, as this Court has already adjudicated—with no bond hearing on the horizon and no prospect of one unless this Court acts.

Petitioner therefore respectfully requests that this Court issue an order finding that Respondents have failed to comply with the March 24, 2026 Order and directing Petitioner’s immediate release under reasonable conditions of supervision. The immigration court’s refusal to hold a compliant bond hearing has triggered the fallback provision of this Court’s own Order. There is nothing left to adjudicate at the administrative level. The time for further process has passed. Petitioner must be released.

BACKGROUND AND PROCEDURAL HISTORY

Petitioner is a Cuban national who lawfully entered the United States on September 1, 2024, through the Brownsville, Texas Port of Entry, and was granted parole pursuant to Immigration and Naturalization Act (“INA”) § 212(d)(5). Doc. 1-1 at 6. He has resided continuously in the United States since that date and has a properly filed application for adjustment of status under the Cuban Adjustment Act (“CAA”) pending with U.S. Citizenship and Immigration Services (“USCIS”), filed on September 15, 2025. *Id.* at 12. He has no prior criminal history.

On February 20, 2026, Petitioner was taken into local custody in Fort Myers following an incident involving his same-sex domestic partner, who subsequently withdrew the complaint. A state court set bond at \$1,500, which Petitioner’s family posted on February 23, 2026. *Id.* at 14.

Despite confirmation that no immigration holds or detainers had been placed on Petitioner, Immigrations and Customs Enforcement ("ICE") assumed custody of him before he could complete the release paperwork, and he was transferred to the Glades County Detention Center on March 3, 2026, where he remains detained. *Id.* at 16.

On March 9, 2026, Petitioner filed a Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241, arguing that his detention was governed by 8 U.S.C. § 1226(a), not § 1225(b)(2), and that he was therefore entitled to an individualized bond hearing. This Court's Order squarely held that subjecting Bravo Perez to mandatory detention under § 1225(b)(2) "is unlawful." Doc. 5 at 4. The Order directed Respondents, within ten days, to either bring Petitioner before an immigration judge for an individualized bond hearing consistent with *In re Guerra*, 24 I. & N. Dec. 37 (BIA 2006), or release him under reasonable conditions of supervision. The Order further required that Petitioner's counsel receive at least 48 hours' notice of any hearing and expressly stated: "If the respondents are unable to ensure Bravo Perez receives a bond hearing that complies with this Order within ten days, they must release him." *Id.*

On March 30, 2026, Petitioner was brought before IJ Stuart A. Siegel at the Miami Krome Immigration Court. Rather than conducting the individualized bond hearing mandated by this Court, the IJ denied the request for change in custody status on the grounds that Petitioner is an "arriving alien" and the court therefore lacked jurisdiction, citing 8 C.F.R. § 1003.19(h)(2)(ii) and *Matter of Oseiwusu*, 22 I&N Dec. 19 (BIA 1998). In a contradictory fashion, the same order checked boxes indicating both that the habeas was "granted" and that the custody redetermination was "denied." See Exh. A. The IJ's invocation of the arriving alien exception — the very legal theory this Court already rejected — is a direct contravention of this Court's Order. Compounding this deficiency, Respondents did not physically produce Petitioner at the March 30 hearing. The IJ

entered his jurisdictional ruling and denied bond without Petitioner ever being present. Undersigned counsel objected to proceeding in Petitioner's absence; the IJ disregarded those objections and continued to make a record and issue a ruling without affording Petitioner any opportunity to be heard. See Exh. B.

As of the date of this filing, Petitioner remains detained at the Glades County Detention Center. Doc. 1-1 at 16. Respondents have taken no steps to release Petitioner, and absent this Court's immediate intervention, Petitioner will continue to be detained in violation of a lawful federal court order.

ARGUMENT

I. The Immigration Court's Refusal to Conduct a Bond Hearing Does Not Excuse Respondents' Failure to Comply with This Court's Order

Respondents cannot hide behind the immigration court's jurisdictional refusal to avoid their obligations under this Court's Order. The March 24 Order imposed the compliance obligation on **Respondents**—the federal officials responsible for Petitioner's custody—not on EOIR. The Order specifically contemplated that EOIR might decline to hold a compliant hearing, and it expressly required Respondents to release Petitioner in that event. Doc. 5 at 3–4. That contingency has now materialized, and Respondents cannot treat it as an excuse for inaction. The obligation to release Petitioner is not conditioned on EOIR's cooperation; it is triggered precisely by EOIR's failure to act.

The immigration court's March 30, 2026 Order denying bond jurisdiction rests on the same “arriving alien” theory that this Court already rejected. See Exh. A. By invoking 8 C.F.R. § 1003.19(h)(2)(ii) and *Matter of Oseiwusu*, the immigration court simply reasserted the government's position that Petitioner is subject to mandatory detention as an arriving alien under § 1225(b)(2)—the exact legal conclusion this Court held is “unlawful.” Doc. 5 at 4. The

immigration court's order is therefore not a legitimate exercise of adjudicative discretion; it is a substantive disagreement with this Court's judgment dressed in procedural clothing. That disagreement does not create a legal basis for Respondents' continued non-compliance, and it cannot operate as a veto over this Court's habeas relief.

The immigration court's refusal to conduct a compliant hearing—whatever its jurisdictional rationale—triggers Respondents' obligation under the fallback provision of this Court's Order: immediate release. Respondents have had ample opportunity to comply. They chose instead to present Petitioner before a tribunal they knew would decline jurisdiction on the very grounds this Court had already rejected. That choice has consequences. The fallback provision is not a suggestion; it is a binding directive from this Court, and it is now operative.

II. Respondents' Failure to Produce Petitioner at the Bond Hearing Constitutes an Independent Violation of This Court's Order and Petitioner's Due Process Rights

The violation of this Court's Order on March 30, 2026 was not limited to the IJ's jurisdictional refusal. A separate and independently dispositive failure occurred before any ruling was entered: ICE and the Department of Homeland Security ("DHS") never brought Petitioner to the hearing. See Exh. B. The March 24 Order directed Respondents to bring Petitioner before an IJ for a bond hearing. Doc. 5 at 3-4. Respondents scheduled that hearing and then failed to produce the one person whose liberty was at stake. The IJ made his record, denied bond jurisdiction, and issued his order—all without the Petitioner present. Undersigned counsel appeared and objected to proceeding in Petitioner's absence. The IJ overruled those objections and continued without him. See Exh. B.

A bond hearing conducted in the complete absence of the individual subject to the bond is constitutionally deficient and legally void. The entire purpose of an individualized bond hearing—as required by this Court's Order and by *In re Guerra*—is to assess the individual's

flight risk, danger to the community, ties to the community, and equities specific to his circumstances. None of those assessments can be made without the individual present. Without Petitioner before the court, there could be no questioning of Petitioner about his circumstances, no opportunity to present evidence on his behalf in his presence, and no meaningful individualized determination. Due process requires, at minimum, that a person be present and afforded an opportunity to be heard before a court rules on his continued detention. *See Mathews v. Eldridge*, 424 U.S. 319, 333 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

Respondents cannot schedule a bond hearing, fail to transport the detainee to that hearing, and then claim compliance with this Court's Order. That is not compliance—it is evasion wearing the mask of process. The March 24 Order required Petitioner to receive an individualized bond hearing; it cannot reasonably be read to permit Respondents to hold a hearing about Petitioner in Petitioner's absence. The failure to produce Petitioner at the March 30 proceeding independently renders that proceeding a nullity and independently triggers the fallback provision requiring Petitioner's immediate release.

III. The Continuing Detention Is Unlawful and Causes Irreparable Harm

This Court has already adjudicated that Petitioner's detention under § 1225(b)(2) is unlawful. Every additional day of detention thus constitutes an ongoing constitutional violation. The Eleventh Circuit has consistently recognized that “[t]he loss of First Amendment freedoms, for even minimal periods of time, unquestionably constitutes irreparable injury,” *Elrod v. Burns*, 427 U.S. 347, 373 (1976), and this principle applies with equal, if not greater, force to the deprivation of physical liberty. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (“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.”).

Petitioner is a Cuban national who has been paroled into the United States and is *prima facie* eligible for adjustment of status under the CAA. Said application is pending. Please see Doc. 1-1 at 12. There is no legitimate governmental interest in continuing to detain Petitioner in defiance of this Court's Order, let alone an interest that could outweigh the ongoing and compounding harm to his liberty.

IV. This Court Should Order Immediate Release — No Further Process Is Warranted

The March 24 Order set out a clear and binary structure: hold a compliant bond hearing within ten days, or release Petitioner. Doc. 5 at 3-4. Respondents have failed the first prong. The hearing on March 30 was not a bond hearing—it was a jurisdictional refusal dressed up as one. The immigration court declined to conduct any individualized assessment whatsoever, let alone one that considered the *In re Guerra* factors and all evidence submitted by Petitioner. See Exh. B. There was no weighing of flight risk, no consideration of community ties, no evaluation of Petitioner's pending adjustment application, and no individualized finding of any kind. The proceeding was a nullity for purposes of this Court's Order.

The fallback provision has therefore been triggered by operation of this Court's own language. Doc. 5 at 3-4. Respondents were given ten days and a clear roadmap. They have had an opportunity to produce the respondent and ultimately have produced nothing that satisfies this Court's Order. Allowing the deadline to expire while Petitioner remains unlawfully detained—in direct contravention of a federal court judgment—would render this Court's Order a nullity and reward a pattern of administrative evasion that this Court's habeas jurisdiction exists to check.

Courts in this district and across the Eleventh Circuit have ordered immediate release in materially identical circumstances. See *Alvarez Puga v. Assistant Field Office Director*, No. 1:25-cv-24535 (S.D. Fla. Oct. 15, 2025) (ordering release where immigration court refused bond hearing for parolee detained under § 1225(b)(2) theory); *Hinojosa Garcia v. Noem*, No. 2:25-cv-

879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025) (same); *Vasquez Carcamo v. Noem*, No. 2:25-cv-922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025) (same). This Court relied on those very decisions in granting habeas relief. It should reach the same result now in enforcing it.

Petitioner is a Cuban national, a pending adjustment of status application, and a state court's own determination that a \$1,500 bond was sufficient to secure his appearance. Doc. 1-1 at 12, 14. He is not a flight risk. He is not a danger to the community. There is no legitimate governmental interest—none—in keeping him detained one day longer. Respondents must release him.

CONCLUSION

For the foregoing reasons, Petitioner Franchel Bravo Perez respectfully requests that this Court find that Respondents have failed to comply with this Court's March 24, 2026 Order granting habeas corpus relief, order Petitioner's immediate release from the Glades County Detention Center under reasonable conditions of supervision consistent with the fallback provision of that Order, and grant such other and further relief as this Court deems just and proper.

Respectfully submitted this 7th day of April, 2026.

/s/ Arno Lemus
Arno Javier Lemus
Counsel for Petitioner
Lemus Law Group
1024 NW 102 PL
Miami, Florida 33172
786-816-2795
lemusarno@gmail.com
BAR 0103075

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on April 7, 2026, a true and correct copy of the foregoing **PETITIONER'S MOTION TO ENFORCE JUDGEMENT AND FOR FURTHER RELIEF** was filed via CM/ECF, which will automatically serve all counsel of record.

/s/ Arno Lemus

Arno Javier Lemus

Counsel for Petitioner

Lemus Law Group

1024 NW 102 PL

Miami, Florida 33172

786-816-2795

lemusarno@gmail.com

BAR 0103075