

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION

Frank Reynaldo Rodriguez Curbelo

Petitioner,

v.

Case No.: 2:26-cv-749

Kristi Noem, Secretary of the Department of Homeland Security; **Pamela Bondi**, Attorney General of the U.S.; **Todd M. Lyons**, Acting Director U.S. Immigration and Customs Enforcement; **Garrett Ripa**, ICE ERO Miami Field Office Director; **Warden**, Glades County Detention Center.

Respondents.

PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. §2241 AND FOR IMMEDIATE RELEASE OR, IN
THE ALTERNATIVE, A PROMPT INDIVIDUALIZED BOND HEARING

I. INTRODUCTION

1. Petitioner, Frank Reynaldo Rodriguez Curbelo (hereinafter “Mr. Rodriguez”), seeks a writ of habeas corpus to remedy his unlawful detention by the Respondents. Mr. Rodriguez is being unlawfully detained by Respondents without Respondents providing any lawful justification for his ongoing detention.

2. Mr. Rodriguez, a 31-year-old Cuban national, entered the United States in or around May 7, 2022 to seek asylum. Upon entering without inspection,

Mr. Rodriguez turned himself in to the Department of Homeland Security. He was served with a Warrant of Arrest and a Notice to Appear on May 10, 2022 placing him in removal proceedings under 8 U.S.C. § 1229a. *See* Exhibits 1 and 2. He was released from custody pursuant to an Order of Release under Recognizance on May 11, 2022. *See* Exhibit 3. Since then, Mr. Rodriguez applied for relief, obtained a work authorization, and a Florida driver's license. He has stable employment and no criminal history.

3. On November 4, 2025, Mr. Rodriguez appeared at the Miami Immigration Court for his master calendar hearing. DHS moved to dismiss proceedings and the Immigration Judge granted the request. Mr. Rodriguez appeared at the master hearing without legal representation. He did not understand the consequences of the dismissal, nor was he given an opportunity to consult with an attorney. Upon exiting the courtroom, ICE detained Mr. Rodriguez and transferred him to detention.

4. Mr. Rodriguez was placed in expedited removal proceedings more than two years after he had entered the United States. He had a credible fear interview on December 9, 2025.

5. Mr. Rodriguez was placed in removal proceedings again by serving a second Notice to Appear on December 23, 2025. *See* Exhibit 4. This Notice to

Appear was amended and DHS served a third Notice Appear on January 15, 2026. *See Exhibit 5.*

6. Mr. Rodriguez applied for relief from removal. However, on February 10, 2026, the Immigration Judge granted DHS's motion to pretermite and issued an order of removal. *See Exhibit 6.* Mr. Rodriguez has appealed this order. *See Exhibit 7.*

7. Mr. Rodriguez is detained inside Glades Detention Center, run by the Glades County Sheriff Department and under the supervision/control of the US Department of Homeland Security (hereinafter "DHS" or "the Department") and the US Immigration and Customs Enforcement (hereinafter "ICE"). *See Exhibit 8.*

8. Mr. Rodriguez has been denied the right to due process under the Fifth Amendment to the U.S. Constitution. Respondents are unlawfully detaining Mr. Rodriguez without providing legal justification for his ongoing detention and without providing him with a bond hearing.

9. Mr. Rodriguez respectfully requests that this Honorable Court order Respondents to show cause why the writ should not be granted within three days and, if necessary, set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243.

10. Mr. Rodriguez further respectfully requests that this Honorable Court grant him a writ of habeas corpus, ordering Respondents to release him immediately.

II. PARTIES

11. Petitioner, Frank Rodriguez Curbelo, is a 31-year-old native and citizen of Cuba who entered the United States on May 11, 2022. Mr. Rodriguez is being detained without a bond by the Respondents at the Glades Detention Center facility within this district. *See Exhibit 8.*

12. Respondent, Kristi Noem, is the Secretary of DHS, which is responsible for the administration of ICE, a subunit of DHS, and the implementation and enforcement of the immigration laws. As such, Ms. Noem is the ultimate legal custodian of Mr. Rodriguez. This Respondent is being sued in her official capacity.

13. Respondent, Pamela Bondi, is the Attorney General of the United States and head of the Department of Justice, which encompasses the Board of Immigration Appeals (hereinafter “BIA”) and the Immigration Courts. Ms. Bondi shares responsibility for implementation and enforcement of the immigration laws with Respondent Noem. As such, Ms. Bondi is a legal custodian of Mr. Rodriguez. This Respondent is being sued in her official capacity.

14. Respondent, Todd M. Lyons, is the Acting Director of ICE. He is responsible for the administration of ICE and the implementation and enforcement of the immigration laws, including noncitizen detention. As such, he is a legal custodian of Mr. Rodriguez. This Respondent is being sued in his official capacity.

15. Respondent, Garrett Ripa, is the ICE Field Office Director for the Miami Field Office. The Miami Field Office is responsible for the detention of noncitizens in Florida and at the detention center where Mr. Rodriguez is being detained. This Respondent also affects operational, legal, and factual control over the detention center and, as such, is a legal custodian of Mr. Rodriguez. This Respondent is being sued in his official capacity.

16. Respondent, Warden at Glades County Detention Center, manages the detention center where Mr. Rodriguez is being detained. As such, he is a legal custodian of Mr. Rodriguez. This Respondent is being sued in his official capacity.

III. JURISDICTION AND VENUE

17. This Court has jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), 28 U.S.C. § 1651 (All Writs Act), and 28 U.S.C. §§ 2201-02 (declaratory relief), as Mr. Rodriguez is presently in custody under, or by color of, the authority of the U.S. and challenges his custody as in violation of the Constitution, laws, or treaties of the U.S.

18. The federal district courts have jurisdiction under Section 2241 to hear habeas claims by individuals challenging the lawfulness of their detention by ICE. *See, e.g., Demore v. Kim*, 538 U.S. 510 (2003); *Zadvydas v. Davis*, 533 U.S. 678 (2001).

19. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. §§ 1391 and 2241(d) because Mr. Rodriguez is detained at the Glades County Detention Center in Glades, Florida, within the court's jurisdiction. *See* Exhibit 8.

IV. REQUEST FOR ORDER TO SHOW CAUSE

20. The Court must grant the petition for a writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

21. 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. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

V. TRANSFER OUTSIDE THE DISTRICT, ALL WRITS ACT

22. The All Writs Act, 28 U.S.C. § 1651(a), empowers the federal courts to “issue all writs necessary or appropriate in aid of their respective jurisdictions and agreeable to the usages and principles of law.”

23. Courts across the country have recently invoked the All Writs Act to prevent the transfer of individuals detained within a district during the pendency of a pre-removal-order habeas petition.¹ See *Arostegui-Maldonado v. Baltazar*, No. 25-cv-2205-WJM-STV, 794 F. Supp. 3d 926, 948 (D. Colo. 2025) (listing cases); see also *Guevara Gomez v. Crawford*, No. 1:25-cv-1781-PTG-LRV (E.D. Va. Oct. 16, 2025).

24. Mr. Rodriguez requests that this Court invoke the All Writs Act to prevent any transfer out of the Middle District of Florida during the pendency of his habeas action, given the likelihood that he will be released. Mr. Rodriguez lives in South Florida, and his counsel’s law firm operates primarily in Florida. He will incur additional, unnecessary expenses and difficulty in returning to his residence in Florida should he be granted release after being transferred elsewhere. See

¹ Notably, Mr. Rodriguez does not currently have a removal order so an order precluding his transfer outside this jurisdiction would do just that, and would not otherwise serve as a motion for a stay of removal. Cf. *Rodriguez v. Harden*, No. 2:26-cv-85, 2026 LX 44344, 2026 WL 201204 (M.D. Fla. Jan. 27, 2026).

Ozturk v. Trump, 779 F. Supp. 3d 462, 497 (D. Vt. 2025) (noting that presence in the judicial district where an action is pending “facilitate[s]” the petitioner’s “ability to work with [his or] her attorneys, coordinate the appearance of witnesses,” and generally present claims related to detention); *Suri v. Trump*, 785 F. Supp. 3d 128, 148 (E.D. Va. May 6, 2025).

VI. EXHAUSTION OF ADMINISTRATIVE REMEDIES

25. Mr. Rodriguez has no administrative remedies available to him, and his only remedy is by way of this judicial action.

26. Mr. Rodriguez attempts to seek administrative remedies would be futile.

27. The decision to continue Mr. Rodriguez’s detention is subject to challenge through a petition for a writ of habeas corpus. *See McCarthy v. Madigan*, 503 U.S. 140, 144 (1992) (“Where Congress specifically mandates, exhaustion is required. But where Congress has not clearly required exhaustion, sound judicial discretion governs.”).

28. Moreover, courts may excuse the exhaustion requirement in certain circumstances, such as when pursuing administrative remedies would be futile. For example, in, *Kapelushnik v. Maldonado*, No. 1:05-CV-1056-JTC, (N.D. Ga. Dec. 28, 2005), the court recognized a futility exception to the exhaustion requirement in 28 U.S.C § 2241 habeas petitions, holding that a petitioner need not exhaust

administrative remedies if doing so would be a "patently futile course of action".

Kapelushnik v. Maldonado, No. 1:05-CV-1056-JTC, (N.D. Ga. Dec. 28, 2005).

29. Further, no statutory exhaustion requirements apply to Mr. Rodriguez's claim of unlawful detention. This petition raises a constitutional law issue, and the administrative agency will not address the constitutional issue. Likewise, the agency is unable to strike down its own regulation as in violation of the statute. *See Matter of G-K-*, 26 I&N Dec. 88 (BIA 2013).

VII. LEGAL FRAMEWORK

30. Noncitizens within the U.S. are entitled to due process under the Fifth Amendment to the U.S. Constitution. *Reno v. Flores*, 507 U.S. 292, 306 (1993).

31. Immigration detention is a form of civil confinement that "constitutes a significant deprivation of liberty that requires due process protection." *Addington v. Texas*, 441 U.S. 418, 425 (1979).

32. Immigration detention should not be used as a punishment and should only be used when, under an individualized determination, a noncitizen is a flight risk because they are unlikely to appear for immigration court or a danger to the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

33. The INA establishes three distinct detention frameworks, depending on whether a noncitizen is treated as an "applicant for admission," as a person already in the country facing removal or a person with a final order of removal.

34. Applicants for admission are governed by 8 U.S.C. § 1225 (INA § 235), which addresses inspection and admission at the border and at ports of entry. Under § 8 U.S.C. 1225(b), if an immigration officer determines that a noncitizen seeking admission is not “clearly and beyond a doubt entitled to be admitted,” the statute provides that the person “shall be detained” for proceedings under 8 U.S.C. § 1229a, or for expedited removal where applicable.

35. By contrast, detention of noncitizens who are not treated as applicants for admission—i.e., those apprehended in the interior and placed in standard removal proceedings—is governed by 8 U.S.C. § 1226 (INA § 236). Section 1226(a) authorizes the government to “arrest and detain” such noncitizens “pending a decision on whether the alien is to be removed,” and, critically, authorizes their release “on bond” or “conditional parole.”

36. Regulations and longstanding practice have implemented § 1226(a) as a discretionary detention regime in which noncitizens are entitled to an individualized custody redetermination (bond hearing) before an immigration judge, who may order release if the person is neither a flight risk nor a danger to the community.

37. Section 1226(c) carves out a narrower, mandatory-detention category for specified criminal and terrorism-related cases, but it operates within the § 1226

framework and has always been understood as distinct from the mandatory detention of applicants for admission under § 1225.

38. Thus, the INA's text, structure, and implementing practice draw a clear line: applicants for admission fall under the mandatory detention and limited-parole regime of § 1225, while other noncitizens in removal proceedings are presumptively detained, if at all, under § 1226's discretionary system that permits consideration of release on bond.

39. Under 8 C.F.R. § 1003.19(h)(2)(i)(B), IJs lack authority to redetermine custody for "arriving aliens." In *Matter of M-S-*, 27 I&N Dec. 509 (A.G. 2019), the Attorney General held that certain § 1225(b)(1) detainees transferred to 8 U.S.C. § 1229a proceedings remain ineligible for IJ bond.

VIII. FACTS AND PROCEDURAL HISTORY

40. Mr. Rodriguez entered the United States on May 7, 2022, outside of a port of entry. He immediately presented himself to Customs and Border Patrol, and was placed in immigration detention. He was released from custody on May 11, 2022, on an Order of Release on Recognizance. *See* Exhibit 3. ICE served him with a Notice to Appear, placing him in removal proceedings before an immigration judge. *See* Exhibit 2. Mr. Rodriguez filed a timely application for relief from removal.

41. On November 4, 2025, Mr. Rodriguez appeared for a master calendar hearing. During this hearing DHS moved to dismiss proceedings. Mr. Rodriguez did not object to the motion because he was not aware of the consequences of dismissing his proceedings. He was not given an opportunity to seek counsel. The Immigration Judge granted the dismissal.

42. Mr. Rodriguez was detained outside of the courtroom, and transferred to the detention center. Mr. Rodriguez was placed in expedited removal proceedings. He expressed a fear of return to his country.

43. The Miami USCIS Asylum Office conducted a Credible Fear Interview on December 9, 2025. Mr. Rodriguez was found credible and he was once again placed in removal proceedings. Interestingly, Mr. Rodriguez's second and third Notice to Appear, do not indicate that an order of expedited removal was being vacated. *See* Exhibit 4 and 5.

44. Mr. Rodriguez applied for relief again. On February 10, 2026, the Immigration Judge granted DHS's motion to pretermite and issued an order of removal. *See* Exhibit 6. Mr. Rodriguez has appealed to the Board of Immigration Appeals. *See* Exhibit 7.

45. During the pendency of the proceedings, DHS moved Mr. Rodriguez to Glades County Detention Center, and he remains there today. *See* Exhibit 8.

46. Mr. Rodriguez was not amenable to expedited removal because he was not placed in those proceedings when he was first encountered and instead processed under 8 U.S.C. § 1226(a). Even if the court were to find that he was indeed subjected to expedited removal when he was first encountered in 2022, those proceedings were dismissed.

47. Mr. Rodriguez was re-detained and processed more than two years after he had entered the United States, and therefore, he should be treated as detained under 8 U.S.C. § 1226.

VII. CAUSES OF ACTION

Count 1: Unlawful Restraint/Detention in Violation of Substantive Due

Process

48. Mr. Rodriguez re-alleges and incorporates paragraphs 1 through 47 above.

49. The Due Process Clause of the Fifth Amendment forbids the government from depriving any person of liberty without due process of law. U.S. Const. Amend.V. Due process protects “all ‘persons’ within the United States, including [non-citizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

50. Civil immigration detention violates due process if it is not reasonably related to its purpose. *See Zadvydas*, 533 U.S. at 690 (citing *Jackson v. Indiana*, 406

U.S. 715, 738 (1972)); *Demore*, 538 U.S. at 513. As categorical detention becomes increasingly prolonged, a sufficiently strong special justification is required to outweigh the significant deprivation of liberty. *Zadvydas*, 533 U.S. at 690-91.

51. Civil detention also violates due process unless it is accompanied by strong procedural protections to guard against the erroneous deprivation of liberty. *Id.* at 690-91; *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). To justify Mr. Rodriguez's ongoing detention, due process requires that the government provide legal justification for his ongoing detention. *United States v. Salerno*, 481 U.S. 739, 750, 752 (1987); *Svetlana Doe, et al., v. Noem, et al.*, No. 25-cv-10495 (D. Mass. April 14, 2025).

52. Respondents have provided no basis for Mr. Rodriguez's continued mandatory detention. They have moved to dismiss the removal proceedings before the immigration judge and they have not explained how he could be subject to expedited removal as he was not encountered at a port of entry, *see* 8 U.S.C. § 1225(b)(1)(A)(i), 8 C.F.R. § 1.2, and he was placed in proceedings under 8 U.S.C. § 1229a upon initial apprehension more than three years ago, not expedited removal proceedings under 8 U.S.C. § 1225(b)(1).

53. Mr. Rodriguez has not been afforded the necessary procedural safeguards to guarantee against the erroneous deprivation of his liberty. This is particularly true as Mr. Rodriguez's period of detention grows and where the

government provides no legal justification for his ongoing detention. Indeed, the government previously acknowledged that he is neither a danger to the community nor a flight risk when they released him on recognizance rather than detaining him and processing him for expedited removal when he first came into the United States on May 11, 2022. He now has a liberty interest in his freedom from detention, and Respondents cannot arbitrarily deprive him of that interest.

54. Mr. Rodriguez challenges Respondents' constitutional authority to detain him, with or without a bond, where Respondents have presented no legal justification for his ongoing detention.

55. Under these circumstances, Mr. Rodriguez's detention violates his substantive due process.

Count 2: Unlawful Restraint/Detention in Violation of Fifth Amendment

Procedural Due Process

56. Mr. Rodriguez re-alleges and incorporates paragraphs 1 through 47 above.

57. The Due Process Clause requires that, once a protected liberty interest is implicated, the court determines "what process is constitutionally due" by balancing three factors identified in *Mathews v. Eldridge*, 424 U.S. 319, 334–35 (1976). Those factors are: 1) the private interest that will be affected by official action; 2) the risk of an erroneous deprivation of such interest through the

procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and 3) the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail. *Id* at 335.

58. Mr. Rodriguez has a significant liberty interest affected by his detention. Freedom from civil immigration detention, which the Supreme Court has described as "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (quoted in multiple immigration-detention *Mathews* analyses).

59. Mr. Rodriguez has not been given clear notice as to why he was detained. Mr. Rodriguez's removal proceedings were dismissed, and he was detained outside a courtroom without previous notice or explanation. Furthermore, DHS has detained him under expedited removal proceedings and subjected him to mandatory detention even though he was detained three years after he first entered the United States. There is a risk of erroneous deprivation of liberty.

60. ICE detained him and issued an expedited removal order without any new or additional information suggesting he is a threat to public safety or a flight risk.

61. A release under his prior conditions, or a bond hearing with the government bearing the burden would reduce the risk of deprivation of liberty.

62. While the government has a legitimate interest in enforcing immigration laws, and ensuring appearance at proceedings, there is no indication that Mr. Rodriguez is a flight risk or a danger to the community. The government previously released him on an order of recognizance, and he complied with all requirements and attended every hearing since that time. He has no criminal history.

63. Respondents have provided no meaningful procedures and deprived Mr. Rodriguez of procedural and substantive due process, and acted contrary to established law in an arbitrary and capricious manner. *See Jennings v. Rodriguez*, 583 U.S. 281, 291-298 (2018); *Id.* at 355-356 (Breyer, J., dissenting); *Zadvydas*, 533 U.S. at 688 (Explaining the court's authority to consider a habeas challenge to detention that is without statutory authority notwithstanding Congress attempts to limit judicial review in immigration matters).

Count 3: Unlawful Restraint/Detention in Violation of
Statutory Authority and Arbitrary Detention

64. Mr. Rodriguez re-alleges and incorporates paragraphs 1 through 47 above.

65. Even if detained under 8 U.S.C. § 1225(b)(2)(A), Mr. Rodriguez's detention without a bond hearing exceeds statutory authority and is arbitrary and

capricious. *See Jennings*, 583 U.S. at 313 (reserving constitutional questions); *Demore v. Kim*, 538 U.S. 510, 530–31 (2003) (upholding brief, not indefinite, detention).

66. Federal case law recognizes that the detention provisions in Title 8 of the United States Code proceed in the sequential steps of the removal process: § 1225 addresses inspection and referral for removal proceedings; § 1226 authorizes arrest and detention pending a decision on removal; and § 1231 governs detention after an order of removal. *Johnson v. Guzman Chavez*, 594 U.S. 523, 528 (2021).

67. Case law recognizes that § 1226 generally governs arrest and detention pending removal, and that § 1226(a) is the default rule authorizing detention pending a decision on removal, with authority (except as otherwise provided) to release on bond or conditional parole. *Jennings v. Rodriguez*, 583 U.S. 281, 288 (2018)

68. Federal courts may review challenges to the statutory framework authorizing detention, notwithstanding limits on review of discretionary custody decisions. The Supreme Court has recognized that jurisdictional limits on review of discretionary custody decisions do not bar a habeas challenge that attacks the statutory framework authorizing detention (as opposed to a discretionary judgment in an individual custody determination). *Demore v. Hyung Joon Kim*, 538 U.S. 510, 517 (2003)

69. Accordingly, a statutory claim should focus on (1) which detention statute applies and (2) whether the Government is providing the process that the applicable statute and existing regulations require, rather than asking the Court to create new procedures not grounded in statutory text. *Johnson v. Arteaga-Martinez*, 596 U.S. 573, 578-579 (2022)

70. Petitioner was released on recognizance after entering on May 11, 2022, and he was later detained on November 4, 2025 after his removal proceedings were dismissed. The Respondents are treating his detention as arising under § 1225, but that he should be treated under § 1226. Because the INA's detention provisions are structured to apply at different stages of the process, misclassification of the governing detention statute is a legal error, not a discretionary custody call.

71. 8 U.S.C. § 1226(a) is the default detention rule pending a decision on removal, including a statutory release mechanism (bond or conditional parole) that is absent from a pure "mandatory detention" framing. *See Jennings*, 583 U.S. at 288.

72. Even where the INA limits review of discretionary custody determinations, the Supreme Court has recognized that federal courts retain jurisdiction over challenges to the statutory framework authorizing detention. *Demore v. Hyung Joon Kim*, 538 U.S. 510, 517-518 (2003).

73. Petitioner's claim-detention under § 1225 when § 1226 should govern-fits that category because it challenges the legal basis for detention, not merely the exercise of discretion within a concededly applicable statute. *Id.*

74. Here, DHS has already: (a) allowed Petitioner to enter the United States; (b) released him on recognizance; and (c) placed him into formal § 1229a removal proceedings before an Immigration Judge. Those proceedings were then dismissed. In these circumstances, Petitioner is not in the position of a person physically presenting for inspection at the border or in an ongoing § 1225 “inspection” process.

75. Because Petitioner is not an “applicant for admission” undergoing inspection within the meaning of § 1225, DHS lacks statutory authority to detain him under § 1225(b). Any continued custody must be grounded, if at all, in § 1226, with the attendant statutory protections, including eligibility for a bond hearing before an Immigration Judge.

Count 4 : Violation of the Administrative Procedure Act

76. Mr. Rodriguez re-alleges and incorporates paragraphs 1 through 47 above.

77. Under the Administrative Procedure Act (hereinafter “APA”), a court shall “hold unlawful and set aside agency action” that is an abuse of discretion. 5 U.S.C. § 706(2)(A).

78. An action is an abuse of discretion and a violation of the APA 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 Homebuilders 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, 42 (1983)).

79. Respondents, acting through DHS and ICE officers and officials, have made a final and operative determination to treat Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b), and to deny him the bond eligibility and custody procedures that apply under 8 U.S.C. § 1226(a).

80. In making and implementing this detention determination, Respondents have: misclassified Petitioner as an “applicant for admission” detained under 8 U.S.C. § 1225(b), even though he was arrested in the interior of the United States after having already entered and resided here, and his case was being pursued through a Notice to Appear in removal proceedings; and refused to recognize or apply 8 U.S.C. § 1226(a) as the governing detention authority, thereby denying Petitioner access to an individualized bond determination and the possibility of release on bond or conditional parole.

81. The Immigration and Nationality Act prescribes distinct detention schemes: 8 U.S.C. § 1225(b) governs detention of applicants for admission during inspection and expedited removal processing, while 8 U.S.C. § 1226 governs detention of noncitizens arrested and detained pending a decision on removal after they have entered the United States. Misapplying § 1225(b) to a person in Petitioner's posture is contrary to the statute's text and structure and exceeds the agency's statutory authority. *Jennings v. Rodriguez*, 583 U.S. at 288.

82. By invoking § 1225(b) as the basis for Petitioner's custody and treating his detention as mandatory with no bond process, Respondents have acted "not in accordance with law" and "in excess of statutory jurisdiction, authority, or limitations" within the meaning of 5 U.S.C. § 706(2)(A), (C). The agency's detention decision rests on an incorrect legal premise about which detention statute applies, and therefore cannot be sustained under the APA.

83. To the extent Respondents have also failed to comply with the statutory and regulatory prerequisites for lawful custody under § 1226(a) (including issuance and reliance on a proper administrative arrest warrant and provision of the custody procedures that accompany § 1226(a) detention), their continued detention of Petitioner is likewise arbitrary, capricious, and not in accordance with law.

84. Respondents' unlawful reliance on § 1225(b), and their refusal to apply § 1226(a) to Petitioner's custody, constitute final agency action that determines Petitioner's rights and obligations and results in ongoing, concrete legal consequences—namely, his continued civil detention without access to the statutory bond process that Congress provided.

85. Petitioner has suffered and continues to suffer concrete injury from Respondents' unlawful action, in the form of prolonged physical confinement and loss of the statutory opportunity for individualized custody review, which injury is redressable through the relief authorized by 5 U.S.C. § 706.

VIII. PRAYER FOR RELIEF

WHEREFORE, Mr. Rodriguez prays that this Court grant the following relief:

1. Accept jurisdiction and maintain continuing jurisdiction of this action;
2. Order Respondents to show cause why the writ should not be granted within three days, and, if necessary, set a hearing on this Petition within five days of the return, pursuant to 28 U.S.C. § 2243;
3. Issue an order to enjoin Respondents from transferring Mr. Rodriguez outside the jurisdiction of the Court pending resolution of this matter;

4. Issue a writ of habeas corpus ordering Respondents to immediately release Mr. Rodriguez from their custody with all his documents and belongings on the order of recognizance that was previously in effect;

5. In the alternative, order Respondents to provide, within seven days, an individualized bond hearing before a neutral decisionmaker at which the government bears the burden to justify detention by clear and convincing evidence and to consider alternatives to detention;

6. Issue an order to enjoin the Respondents from re-detaining Mr. Rodriguez absent changed circumstances;

7. Declare that Mr. Rodriguez's detention violates the Substantive Due Process Clause of the Fifth Amendment;

8. Declare that Mr. Rodriguez's detention violates the Due Process Clause of the Fifth Amendment;

9. Declare that Mr. Rodriguez's detention is a statutory violation under the Immigration and Nationality Act;

10. Declare that Mr. Rodriguez's detention violates the Administrative Procedures Act;

11. Awards fees and costs under 28 U.S.C. § 2412(d);

12. Grant such further relief as this Court deems just and proper.

Dated: March 16, 2026

Respectfully submitted,

Claudia Canizares, Esq.

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Attorney for Petitioner

**Verification by Someone Acting on the Petitioner's Behalf Pursuant to 28 USC §
2242**

I, Claudia Canizares, Esq, hereby declare under penalty of perjury that the facts alleged in the foregoing Petition for Writ of Habeas Corpus are true and correct, to the best of my knowledge.

Dated: March 16, 2026

Respectfully submitted,

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CERTIFICATE OF INTERESTED PERSONS
AND CORPORATE DISCLOSURE STATEMENT

I HEREBY CERTIFY that the following persons may have an interest in the outcome of this case:

1. **Frank Reynaldo Rodriguez Curbelo**, Petitioner
2. **Noem, Kristi**, Secretary, Department of Homeland Security
3. **Bondi, Pamela**, Attorney General of the United States, U.S. Department of Justice
4. **Lyons, Todd. M.**, Acting Director of ICE, U.S. Department of Homeland Security
5. **Ripa, Garrett**, ICE Field Office Director for the Miami Field of the Department of Homeland Security
6. **Warden**, Glades County Detention Center
7. **Canizares, Claudia**, Esquire, Counsel for Petitioner

Dated: March 16, 2026



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