

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

FRANCISCO JAVIER TORRES CRUZ (A# 

Petitioner,

v.

Case No.: _____

WARDEN, SOUTH FLORIDA DETENTION FACILITY;
FIELD OFFICE DIRECTOR, ICE ERO MIAMI;
ACTING DIRECTOR, U.S. IMMIGRATION AND CUSTOMS
ENFORCEMENT;
SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY;
ATTORNEY GENERAL OF THE UNITED STATES,
Respondents.

**PETITION FOR WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241;
MEMORANDUM OF LAW IN SUPPORT;
EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER
AND PRELIMINARY INJUNCTION;
MOTION TO EXPEDITE; AND
PROPOSED ORDER**

KARLENE GRAY DAWKINS, ESQ.

Florida Bar No. 690740

International Law Group, P.A.

1570 Lakeview Dr., Suite 8

Sebring, FL 33870

Telephone: (863) 402-9194

Email: intlawgroup@gmail.com

Counsel for Petitioner

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PRELIMINARY STATEMENT

1. Petitioner Francisco Javier Torres Cruz respectfully petitions this Court for a writ of habeas corpus under 28 U.S.C. § 2241 challenging the legality and constitutionality of his present civil immigration detention. He seeks immediate release under reasonable conditions of supervision or, at a minimum, a prompt individualized bond hearing before a neutral decision-maker with authority to grant release.
2. This case arises in the midst of the current wave of federal habeas litigation challenging ICE's effort to classify many long-time interior residents who entered without inspection as persons detained under 8 U.S.C. § 1225(b), thereby eliminating ordinary bond jurisdiction. In practical effect, that position has produced a broad no-bond policy imposed through detention memoranda and BIA precedent rather than through a clear congressional command.
3. Petitioner is not a recent border entrant. He is the father of four United States citizen children. He has been in the United States for over 30 years and his US citizen father filed a I-130 petition for him which petition was approved on December 8, 1998. In addition, One United States citizen daughter has filed an I-130 petition on his behalf and paid the filing fee and said petition is pending. Petitioner is eligible for adjustment in the United States. Petitioner therefore has a substantial incentive to appear, pursue relief lawfully, and comply with any conditions of supervision ordered by this Court.
4. The record described by counsel presents the classic hallmarks of a meritorious detention case: deep community ties, family support, nonviolent history, and a concrete avenue to immigration relief. Under any traditional custody framework, those facts call for an individualized bond determination rather than categorical no-bond detention.

II. EMERGENCY NATURE OF THE CASE AND NEED FOR EXPEDITION

6. The emergency is real and immediate. In detention cases, the irreparable injury is not abstract: each day in custody separates a parent from his children, disrupts family income, interferes with legal preparation, and imposes severe physical and psychological stress. Habeas relief is designed for precisely this kind of ongoing unlawful restraint.
7. The Court should also account for a practical reality documented in 2025 detention litigation: the Government often seeks extensions of time even when the issues are materially identical across a large number of cases. Where the Government's legal position is the same no-bond theory, and where the requested relief is either release or a bond hearing, the ordinary reasons for lengthy extensions are materially weaker than in a factually novel case.
8. This filing therefore asks the Court to set a short response deadline, deny routine extension requests absent a particularized showing of necessity, and require Respondents to address the controlling legal questions directly: whether Petitioner is detained under § 1226(a) or § 1225(b), whether due process permits prolonged detention without a meaningful hearing, and whether transfer should be enjoined while the case is pending.
9. Prompt treatment is especially appropriate because transfer frequently moots or complicates requests for injunctive relief tied to a specific facility and can interfere with counsel contact, evidence gathering, and judicial oversight. A TRO preserving the status quo is often the difference between meaningful review and a game of jurisdictional shell movement.

III. JURISDICTION AND VENUE

11. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal immigration custody and alleges that such custody violates the Constitution and laws of the United States. Federal question jurisdiction also exists under 28 U.S.C. § 1331.
12. The Suspension Clause and *INS v. St. Cyr* confirm that habeas remains available to test the legality of executive detention absent a clear and constitutionally valid jurisdiction-stripping command. Nothing in the present case bars review of whether Respondents are holding Petitioner under the wrong detention statute or without constitutionally sufficient process.
13. Venue is proper in the Middle District of Florida, Fort Myers Division, because Petitioner is detained in Collier County at the South Florida Detention Facility, commonly referred to as Alligator Alcatraz, and because the immediate custodian and relevant supervisory officials exercise custody authority in this District or within Florida.
14. To the extent Respondents contend that later transfer defeats venue or custody-based jurisdiction, that argument should be rejected. Jurisdiction attached when the petition was filed while Petitioner was detained here, and this Court has ample authority to protect its jurisdiction and prevent manipulation of the forum through transfer.

IV. PARTIES

16. Petitioner Francisco Javier Torres Cruz is a native and citizen of Mexico presently detained by the Department of Homeland Security and Immigration and Customs Enforcement.
17. The Warden or officer in charge of the South Florida Detention Facility is the immediate custodian for habeas purposes.
18. The Miami Field Office Director of ICE ERO exercises supervisory authority over detention and transfer decisions affecting Petitioner.
19. The Acting Director of ICE, the Secretary of DHS, and the Attorney General are proper additional respondents for purposes of complete injunctive relief and to ensure compliance with any order directing release, bond proceedings, or preservation of venue.

V. FACTUAL ALLEGATIONS

21. Petitioner is a long-time resident of the United States and the father of four United States citizen children. His family circumstances place this case squarely in the category of detention cases where liberty, family unity, and humanitarian concerns are intertwined.
22. Petitioner is being held at the Florida detention site publicly known as Alligator Alcatraz, formally the South Florida Detention Facility. That facility has become the subject of overlapping litigation concerning access to counsel, barriers to filing in immigration court, and harsh conditions of confinement in a remote location.
23. One of Petitioner's daughters, a United States citizen, has filed an I-130 petition on his behalf and paid the filing fee. The receipt and proof of payment should be attached. Those facts materially reduce any claim of flight risk because Petitioner has every incentive to remain available for lawful processing and a future adjustment application.
24. Petitioner seeks a bond hearing or release because he is neither a danger to the community nor a flight risk. The prior Martinez habeas packet reflects the standard kind of evidence often available in these cases: family support, employment history, long residence, identity documents, and a record consisting largely of traffic or other nonviolent matters. Similar evidence should be attached here as exhibits.
25. Unlike the Government's characterization of recent entrants, Petitioner is an interior resident with established family life and community ties. His circumstances are materially different from a person apprehended at the border and immediately placed into the streamlined detention structure that Congress directed for applicants for admission.
26. Any suggestion that Petitioner's detention is self-justifying because removal proceedings are pending flips the constitutional inquiry upside down. Civil detention is permissible only to serve legitimate regulatory purposes and only with procedures adequate to minimize erroneous deprivation of liberty.

VI. WHY THIS CASE MUST BE HANDLED PROMPTLY

28. First, the Government has already litigated the core questions in a growing number of nearly identical detention cases nationwide: whether ICE may categorically deny bond hearings to long-time residents by invoking § 1225(b), and whether district courts may order release or a § 1226(a) bond hearing through habeas. Delay therefore does not promote better adjudication; it only prolongs the same injury in another family.
29. Second, there is no reason to grant broad extensions to assemble a novel record. The central issues are largely legal. The relevant facts, if disputed at all, are straightforward: date and place of apprehension, service of the NTA, detention location, hearing history, length of residence, family ties, and any criminal history. Those matters are readily available to Respondents.
30. Third, experience in 2025 detention litigation shows that transfer can be used to complicate relief, change the practical conditions of confinement, and create mootness arguments tailored to facility-specific claims. An early anti-transfer order preserves the Court's ability to provide meaningful relief.
31. Fourth, every day of unlawful detention is irreparable injury. Where the requested remedy includes a bond hearing within seven days, expedition is not extraordinary; it is the minimum needed to make the writ effective.

VII. FLORIDA ICE DETENTION TRENDS AND THE SOUTH FLORIDA DETENTION FACILITY CONTEXT

33. Florida has become a central theater in the 2025–2026 detention litigation surge. The rapid growth of detention in Florida, together with the public rollout of Alligator Alcatraz, has generated repeated federal challenges over access to counsel, the ability to file bond motions, and the harshness of conditions in remote confinement.
34. The Middle District of Florida has already seen habeas litigation arising from Alligator Alcatraz. In *Brito Matom v. ICE*, No. 2:25-cv-648-JES-NPM (M.D. Fla. Sept. 5, 2025), Judge Steele recognized that § 2241 is the proper vehicle to challenge detention, rejected an overbroad jurisdictional argument under § 1252(g) as to pre-NTA arrest conduct, and described how transfer out of the facility altered the posture of the injunctive requests. That experience underscores why anti-transfer relief matters at the outset.
35. Public reporting and parallel litigation describe the facility as geographically isolated and difficult to access for lawyers and family. Those allegations matter here not because this petition seeks standalone conditions relief, but because conditions and remoteness directly bear on irreparable harm and on the need for a TRO preserving access to the Court.
36. The lesson from Florida's current detention cases is practical as much as doctrinal: if the Court waits too long, the Government often changes the geography, hearing posture, or claimed statutory basis of detention, then argues the case has become moot or has migrated elsewhere. Effective judicial review requires prompt and targeted orders at the beginning of the case.

VIII. LEGAL FRAMEWORK

38. The Fifth Amendment applies to all persons within the United States, including noncitizens in civil immigration custody. Freedom from physical restraint lies at the core of the liberty protected by due process. *Zadvydas* teaches that immigration detention is subject to serious constitutional limits even where Congress has authorized detention in general terms.
39. *Demore* upheld detention of certain criminal noncitizens during removal proceedings, but its reasoning depended heavily on the brief and finite nature of such detention. *Demore* did not bless indefinite or years-long confinement without individualized review, nor did it address the modern practice of mass no-bond detention for long-time residents based on broad administrative reinterpretation.
40. *Jennings* rejected the Ninth Circuit's statutory reading that automatically implied periodic bond hearings, but it expressly left constitutional challenges unresolved. Post-*Jennings* courts thus continue to assess whether due process requires a bond hearing in cases of prolonged detention or erroneous inclusion in a mandatory-detention category.
41. *Mathews v. Eldridge* supplies the core due-process methodology: the Court weighs the private interest, the risk of erroneous deprivation under the procedures used, and the Government's interest including administrative burdens. In detention cases involving family separation, possible eligibility for relief, and disputed statutory classification, the *Mathews* balance strongly favors a prompt individualized hearing.
42. *St. Cyr* and *Boumediene* remain essential because they preserve habeas as a mechanism to test the legality of executive detention and to prevent procedural traps from swallowing the writ. Where, as here, the Government uses detention policy to foreclose ordinary bond adjudication, habeas is not peripheral; it is the central safeguard.
43. *Loper Bright* is also significant. The Court is no longer required to defer reflexively to an agency's expansive interpretation of ambiguous statutes. Where the Government reads § 1225(b) to cover long-time interior residents in a way that erases the longstanding divide between applicants for admission and persons already present in the country, the Court must exercise independent judgment.

IX. WHY PETITIONER IS DETAINED UNDER § 1226(a), NOT § 1225(b)

44. The Government's new position - reflected in *Matter of Q. Li* and *Matter of Yajure-Hurtado* - is that large categories of people present in the interior without admission should be treated as detained under 8 U.S.C. § 1225(b), not § 1226(a), and thus denied bond jurisdiction. That reading should not govern Petitioner's case.
45. Section 1225 is structured around inspection and admission. Section 1226, by contrast, governs arrest and detention pending a decision on whether the alien is to be removed. Jennings itself described § 1226(a) as the principal detention authority for those already in the country who are arrested pending removal proceedings. Petitioner's apprehension in the interior after years of residence fits naturally within § 1226(a).
46. Historic practice confirms the point. Long-time interior arrests have not traditionally been treated as the same as border processing. The Government's current effort to collapse these categories is a policy change, not a faithful reading compelled by the statute.
47. *Alanis-Bustamante* is especially useful in this Circuit because it recognizes that removal proceedings are initiated through service of a notice to appear. *Brito Matom* likewise distinguishes between conduct occurring before service of the NTA and the formal commencement of proceedings. These authorities support the view that the Court must look at the actual detention posture, not simply accept a label attached after the fact.
48. *Thuraissigiam* does not alter that conclusion. That case involved expedited-removal review for a recent entrant near the border and repeatedly emphasized the historic distinction between entry-related processing and the rights of persons who have developed ties inside the country. Petitioner's case occupies the opposite end of that spectrum.

X. WHY ICE'S NEW MANDATORY-DETENTION THEORY IS WRONG

50. Matter of Q. Li, Matter of Dobrotvorskii, and Matter of Yajure-Hurtado form a 2025 trilogy designed to make bond substantially harder to obtain. Q. Li and Yajure-Hurtado adopt DHS's reading that certain people present without inspection are detained under § 1225(b); Dobrotvorskii tightens the bond merits analysis even where bond jurisdiction exists. This Court should not extend those decisions beyond their lawful scope.
51. First, the BIA cannot by precedent transform a broad class of interior residents into perpetual 'applicants for admission' when the statutory structure points elsewhere. The Court's job after *Loper Bright* is to decide that question independently.
52. Second, even if the statute were debatable, due process forbids using categorical detention labels to eliminate any meaningful opportunity to contest custody. *Moore v. Dempsey* and *Johnson v. Zerbst* stand for the broader principle that courts must provide real review where liberty is restrained, not formal review that accepts administrative characterizations at face value.
53. Third, the Government's reading produces irrational results. It would mean that a long-time resident with United States citizen children, stable housing, and a pending family petition can be denied any bond hearing simply because of the manner of original entry many years earlier, while other detained noncitizens with more recent and serious histories may receive individualized review. Courts should reject readings that produce such severe and unnecessary liberty consequences unless Congress spoke clearly.
54. Fourth, where the Government claims mandatory detention, due process at a minimum requires a meaningful opportunity to contest inclusion in that category. A no-hearing rule backed only by agency say-so is constitutionally insufficient.

XI. DUE PROCESS REQUIRES AN INDIVIDUALIZED BOND HEARING

56. Even when detention is authorized, due process requires procedures adequate to prevent erroneous deprivation of liberty. An individualized hearing is the traditional mechanism for separating those who present a true risk of flight or danger from those who do not.
57. The private interest here is immense. Petitioner is a father in civil custody, not a convicted prisoner serving a criminal sentence. Continued detention burdens family unity, the ability to gather evidence, and the opportunity to pursue immigration relief.
58. The risk of error under the Government's no-bond regime is correspondingly high. Without a hearing, there is no neutral forum to weigh family ties, sponsorship, prospective relief, work history, alternatives to detention, or the actual significance of prior offenses. The administrative burden of providing a bond hearing is small because immigration courts routinely conduct such hearings under § 1226(a).
59. Courts across the country have repeatedly ordered bond hearings or release in analogous detention cases. The doctrinal paths differ - some decisions rest on prolonged detention, some on the wrong statutory category, and some on due process more directly - but the principle is common: categorical no-bond detention for ordinary civil detainees is constitutionally suspect.

XII. PETITIONER IS NOT A FLIGHT RISK

61. Petitioner has strong incentives to appear. He has four United States citizen children and a daughter has already filed and paid for a family-based immigrant petition. A person with a concrete statutory path to relief has every reason to remain engaged in proceedings.
62. Petitioner's deep ties to the United States distinguish him from a recent entrant with no established residence. Courts and immigration judges have long considered family ties, duration of residence, housing, and sponsorship as core flight-risk factors. On those factors, Petitioner's case is unusually strong.
63. Any appropriate conditions of release - such as GPS monitoring, telephonic reporting, residence with family, or bond in a reasonable amount - would more than adequately assure appearance. The Constitution does not allow imprisonment by default where obvious less restrictive alternatives exist.

XIII. PETITIONER IS NOT A DANGER TO THE COMMUNITY

65. The detention theory being pressed against many habeas petitioners collapses danger analysis into immigration status. That is not the law. Civil detention must be justified by actual risk, not by a categorical assumption that an immigration violation itself makes a person dangerous.
66. The materials described by counsel indicate no violent history. To the extent the record contains traffic or other low-level nonviolent offenses, those matters do not justify indefinite civil detention without a hearing. Traditional bond standards exist precisely so that courts can distinguish minor offenses from real danger.
67. If Respondents claim dangerousness, they should be required to carry that burden before a neutral decision-maker with actual evidence. The absence of a hearing leaves danger untested and unproven.

XIV. ADJUSTMENT ELIGIBILITY UNDER INA § 245(i)

69. Petitioner also presents an important merits-adjacent factor: potential eligibility for adjustment under INA § 245(i). Section 245(i) permits certain noncitizens physically present in the United States to adjust status despite entry without inspection if they are grandfathered by a qualifying petition or labor certification and satisfy the statute's requirements.
70. Petitioner has a nonfrivolous, concrete avenue to immigration relief through the family petition filed by his United States citizen daughter. If Petitioner's present or prior qualifying filing places him within § 245(i), then he has a viable route to lawful permanent residence that strongly supports release and sharply undercuts any claim that detention is necessary to ensure removal.
71. The Court need not adjudicate adjustment eligibility definitively in this habeas case. It is enough that Petitioner has a substantial basis for lawful relief that makes continued no-bond detention especially irrational and unjustified. A bond hearing would allow that factor to be weighed in the ordinary way.

XV. RECENT 2024–2025 HABEAS DECISIONS SUPPORTING RELIEF

73. Recent federal habeas decisions confirm that district courts continue to grant meaningful relief in immigration detention cases. Those decisions are particularly important now because they show that release-or-hearing relief is not extraordinary; it is a standard judicial response to constitutionally deficient detention frameworks.
74. *Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020), remains heavily cited because it held that prolonged immigration detention without adequate procedural protections violates due process. *German Santos v. Warden*, 965 F.3d 203 (3d Cir. 2020), likewise held that immigration detainees are entitled to bond hearings where detention becomes unreasonable.
75. District courts in 2024 and 2025 have continued to rely on those principles to order relief where ICE relied on categorical detention positions or failed to provide individualized review. The practical significance for this Court is straightforward: there is now a substantial modern body of authority showing that a prompt bond hearing is a familiar and manageable remedy.
76. In *Brito Matom v. ICE*, this District addressed Alligator Alcatraz detention litigation directly, making the case especially instructive for Fort Myers practice. Other 2025 habeas decisions collected in Appendix A show that courts across the country are requiring hearings within days, not months, when the same legal questions recur.

XVI. MEDICAL-RISK AND HUMANITARIAN CONSIDERATIONS

78. The Court may also consider humanitarian circumstances in assessing irreparable harm and the equities of interim relief. Remote and difficult detention conditions amplify ordinary health risks, interfere with continuity of medical care, and intensify the burdens of confinement for detainees and their families.
79. This draft preserves a section for any diagnosis, medication, mental-health issue, sleep deprivation, blood-pressure condition, chronic pain, or family medical emergency that should be documented by declaration or records. If such evidence exists, it should be attached as a supporting exhibit.
80. Even absent a detailed medical file, the practical realities of detention at a remote Florida site weigh heavily in favor of expedited review and less restrictive alternatives. No court should require a family to endure avoidable deterioration while ICE litigates extension requests in a case raising standard legal issues.

XVII. ARGUMENTS AGAINST ICE VENUE TRANSFERS

82. ICE often transfers detainees after habeas petitions are filed. In the current detention litigation wave, transfer has been used not only for bed-space management but also as a litigation maneuver that changes the factual setting, complicates attorney access, and invites mootness arguments concerning facility-specific relief.
83. Brito Matom provides a Florida-specific warning. There, transfer from Alligator Alcatraz to Texas materially affected the claim for injunctive relief tied to the facility. That experience is reason enough for this Court to act early here.
84. This Court has authority to preserve its jurisdiction and Petitioner's meaningful access to relief by prohibiting transfer outside the District, or at least outside the reach of the Court, absent prior notice and leave of Court. Such anti-transfer relief is narrow, temporary, and entirely consistent with the Court's power to prevent frustration of its habeas jurisdiction.
85. The balance of equities strongly favors preserving the status quo. Respondents suffer minimal burden from a short anti-transfer order; Petitioner risks losing effective access to the Court if moved.

XVIII. EMERGENCY TRO / PRELIMINARY INJUNCTION

87. To obtain interim relief, Petitioner must show likelihood of success, irreparable injury, that the balance of equities favors relief, and that an injunction serves the public interest. Those requirements are satisfied here.
88. Likelihood of success is strong because Petitioner's detention appears to rest on a broad and contestable reclassification under § 1225(b) rather than the ordinary § 1226(a) framework for interior arrests. Independent judicial judgment, especially after *Loper Bright*, favors Petitioner's statutory argument, and due process strongly supports at least an individualized bond hearing.
89. Irreparable harm is obvious: ongoing loss of liberty, ongoing family separation, interference with legal preparation, and the risk that transfer will frustrate the Court's ability to provide effective relief. No later damages award can remedy those injuries.
90. The balance of equities and public interest both favor prompt constitutional review. The public has no interest in unlawful detention or in procedural delay for its own sake; it has a strong interest in lawful and efficient adjudication. A short TRO requiring no transfer and a prompt bond hearing is modest and targeted.

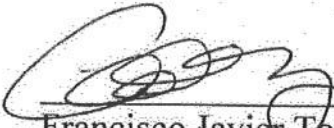
XIX. REQUESTED RELIEF

92. Petitioner respectfully requests that the Court issue the writ of habeas corpus and order Petitioner's immediate release under reasonable conditions of supervision, or alternatively order a prompt individualized bond hearing before an immigration judge or other neutral decision-maker with authority to grant release.
93. Petitioner further asks the Court to enter a temporary restraining order and preliminary injunction prohibiting transfer of Petitioner outside this Court's jurisdiction while this action is pending.
94. Petitioner also asks the Court to set an expedited briefing schedule, deny routine extension requests unsupported by a particularized showing, and grant such other relief as is just and proper.

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

I, Francisco Javier Torres Cruz, declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct to the best of my knowledge, information, and belief.

Respectfully submitted,



Francisco Javier Torres Cruz

Date: 3/13/26

XXI. COUNSEL SIGNATURE BLOCK

Respectfully submitted,



Karlene Gray Dawkins, Esq.

Florida Bar No. 690740

International Law Group, P.A.

1570 Lakeview Dr., Suite 8

Sebring, FL 33870

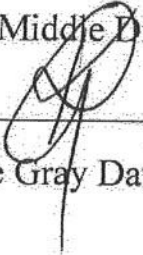
Telephone: (863) 402-9194

Email: intlawgroup@gmail.com

Counsel for Petitioner

XXII. CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on 3/13/26, 2026, a true and correct copy of the foregoing Petition and all attachments was served by U.S. Mail and/or CM/ECF, as applicable, upon the Warden, South Florida Detention Facility; the Field Office Director, ICE ERO Miami; the Acting Director of ICE; the Secretary of DHS; the Attorney General of the United States; and the United States Attorney for the Middle District of Florida.



Karlene Gray Dawkins, Esq.