

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

SOSA SOLER, Evelio

Case No.

Petitioner,

v.

**PETITION FOR WRIT OF
HABEAS CORPUS**

MATTHEW MORDANT, Warden of Florida Soft Side South, **GARRETT RIPA**, Director of Miami Field Office; **TODD LYONS**, Acting Director U.S. Immigration and Customs Enforcement, **Kristi NOEM**, Secretary, U.S. Department of Homeland Security; U.S. DEPARTMENT OF HOMELAND SECURITY; **Pamela BONDI**, U.S. Attorney General; EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.

Respondents.

INTRODUCTION

1. Petitioner, Evelio Sosa Soler, brings this petition for a writ of habeas corpus pursuant to 28 USC §2241 and the Administrative Procedure Act, 5 U.S.C. § 701, et seq., (a) to remedy his continued unlawful detention by Respondents. Petitioner hereby requests that an immediate hearing be set on this matter. Petitioner also requests that he be released during the pendency of this Petition.

2. Petitioner is in the physical custody of Respondents at the Florida Soft Side South colloquially known as “**Alligator Alcatraz**”. He now faces unlawful detention because the

Department of Homeland Security (“DHS”) and the Executive Office for Immigration Review (“EOIR”) Has taken the position that the Petitioner is an “applicant for admission” and therefore not eligible for bond.

3. It is important to note that several courts have ruled against DHS interpretation of the INA. Most notable, on November 20, 2025, the district court granted partial summary judgment on behalf of individual plaintiffs and on November 25, 2025, certified a nationwide class and extended declaratory judgment to the certified class. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ----, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment to named Plaintiffs-Petitioners); *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) (order certifying Plaintiffs-Petitioners’ proposed nationwide Bond Eligible Class, incorporating and extending declaratory judgment from Order Granting Petitioners’ Motion for Partial Summary Judgment). The declaratory judgment held that the Bond Denial Class members are detained under 8 U.S.C. § 1226(a) and thus may not be denied consideration for release on bond under § 1225(b)(2)(A). *Maldonado Bautista*, 2025 WL 3289861, at *11.

4. On December 18, 2025, the district court Rule 54(b) final judgment and clarification order further confirm that *Maldonado Bautista* is not advisory or provisional, but operative merits determination rejecting DHS’s no-bond framework under § INA 235 and reaffirming bond jurisdiction under § 236(a). On March 5, 2026, the Ninth Circuit issued an emergency stay, temporarily staying the district’s December 18, 2025, Declaratory judgment in *Maldonado Bautista*.

5. Compare with the binding 11th Circuit in *Ortiz-Bouchet v U.S Att. Gen.*, 714 F.3d 1353 (11th Cir. 2013), held that the statutory “application for admission” language in the INA is

unambiguous. Ultimately, Immigration detention “is governed by statute.” *Jennings v. Rodriguez*, 138 S. Ct. 830, 838 (2018). The Executive’s authority to detain noncitizen “must be grounded in an express grant of congressional authorization.” *Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). As the Supreme Court has repeatedly emphasized, “[a] statute permitting indefinite detention of an alien would raise a serious constitutional problem.” *Id.* at 690.

6. Nonetheless, the EOIR and its subagency the Immigration Court and DHS/DHS, have unlawfully ordered that Petitioner be denied the opportunity to be released on bond.

7. Petitioner Evelio Sosa Soler is a member of the Bond Eligible Class, as he:

- a. does not have lawful status in the United States and is currently detained at **Alligator Alcatraz**. He was apprehended by immigration authorities on or about February 25, 2026.
- b. entered the United States without inspection over four (4) years ago on or about November 10, 2021, via Del Rio Texas, and was apprehended upon arrival and released on his own recognizance (“OREC”).
- c. is not detained under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231.

8. After apprehending Petitioner on or about 25th day of February, 2026, DHS has placed him in removal proceedings pursuant to 8 U.S.C. § 1229a. DHS has initially charged Petitioner as being inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), as someone who entered the United States without inspection.

9. Respondent requested a bond hearing that was withdrawn upon the Immigration Judge indication of lack of jurisdiction.

10. The Court should expeditiously grant this petition.

11. Respondents continue to subject Petitioner to unlawful detention his clear entitlement to consideration for release on bond.

12. Immigration judges have informed class members in bond hearings that they remain bound to follow the agency's prior decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

13. Alternatively, the Court should order Petitioner's release unless Respondents provide a bond hearing under 8 U.S.C. § 1226(a) within seven days.

PRELIMINARY STATEMENT

14. Petitioner, Evelio Sosa Soler, is a thirty-nine (39) native and citizen of Cuba. ("Evelio" or "Petitioner").

15. Petitioner entered the United States in or about November 10, 2021, without admission or parole.. He was apprehended by ICE or Customs and Border Patrol ("CBP") and subsequently released on OREC.

16. Petitioner is married and is the father of two children and also residing in the United States.

17. Petitioner filed a timely I-589 Asylum Application which is currently pending with USCIS.

18. Petitioner also filed an I-485 Application of Adjustment of Status which is also pending with USCIS.

19. Petitioner has a valid employment authorization document until June 11, 2030.

20. Respondent is not a threat to public safety. He has no gang affiliations. There is no history of smuggling, trafficking, immigration fraud, or reentries. Respondent has no or no

felonious criminal arrests or convictions. Respondent is not a flight risk. Respondent is a man of good moral character and not a danger to society.

21. On February 25, 2026, Petitioner was detained in a motor vehicle en route to work, without the possibility of a bond.

22. Petitioner requested a bond hearing, and immediately the Immigration Judge indicated he lacked jurisdiction to hear the Bond request, citing *Matter of Yajure Hurtado*. Consequently, bond was withdrawn to preserve the status quo.

23. At the time of this Petition, the Petitioner has been detained at **Alligator Alcatraz** in the custody of ICE under the Government's decision. Evelio has not had the opportunity to challenge his detention before a neutral decision-maker.

24. Immigrants like Petitioner filed motion for bond redetermination which was withdrawn on the IJ's indication of lack of jurisdiction.

JURISDICTION

25. Petitioner is in the physical custody of Respondents. Petitioner is detained at **Alligator Alcatraz** located at the Dade-Collier Training and Transition Airport in Ochopee, Florida, within the Everglades.

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

27. This Court has subject matter jurisdiction under 28 U.S.C. § 2241(c)(5) (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I, section 9, clause 2 of the United States Constitution (the Suspension Clause). See also: *Hinojosa Garcia v. Noem*, No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025) and *Vasquez Carcamo v. Noem*, 2:25-cv-922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025).

28. Petitioner challenges the Attorney General's treatment of him as an "alien seeking admission", whose detention is governed by §1225 (a)(2) rather than §1226(a). Cf. *Madu v U.S. Atty. Gen.*, 470 F.3d 1362, 1368 (11th Cir. 2006) ("While [§1252(g)] bars courts from reviewing certain exercises of discretion by the attorney general, it does not proscribe substantive review of the underlying legal bases for those discretionary decision and actions."].

29. Petitioner seeks the Court answer to a legal question-whether he is subject to mandatory detention under § 1225 (b)(2) or discretionary detention under § 1226(a). See *Grigorian v Bondi*, No. 25-Cv_22914-RAR, 2025 WL 2604573 at *3-4 (S.D. Fla. Sept. 9, 2025) (finding Section 1252(g) inapplicable to an alien's challenge of immigration detention based on Ice's noncompliance with statutory requirements when revoking an order of supervised release).

30. This Court may grant relief under the habeas corpus statutes, 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. § 1651.

VENUE

31. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Middle Florida the judicial district in which Petitioner currently is detained.

32. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Middle Florida District.

REQUIREMENTS OF 28 U.S.C. § 2243

33. The Court should grant the petition for writ of habeas corpus and issue an order to show cause ("OSC") to the respondents "forthwith," as the legal issues have already been resolved, 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).

34. Habeas corpus is “perhaps the most important writ known to the constitutional law . . . 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). “The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application.” *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

PARTIES

35. Petitioner Evelio Sosa Soler is a citizen of Cuba who has been in immigration detention since February 25, 2026. After Petitioner was detained, ICE did not set bond, and Petitioner requested review of his custody by an IJ. On March 13, 2026, IJ deemed the Petitioner an “applicant for admission.” Petitioner has resided in the United States since 2021 and is therefore not a recent entrant.

36. Respondent, Matthew Mordent, is the Warden of **Alligator Alcatraz**. As such, Matthew Mordent is the immediate custodian of the Respondent. He is named in his official capacity.

37. Respondent, Garrett Ripa, is Director of Miami Field Office, U.S. Immigration and Customs Enforcement. As such, Garrett Ripa is responsible for Petitioner’s detention and removal. He is named in his official capacity.

38. Respondent, Todd Lyons, is sued in his official capacity as the Acting Director of ICE. In this capacity, Respondent Lyons is responsible for the implementation and enforcement of the “INA,” and oversees ICE. Respondent, Todd Lyons, is a legal custodian of Petitioner.

39. Respondent, Kristi Noem, is the Secretary of the Department of Homeland Security. She is responsible for the implementation and enforcement of the Immigration and Nationality Act (INA), and oversees ICE, which is responsible for Petitioner’s detention. Ms. Noem has ultimate custodial authority over Petitioner and is sued in her official capacity.

40. Respondent, Pamela Bondi, is the Attorney General of the United States. She is responsible for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system it operates is a component agency. She is sued in her official capacity.

CLAIM FOR RELIEF

COUNT I

Violation of the INA:

Violation of the INA – Independent Statutory Entitlement to Bond Under 8 U.S.C. § 1226(a)

5.

41. The allegations in the above paragraphs are realleged and incorporated herein.

42. Even if there is a presently an administrative stay of detention is independently unlawful because it is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2).

43. Section 1225 applies primarily to noncitizens “arriving” at the border or seeking admission. *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018). Section 1226(a), by contrast, is the “default rule” governing noncitizens already present in the United States. *Id.* at 303.

44. Petitioner entered the United States over four (4) years ago, has resided continuously in the United States. Respondents may not retroactively classify him as an applicant for admission.

45. Because Petitioner is detained under § 1226(a), Respondents' categorical denial of a bond due to lack of jurisdiction violates the INA.

46. Further, the 11th Circuit in *Ortiz-Bouchet v U.S Att. Gen.*, 714 F.3d 1353 (11th Cir. 2013), held that the statutory "application for admission" language in the INA is unambiguous and does not encompass post-entry adjustment of status, thus reaffirming its position in *Lanier*, 631 F. 3d at 1366. *Ortiz-Bouchet* is a binding precedent and reaffirms that the Petitioner, now detained over twenty (20) years post his entry into the United States cannot now be determined to be an applicant for admission and therefore subject to mandatory detention.

47. By denying Petitioner a bond hearing under § 1226(a) and asserting that he is subject to mandatory detention under § 1225(b)(2), Respondents violate Petitioner's statutory rights under the INA.

48. Further, Under the APA, a court shall "hold unlawful and set aside agency action" that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

49. An action is an abuse of discretion if the agency "entirely failed to consider an important aspect of the problem, offered an explanation for its decision that runs counter to the evidence before the agency, or is so implausible that it could not be ascribed to a difference in view or the product of agency expertise." *Nat'l Ass'n of Home Builders v. Defs. of Wildlife*, 551 U.S. 644, 658 (2007) (quoting *Motor Vehicle Mfrs. Ass'n of U.S., Inc. v. State Farm Mut. Auto. Ins. Co.*, 463 U.S. 29, 43 (1983)).

50. To survive an APA challenge, the agency must articulate “a satisfactory explanation” for its action, “including a rational connection between the facts found and the choice made.” *Dep’t of Com. v. New York*, 139 S. Ct. 2551, 2569 (2019) (citation omitted).

51. By categorically revoking Evelio’s release, Respondents have violated the APA.

52. Respondents have made no finding that Evelio is a danger to the community.

53. Respondents have made no finding that Evelio is a flight risk.

54. By detaining the Petitioner categorically, Respondents have further abused their discretion because there have been no changes to his facts or circumstances since the agency made its initial custody determinations that support the revocation of his release from custody.

55. Respondents do not consider him, on an individualized basis, to be a danger to the community or a flight risk.

COUNT II

Violation of Fifth Amendment Right to Due Process

56. The allegations in the above paragraphs are realleged and incorporated herein.

57. Respondents’ categorical detention of Petitioner without an individualized bond determination violates the Due Process Clause of the Fifth Amendment.

58. Once a noncitizen enters the United States, “the Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

59. Petitioner’s years-long physical presence which gives rise to a protected liberty interest that cannot be extinguished by agency fiat. See *Leng May Ma v. Barber*, 357 U.S. 185, 187 (1958).

60. Respondents made no individualized finding that Petitioner is a danger to the community or a flight risk. Their categorical detention policy violates due process and cannot withstand constitutional scrutiny.

61. For these reasons, Petitioner's detention violates the Due Process Clause of the Fifth Amendment.

COUNT III
Violation of the INA – Independent Statutory Entitlement to Bond Under 8 U.S.C. § 1226(a)

62. The allegations in the above paragraphs are realleged and incorporated herein.

63. Even apart from Respondents' refusal to comply with *Maldonado Bautista*, Petitioner's detention is independently unlawful because it is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2).

64. Section 1225 applies primarily to noncitizens "arriving" at the border or seeking admission. *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018). Section 1226(a), by contrast, is the "default rule" governing noncitizens already present in the United States. *Id.* at 303.

65. Petitioner entered the United States over twenty (20) years ago, has resided continuously in the United States and has resided in the United States for over a decade. Respondents may not retroactively classify him as an applicant for admission.

66. Because Petitioner is detained under § 1226(a), Respondents' categorical denial of a bond due to lack of jurisdiction violates the INA.

67. Further, the 11th Circuit in *Ortiz-Bouchet v U.S Att. Gen.*, 714 F.3d 1353 (11th Cir. 2013), held that the statutory "application for admission" language in the INA is unambiguous and does not encompass post-entry adjustment of status, thus reaffirming its position in *Lanier*, 631 F.3d at 1366. *Ortiz-Bouchet* is a binding precedent and reaffirms that the Petitioner, now detained

over four (4)) years post his entry into the United States cannot now be determined to be an applicant for admission and therefore subject to mandatory detention.

PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

- a. Assume jurisdiction over this matter;
- b. Issue a writ of habeas corpus requiring that within one day, Respondents release Petitioner;
- c. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- d. Declare that Petitioner's detention without an individualized determination violates the Due Process Clause of the Fifth Amendment;
- e. Issue a writ of habeas corpus requiring Respondents to release Petitioner unless they provide a bond hearing under 8 U.S.C. § 1226(a) within seven days;
- f. Issue an Order prohibiting the Respondents from transferring Evelio Sosa Soler from the district without the court's approval;
- g. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act (EAJA), as amended, 28 U.S.C. § 2412, and on any other basis justified under law; and
- h. Grant any other and further relief that this Court deems just and proper.

DATED this 13th day of March, 2026.

Respectively Submitted

s/ Claudia Phaneuf

Claudia Phaneuf
Florida Bar #17240
Immigration Counsels LLC
7301 Wiles Road
Suite 205
Coral Springs, Florida 33067
Cphaneuf@immigrationcounsels
Attorney for Petitioner

VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Evelio Sosa Soler, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

DATED this 13th day of March, 2026.

Respectively Submitted

s/ Claudia Phaneuf

Claudia Phaneuf
Florida Bar #17240

Immigration Counsels LLC
7301 Wiles Road
Suite 205
Coral Springs, Florida 33067
Cphaneuf@immigrationcounsels
Attorney for Petitioner