

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

Melvi Samuel Perez Perez (A )

Petitioner,

v.

**KEVIN GUTHRIE**, Executive Director Florida  
Division of Emergency Management, Manager of  
Alligator Alcatraz Detention Center;

**GARRETT J. RIPA** Field Office Director of the  
Miami Field Office of U.S. Immigration and Customs  
Enforcement;

**MARKWAYNE MULLIN**, Secretary of the U.S.  
Department of Homeland Security; and

**PAMELA BONDI**, Attorney General of the United  
States.

Respondents.

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Case No. 2:26-cv-730

**PETITION FOR WRIT OF  
HABEAS CORPUS PURSUANT  
TO 28 U.S.C § 2241**

**INTRODUCTION**

1. Petitioner, Melvi Samuel Perez Perez, is a national of the Guatemala. On or about January 24, 2026, Petitioner was apprehended during a traffic stop, which resulted in his arrest. Petitioner was initially detained at Lee County Jail, where he remained until his criminal matters were resolved. Thereafter, he was transferred to the Alligator Alcatraz Detention Facility, where he has remained in immigration custody since that time.
2. Petitioner arrived in the United States when he was approximately twelve years old. Upon arrival, he was apprehended by a government agency and was later released. Since

that time, Petitioner has fully assimilated into American society. He is an active member of his church, the owner of his own business, and maintains a relationship with his U.S. citizen girlfriend, whom he intends to marry. Given his substantial community, business, and emotional ties to the United States, Petitioner does not pose a flight risk.

3. Petitioner's continued detention is unlawful and unconstitutional because it is arbitrary, not reasonably related to any legitimate government purpose, and imposed without adequate procedural protections. In particular, Petitioner has not received a prompt, constitutionally adequate individualized bond hearing before a neutral decisionmaker at which the government bears the burden to justify continued detention.
4. Accordingly, to vindicate Petitioner's statutory and constitutional rights, this Court should grant the instant Petition for a Writ of Habeas Corpus.
5. Absent an order from this Court, Petitioner will remain subjected to prolonged and arbitrary detention despite having a meritorious asylum application pending and a demonstrated history of compliance with ICE and the Immigration Court.
6. Petitioner asks this Court to find that Respondents' detention of Petitioner is unlawful and unconstitutional and to order Petitioner's immediate release or, in the alternative, a prompt individualized bond hearing consistent with due process.

### **JURISDICTION**

7. This action arises under the Constitution of the United States and the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1101 et seq.
8. This Court has subject matter jurisdiction pursuant to 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).

9. Petitioner challenges the legality of Respondents' custody and related actions. Habeas jurisdiction is proper because Petitioner is "in custody" for purposes of 28 U.S.C. § 2241, and the Petition seeks immediate or speedier release and/or other relief affecting the fact or duration of custody.
10. Nothing in 8 U.S.C. § 1252 strips this Court of jurisdiction to review Petitioner's constitutional claims and questions of law regarding the legality of Petitioner's detention and the procedures used to justify continued custody.
11. To the extent applicable, this Court also has jurisdiction under the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., and the All Writs Act, 28 U.S.C. § 1651, to grant full and effective relief.

#### **VENUE**

12. Venue is proper in this District because Petitioner is detained at Alligator Alcatraz Detention Facility, located in Ochopee City, Collier County, Florida, which is within the jurisdiction of the United States District Court for the Middle District of Florida.

#### **REQUIREMENTS OF 28 U.S.C. § 2243**

13. 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).
14. 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**

15. Petitioner is a noncitizen currently detained at Alligator Alcatraz Detention Facility in Ochopee City, Collier County, Florida. Petitioner is in the custody and under the control of Respondents and their agents.

16. Respondent Kevin Guthrie is the Executive Director of the Florida Division of Emergency Management, which manages and operates the Alligator Alcatraz Detention Facility. In this capacity, Respondent Guthrie exercises authority over the facility where Petitioner is detained and has immediate physical custody of Petitioner. Respondent Guthrie is also a legal custodian of Petitioner and is responsible for the conditions and legality of Petitioner’s detention.

17. Respondent Garret J. Ripa is sued in his official capacity as the Field Office Director of the Miami Field Office of U.S. Immigration and Customs Enforcement. In this capacity, Respondent has authority over Petitioner’s detention and the discretion to authorize Petitioner’s release. Respondent is a legal custodian of Petitioner.

18. Respondent Markwayne Mullin is sued in her official capacity as the Secretary of the United States Department of Homeland Security (“DHS”). In this capacity, Respondent is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees U.S. Immigration and Customs Enforcement. Respondent 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 United States Department of Justice. In this capacity, Respondent oversees the Executive Office for Immigration Review (“EOIR”), including the Immigration Courts and the Board of Immigration Appeals (“BIA”), which adjudicate Petitioner’s removal proceedings. Respondent is a legal custodian of Petitioner.

### **STATEMENT OF FACTS**

20. Petitioner is a 25-year-old citizen of Guatemala who entered the United States on or about 2013.

21. Petitioner is currently detained by U.S. Immigration and Customs Enforcement (“ICE”) at the Alligator Alcatraz Detention Facility also known as Florida Soft Side South.

#### **(EXHIBIT A)**

22. On or about January 24, 2026, Petitioner was stopped by local authorities during a routine traffic stop. After resolving any outstanding criminal matters, he was turned over to U.S. Immigration and Customs Enforcement (“ICE”) custody without prior notice or explanation.

23. Since that date, Petitioner has remained continuously detained.

24. Petitioner has never been arrested, charged, or convicted of any criminal offense in the United States or elsewhere. His clean criminal record reflects a consistent history of lawful and responsible conduct.

25. Petitioner has resided in the United States for over ten years and has established meaningful ties to his community.

26. Petitioner maintains a committed relationship with his United States citizen girlfriend, with whom he shares a close emotional bond. The couple intends to marry and build their life together in the United States. **(EXHIBIT B)**
27. Petitioner is also an active member of his local church community, where he regularly participates in religious services. **(EXHIBIT C)**
28. Petitioner owns and operates a small business, Melvi Pavers LLC **(EXHIBIT D)**, through which he has supported himself and contributed to the local economy. His business demonstrates financial responsibility, stability, and long-term investment in the community.
29. Petitioner's law-abiding nature, combined with his business ownership, community involvement, and committed relationship, reflects that he is a productive and responsible member of society.
30. Petitioner's clean criminal record, civic engagement, and professional stability strongly establish that he is not a danger to the community and does not present a risk to public safety.
31. Petitioner's ties to his community, business, church, and partner, along with his responsible and lawful conduct, demonstrate that he is not a flight risk and has every incentive to comply with any conditions of release.
32. Petitioner's positive equities including his unblemished legal history, stable employment, business ownership, community participation, and personal relationships—support his release on bond or other appropriate conditions.

33. Despite these substantial equities, Petitioner remains detained without a constitutionally adequate bond hearing at which the government bears the burden of justifying continued detention by clear and convincing evidence.

### **LEGAL FRAMEWORK**

34. Petitioner is detained pursuant to 8 U.S.C. § 1226 while in removal proceedings

35. The Fifth Amendment Due Process Clause requires that civil immigration detention be reasonably related to its purpose and accompanied by adequate procedural protections.

36. Prolonged or arbitrary detention under § 1226 without a meaningful, individualized bond hearing violates due process.

37. Detaining a law-abiding individual with no criminal history, and strong positive equities such as stable employment, stable who has fully complied with supervision requirements, without individualized findings of flight risk or danger, is inconsistent with both statutory authority and constitutional principles.

### **CLAIMS FOR RELIEF**

#### **COUNT ONE**

#### **Violation of Fifth Amendment Right to Due Process**

38. Petitioner realleges and incorporates the preceding paragraphs.

39. Respondents deprived Petitioner of his liberty without due process by detaining him after he was transferred to ICE custody upon the completion of his criminal proceedings and by continuing his civil immigration detention without providing a meaningful opportunity to challenge his detention before a neutral decision-maker.

40. Respondents failed to provide Petitioner with a prompt, constitutionally adequate bond

hearing at which the government bears the burden of proving by clear and convincing evidence that continued detention is justified.

41. Petitioner's continued detention is excessive in relation to its purported purpose and is not reasonably related to ensuring appearance or protecting public safety.

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

**COUNT TWO**  
**Violation of 8 U.S.C. § 1226 and Implementing Regulations**

43. Petitioner realleges and incorporates the preceding paragraphs.

44. Respondents' detention of Petitioner is not authorized by 8 U.S.C. § 1226 because ICE failed to conduct an individualized custody determination consistent with statutory and regulatory requirements.

45. Respondents further violated implementing regulations, including 8 C.F.R. §§ 236.1 and related provisions, by detaining Petitioner without proper custody redetermination and procedural safeguards.

46. For these reasons, Petitioner's detention violates 8 U.S.C. § 1226 and applicable regulations.

**PRAYER FOR RELIEF**

WHEREFORE, Petitioner respectfully requests that this Court:

- (1) Assume jurisdiction over this matter;
- (2) Issue an Order to Show Cause requiring Respondents to show cause why this Petition should not be granted within three days;

- (3) Declare that Petitioner's detention violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1226 and implementing regulations;
- (4) Issue a Writ of Habeas Corpus ordering Respondents to immediately release Petitioner from ICE custody, or in the alternative, order a prompt, constitutionally adequate bond hearing before an Immigration Judge at which the government bears the burden of justifying detention;
- (5) Award attorney's fees and costs as authorized by law; and
- (6) Grant such other and further relief as the Court deems just and proper.

Dated: March 13, 2026

Respectfully submitted,

/s/Alice Carmen Burgos

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**VERIFICATION BY SOMEONE ACTING ON PETITIONER'S BEHALF PURSUANT  
TO 28 U.S.C. § 2242**

I am submitting this verification on behalf of the Petitioner because I am the attorney for Petitioner. I or my co-counsel have discussed with the Petitioner the events described in this Petition. Based on those discussions, I hereby verify that the statements made in the attached Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: March 13, 2026

Respectfully submitted,

/s/Alice Carmen Burgos  
Alice Carmen Burgos  
*Counsel for Petitioner*