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**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA**

LAZARO REINIER)
ALONSO DOMINICHE)
(A ))

Petitioner,)

v.)

Case No.: 2:26-cv-00795

PAMELA BONDI, U.S. Attorney General)

PETITION FOR WRIT OF HABEAS
CORPUS

KRISTI NOEM, U.S.)
Secretary of Homeland Security ("DHS"),)

TODD LYONS, Acting)
Director U.S. Immigration and Customs)
Enforcement,)

JUAN AGUDELO, Acting Miami Field)
Office Director,)

DAVID HARDIN, Sheriff and Warden)
of Glades County Detention Center)

IN THEIR OFFICIAL)
CAPACITIES)

Respondents.)
_____)

INTRODUCTION

1. Petitioner, Lazaro Reinier Alonso Dominiche, is in the physical custody of Respondents at the Glades County Detention Center. Petitioner has been detained for over 154 days without an opportunity to be heard on bond. He now faces unlawful detention because the Department of Homeland Security (DHS) and the Executive Office of Immigration Review (EOIR) have concluded Petitioner is subject to mandatory detention.
2. The Fifth Amendment protects “persons” – not just citizens – from being deprived of liberty without due process of law. As established in *Zadvydas v. Davis*, 533 U.S. 678 (2001), and reaffirmed in *Demore v. Kim*, 538 U.S. 510 (2003), non-citizens in removal proceedings are entitled to constitutional due process, especially where physical liberty is at stake.
3. The Fourteenth Amendment declares that no person may be deprived of life, liberty, or property without due process of law. U.S. Const. amend. XIV, § 1. The Fourth Amendment forbids unreasonable seizures. U.S. Const. amend. IV. The Fifth Amendment binds the federal government to the same core constitutional command: no person shall be deprived of liberty without due process of law. U.S. Const. amend. V. Those guarantees do not evaporate at the edge of the immigration statutes, nor do they disappear when the Executive relabels a person physically present in the United States as an “applicant for admission” for detention purposes. They protect all persons’ liberty against precisely what has occurred here: prolonged civil imprisonment without lawful authority and without the meaningful process the Constitution demands.

4. The modern architecture of immigration detention took shape after Congress enacted the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 (“IIRIRA”), which expanded mandatory detention in certain circumstances and revised the inspection and removal framework now codified in 8 U.S.C. §§ 1225, 1226, and 1231. After IIRIRA, courts repeatedly confronted the constitutional limits of civil immigration detention. In *Demore v. Kim*, 538 U.S. 510 (2003), the Supreme Court upheld mandatory detention for a narrow class of noncitizens under § 1226(c), while emphasizing the sharply limited context of that holding. In *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court treated § 1225(b) as a distinct detention regime for applicants for admission at the threshold of entry, in contrast to § 1226, which governs detention of noncitizens arrested after entry and already present within the interior of the United States. And well before that, in *Zadvydas v. Davis*, 533 U.S. 678 (2001), the Supreme Court made clear that immigration power, though substantial, remains constrained by the Constitution, because the Due Process Clause applies to all “persons” within the United States, including noncitizens, “whether their presence here is lawful, unlawful, temporary, or permanent.” *Id.* at 693.
5. The *Jennings* principle controls here. Once a person is physically present in this country, the Constitution’s protection of liberty is not a matter of executive grace. The Government may not seize a person, hold him in civil detention, and then insulate that detention from meaningful judicial review by invoking an overbroad reading of § 1225(b) and a newly minted administrative decision. The writ of habeas corpus remains available to test whether the government has lawful authority for the restraint. Here, it does not.

6. Here, Petitioner is charged with, inter alia, not being in possession of a valid unexpired immigrant visa, re-entry permit, border crossing card, or other valid entry document required by the Act. *See Exhibit A*, Notice to Appear.
7. Petitioner entered the United States on March 16, 2024 at a port of entry and was released from Respondents' custody pursuant to a grant of humanitarian parole under INA § 212(d)(5)(A); 8 U.S.C. § 1182(d)(5)(A), allowing him to remain in the United States until March 15, 2026. *See id.*; *see also, Exhibit B*, Department of Homeland Security Reply to Petitioner Motion to Terminate; *see also, Exhibit C*, Customs and Border Protection I-94, Record of Admission. Before the expiration of his parole, Petitioner filed an I-485, Application for Adjustment of Status under the Cuban Adjustment Act. *See Exhibit D*, I-485 Receipt.
8. The apprehension that led to Petitioner's current detention was not at a port-of-entry while he was entering the United States. It took place in Palm Beach County, Florida in October 2025, over a year and a half after he entered the United States and had been living and working legally within the country with a pending I-485, Application for Adjustment of Status.
9. Nonetheless, based on the allegations in Petitioner's Notice to Appear in removal proceedings, DHS denied Petitioner release from immigration custody and an immigration judge denied Petitioner's bond on December 2, 2025.
10. Respondents allege that an immigration judge does not have jurisdiction of Petitioner's bond hearing because he is an arriving alien subject to 8 U.S.C. § 1225(b); however, Petitioner's re-detention did not take place at a port of entry and therefore the discretionary

bond provision at INA § 236(a); 8 U.S.C. § 1226(a) applies because Petitioner is already here.

11. Petitioner's detention is consistent with a new DHS policy issued on July 8, 2025, instructing all Immigration and Customs Enforcement (ICE) employees to consider anyone inadmissible under § 1182(a)(6)(A)(i)—i.e., those present in the United States without admission or inspection—to be subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.
12. Similarly, on September 5, 2025, the Board of Immigration Appeals (BIA or Board) issued a precedent decision, binding on all immigration judges, holding that an immigration judge has no authority to consider bond requests for any person who entered the United States without admission. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board determined that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible to be released on bond.
13. Petitioner's detention on this basis violates the plain language of the Immigration and Nationality Act. Section 1225(b)(2)(A) does not apply to individuals like Petitioner who previously entered and are now residing in the United States. Instead, such individuals are subject to a different statute, § 1226(a), that allows for release on conditional parole or bond.
14. Respondents' new legal interpretation is plainly contrary to the statutory framework and contrary to decades of agency practice applying § 1226(a) to people like Petitioner.
15. Accordingly, Petitioner seeks a writ of habeas corpus requiring that he be released unless Respondents provide a bond hearing under § 1226(a) within seven days.

JURISDICTION

16. This action arises under the Constitution of the United States and the Immigration and Nationality Act (INA), 8 U.S.C. § 1101 et seq.
17. This Court has subject matter jurisdiction under 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).
18. Jurisdiction exists despite 8 U.S.C. § 1252(g) because Petitioner is not seeking direct review of the removal order, instead Petitioner is challenging unlawful custody and removal procedure. *Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 140 S. Ct. 1959 (2020); *INS v. St. Cyr*, 533 U.S. 289, 121 S. Ct. 2271 (2001).
19. This Court may grant relief under the habeas corpus statutes, 28 U.S.C. § 2241 et seq., the Declaratory Judgment Act, 28 U.S.C. § 2201 et seq., the All Writs Act, 28 U.S.C. § 1651, and the Immigration and Nationality Act, 8 U.S.C. § 1252(e)(2).

VENUE

20. 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 District of Florida the judicial district in which Petitioner currently is detained.
21. 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 District of Florida.

REQUIREMENTS OF 28 U.S.C. §§ 2241, 2243

22. The Court must grant the petition for writ of habeas corpus “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.*
23. 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).
24. Petitioner is “in custody” within the meaning of 28 U.S.C. § 2241 because he is arrested and detained by Respondents at the Glades County Detention Center in Moore Haven, Florida, pursuant to immigration detention authority. Petitioner challenges that custody as unlawful under the Constitution, federal law, and applicable treaties.

PARTIES

25. Petitioner is, LAZARO REINIER ALONSO DOMINICHE, a citizen and national of Cuba who entered the United States on or about March 16, 2024.
26. Respondent, DAVID HARDIN, in their official capacity as Warden, Glades County Detention Center, has immediate custody over Petitioner and is responsible for his detention.
27. Respondent, JUAN AGUDELO, in their official capacity as the Miami Field Office Director for Enforcement and Removal Operations, U.S. Immigration and Customs

Enforcement, is responsible for the custody, detention, and removal of noncitizens within this jurisdiction.

28. Respondent, TODD LYONS, in their official capacity as Acting Director of the U.S. Department of Homeland Security Immigration and Customs Enforcement.

29. Respondent, KRISTI NOEM, in their official capacity as Secretary of the U.S. Department of Homeland Security, is the head of Department of Homeland Security.

30. Respondent, PAMELA BONDI, in their official capacity as Attorney General of the United States, is charged with the administration and enforcement of the immigration laws and is a proper respondent under 28 U.S.C. § 2243.

STATEMENT OF FACTS

31. On September 23, 2023, Petitioner fled Cuba as a political refugee with the intention of seeking asylum in the United States. After arriving in Mexico, Petitioner scheduled an interview to enter the United States through the CBP One application on his cellphone.

32. Petitioner's entry date was scheduled by the United States government through the application for March 16, 2024, almost six months in the future, which ultimately was the date that he arrived in the United States according to his appointment.

33. Upon entry into the United States on this day, Petitioner was issued a Notice to Appear charging him as an "Arriving Alien," and alleging he applied for admission and was paroled into the United States pursuant to Section 212(d)(5) of the Immigration Act. *See Exhibit A*, Notice to Appear.

34. Petitioner was charged with inadmissibility pursuant to Section 212(a)(7)(A)(i)(I) of the Immigration and Nationality Act, “as an immigrant who, at the time of application for admission, is not in possession of a valid, unexpired immigrant visa, reentry permit, border crossing card, or other valid entry document required by the Act, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality as required under the regulations issued by the Attorney General under section 211(a) of the Act.” *See id.*
35. Petitioner was subsequently released from detention pursuant to the Department’s authority in INA § 212(d)(5); 8 U.S.C. 1182(d)(5). Petitioner was admitted until April 18, 2025, which Respondents ultimately extended to March 15, 2026, a period that only expired several days ago. *See Exhibit C*, I-94s Issued to Petitioner.
36. On April 4, 2025, before the expiration of Petitioner’s parole status, he applied for adjustment of status under the Cuban Adjustment Act, an application which remains pending with USCIS to this day. *See Exhibit D*, I-485 Receipt; *see also*, *Exhibit E*, USCIS Case Status Online for Petitioner’s I-485.
37. Throughout his years in the United States, Petitioner has established a connection of friends, family, and coworkers who have supported his presence in the United States through reference letters touting his dedication, discipline, and respect for the laws of the United States. *See Exhibit F*, Reference Letters.
38. On or about October 14, 2026, Respondents detained Petitioner and he was transferred to Miramar ICE processing before being transferred to the notorious “Alligator Alcatraz,” then transferred again to Krome North Processing Center before being ultimately placed at

the Glades County Detention Center where he has resided ever since. *See Exhibit G*, ICE Detainee Locator.

39. On December 22, 2025, Petitioner's request for bond was denied for lack of jurisdiction. It was not addressed on the merits. *See Exhibit H*, Immigration Bond Denial for Lack of Jurisdiction.
40. On January 12, 2026, Petitioner filed his application for asylum with the immigration court in defense of his removal proceedings.
41. On January 30, 2026, Petitioner, through undersigned counsel moved for discretionary termination his removal proceedings pursuant to 8 C.F.R. 1003.18(d)(1)(ii)(B) based on Petitioner's *prima facie* eligibility and pending application for Cuban adjustment of status with USCIS, the agency with exclusive jurisdiction over Petitioner's application because of his status as an arriving alien. 8 C.F.R. §§ 245.2(a)(1).
42. On February 10, 2026, the presiding immigration judge denied Petitioner's motion to terminate, leaving him with a pending I-589, Application for Asylum as his only relief despite his *prima facie* eligibility for Cuban adjustment.
43. Petitioner is scheduled for an individual hearing on his application for asylum on April 10, 2026 at 1:00PM.

EXHAUSTION

44. Petitioner remains detained without any opportunity for release on bond. Exhaustion under 28 U.S.C. § 2241 is prudential, not jurisdictional, and other courts have repeatedly excused it where administrative review is inadequate, futile, or would cause irreparable harm. *F.-G. v. Noem, No. 25-CV-0243-CVE-MTS*, 2025 U.S. Dist. LEXIS 111539 (N.D. Okla. June 12, 2025) (declining to require exhaustion where immigration detainee was "trapped in

prolonged detention without a meaningful opportunity for bond”); *Quintana Casillas v. Sessions*, No. 17-cv-01395, slip op. at 9–11 (D. Colo. 2018) (explaining that when “the question presented is purely legal and has been repeatedly mishandled administratively, exhaustion serves no useful purpose.”). Here, the appellate body is the Board of Immigration Appeals, the same body that issued the decision stripping immigration judges of their jurisdiction to hear bonds.

45. Other districts have held that habeas corpus relief was available despite a pending BIA appeal, because “[e]ach additional day of detention without a bond hearing constitutes irreparable harm that cannot be remedied after the fact” *LG v. Choate*, No. 23-cv00611, slip op. at 14 (D.N.M. 2024).
46. The BIA appeal process here exemplifies why exhaustion is unnecessary. As *Rodriguez v. Bostock* explained, while the BIA has occasionally remanded bond denials where immigration judges misapplied § 1225(b), it has declined to issue a precedential ruling. 779 F. Supp. 3d 1239, 1245 (W.D. Wash. 2025).
47. Consequently, many immigration judges continue to deny bond altogether, and appeals typically take six months or more, during which noncitizens remain detained unlawfully, with severe consequences for their health, families, and ability to defend against removal. *Id.*
48. Because Petitioner’s injury is the very fact of unlawful detention without a bond hearing, administrative remedies are neither timely nor effective. Habeas corpus is the only adequate remedy.

LEGAL FRAMEWORK

49. First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ. *See* 8 U.S.C. § 1229a. Individuals in § 1226(a) detention are generally entitled to a bond hearing at the outset of their detention, *see* 8 C.F.R. §§ 1003.19(a), 1236.1(d), while noncitizens who have been arrested, charged with, or convicted of certain crimes are subject to mandatory detention, *see* 8 U.S.C. § 1226(c).
50. Second, the INA provides for mandatory detention of noncitizens subject to expedited removal under 8 U.S.C. § 1225(b)(1) and for other recent arrivals seeking admission referred to under § 1225(b)(2).
51. Last, the INA also provides for detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings, *see* 8 U.S.C. § 1231(a)–(b).
52. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).
53. The detention provisions at § 1226(a) and § 1225(b)(2) were enacted as part of the Illegal Immigration Reform and Immigrant Responsibility Act (IIRIRA) of 1996, Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009–585. Section 1226(a) was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119–1, 139 Stat. 3 (2025).
54. Following the enactment of the IIRIRA, EOIR drafted new regulations explaining that, in general, people who entered the country without inspection were not considered detained under § 1225 and that they were instead detained under § 1226(a). *See* Inspection and Expedited Removal of Aliens; Detention and Removal of Aliens; Conduct of Removal Proceedings; Asylum Procedures, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997).
55. Thus, in the decades that followed, most people who entered without inspection and were placed in standard removal proceedings received bond hearings, unless their criminal

history rendered them ineligible pursuant to 8 U.S.C. § 1226(c). That practice was consistent with many more decades of prior practice, in which noncitizens who were not deemed “arriving” were entitled to a custody hearing before an IJ or other hearing officer. *See* 8 U.S.C. § 1252(a) (1994); *see also* H.R. Rep. No. 104-469, pt. 1, at 229 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).

56. On July 8, 2025, ICE, “in coordination with” DOJ, announced a new policy that rejected well-established understanding of the statutory framework and reversed decades of practice.

57. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”¹ claims that all persons who entered the United States without inspection shall now be subject to mandatory detention provision under § 1225(b)(2)(A). The policy applies regardless of when a person is apprehended, and affects those who have resided in the United States for months, years, and even decades.

58. On September 5, 2025, the BIA adopted this same position in a published decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to detention under § 1225(b)(2)(A) and are ineligible for IJ bond hearings.

59. Since Respondents adopted their new policies, dozens of federal courts have rejected their new interpretation of the INA’s detention authorities. Courts have likewise rejected *Matter of Yajure Hurtado*, which adopts the same reading of the statute as ICE.

60. Even before ICE or the BIA introduced these nationwide policies, IJs in the Tacoma, Washington, immigration court stopped providing bond hearings for persons who entered

¹ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

the United States without inspection and who have since resided here. There, the U.S. District Court in the Western District of Washington found that such a reading of the INA is likely unlawful and that § 1226(a), not § 1225(b), applies to noncitizens who are not apprehended upon arrival to the United States. *Rodriguez Vazquez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025).

61. Subsequently, court after court has adopted the same reading of the INA's detention authorities and rejected ICE and EOIR's new interpretation. *See, e.g., Gomes v. Hyde*, No. 1:25-CV-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Diaz Martinez v. Hyde*, No. CV 25-11613-BEM, --- F. Supp. 3d ----, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, No. CV 25-02157 PHX DLR (CDB), 2025 WL 2337099 (D. Ariz. Aug. 11, 2025), *report and recommendation adopted*, No. CV-25-02157-PHX-DLR (CDB), 2025 WL 2349133 (D. Ariz. Aug. 13, 2025); *Lopez Benitez v. Francis*, No. 25 CIV. 5937 (DEH), 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, No. 0:25-cv-03142-SRN-SGE, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Arrazola-Gonzalez v. Noem*, No. 5:25-cv-01789-ODW (DFMx), 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Romero v. Hyde*, No. 25-11631-BEM, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Samb v. Joyce*, No. 25 CIV. 6373 (DEH), 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Ramirez Clavijo v. Kaiser*, No. 25-CV-06248-BLF, 2025 WL 2419263 (N.D. Cal. Aug. 21, 2025); *Leal-Hernandez v. Noem*, No. 1:25-cv-02428-JRR, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Kostak v. Trump*, No. 3:25-cv-01093-JE-KDM, 2025 WL 2472136 (W.D. La. Aug. 27, 2025); *Jose J.O.E. v. Bondi*, No. 25-CV-3051 (ECT/DJF), --- F. Supp. 3d ----, 2025 WL 2466670 (D. Minn. Aug. 27, 2025) *Lopez-Campos v. Raycraft*, No. 2:25-cv-12486-BRM-EAS, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Vasquez Garcia v. Noem*, No.

25-cv-02180-DMS-MM, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Zaragoza Mosqueda v. Noem*, No. 5:25-CV-02304 CAS (BFM), 2025 WL 2591530 (C.D. Cal. Sept. 8, 2025); *Pizarro Reyes v. Raycraft*, No. 25-CV-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Sampiao v. Hyde*, No. 1:25-CV-11981-JEK, 2025 WL 2607924 (D. Mass. Sept. 9, 2025); *see also, e.g., Palma Perez v. Berg*, No. 8:25CV494, 2025 WL 2531566, at *2 (D. Neb. Sept. 3, 2025) (noting that “[t]he Court tends to agree” that § 1226(a) and not § 1225(b)(2) authorizes detention); *Jacinto v. Trump*, No. 4:25-cv-03161-JFB-RCC, 2025 WL 2402271 at *3 (D. Neb. Aug. 19, 2025) (same); *Anicasio v. Kramer*, No. 4:25-cv-03158-JFB-RCC, 2025 WL 2374224 at *2 (D. Neb. Aug. 14, 2025) (same).

62. Courts have uniformly rejected DHS’s and EOIR’s new interpretation because it defies the INA. As the *Rodriguez Vazquez* court and others have explained, the plain text of the statutory provisions demonstrates that § 1226(a), not § 1225(b), applies to people like Petitioner.
63. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” These removal hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].”
64. The text of § 1226 also explicitly applies to people charged as being inadmissible, including those who entered without inspection. *See* 8 U.S.C. § 1226(c)(1)(E). Subparagraph (E)’s reference to such people makes clear that, by default, such people are afforded a bond hearing under subsection (a). As the *Rodriguez Vazquez* court explained, “[w]hen Congress creates ‘specific exceptions’ to a statute’s applicability, it ‘proves’ that absent those exceptions, the statute generally applies.” *Rodriguez Vazquez*, 779 F. Supp. 3d at 1257

(citing *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); *see also Gomes*, 2025 WL 1869299, at *7.

65. Section 1226 therefore leaves no doubt that it applies to people who face charges of being inadmissible to the United States, including those who are present without admission or parole.

66. By contrast, § 1225(b) applies to people arriving at U.S. ports of entry or who recently entered the United States. The statute’s entire framework is premised on inspections at the border of people who are “seeking admission” to the United States. 8 U.S.C. § 1225(b)(2)(A). Indeed, the Supreme Court has explained that this mandatory detention scheme applies “at the Nation’s borders and ports of entry, where the Government must determine whether a[] [noncitizen] seeking to enter the country is admissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

67. The courts have distilled two central principles:

- a. Geographic/temporal limits: § 1225 applies only to noncitizens apprehended at or near the border and in the act of entry (*see Thuraissigiam*, 591 U.S. 103, 114, 139 (2020)), not to those apprehended years later in the interior.
- b. Statutory structure: Reading § 1225 as covering all noncitizens who were never lawfully “admitted” would render § 1226 largely meaningless, contrary to the rule against surplusage. *See Martinez*, 2025 WL 2084238, at *7; *Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *6–8 (D. Mass. July 7, 2025).

68. A contrary reading renders superfluous recent amendments in the *Laken Riley Act*, Pub. L. No. 119-1, 139 Stat. 3 (2025), which added INA § 236(c)(1)(E) mandating detention for noncitizens inadmissible under § 212(a)(6)(A)(present without admission) who are

implicated in enumerated crimes. If all such noncitizens were already mandatorily detained under § 235(b)(2)(A), Congress's addition would be meaningless. *See Corley v. United States*, 556 U.S. 303, 314 (2009) (statutes must be construed to give effect to all provisions).

69. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who have already entered and were residing in the United States at the time they were apprehended.

70. Finally, *Loper Bright Enterprises v. Raimondo*, 603 U.S. 369 (2024) is a landmark decision overruling *Chevron* deference thereby permitting this Honorable Court to come to its own conclusion on the interpretation of the relevant statutes without relying on Board precedent in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), which was wrongly decided.

Arriving Alien

71. Petitioner's detention under Section 1225(b), whether it be as an applicant for admission or as an arriving alien, is an unsustainable legal fiction that does not withstand scrutiny. *See Ivonin v. Rhoney*, No. 6:25-CV-06673 EAW, 2026 U.S. Dist. LEXIS 14208 (W.D.N.Y. Jan. 26, 2026) (finding that where a petitioner is paroled into the country and that parole expires, and the subsequent re-arrest is not a continuation of the initial border encounter, but an independent decision to detain the individual after the expiration of his parole, the detention pursuant to that re-arrest arises under § 1226).

72. Many courts have come to the same conclusion, rejecting the "entry fiction" argument where a noncitizen is apprehended at the border, released with humanitarian parole, and the re-detained and treated as if they are only just arriving in the United States. *See e.g. id.*; *Ab-Rahim v. Marich*, No. 6:26-CV-06005-EAW, 2026 U.S. Dist. LEXIS 22144, at *5

(W.D.N.Y. Feb. 3, 2026); *Campbell v. Almodovar*, No. 1:25-CV-09509 (JLR), 2025 U.S. Dist. LEXIS 256202, 2025 WL 3538351, at *6 (S.D.N.Y. Dec. 10, 2025); *Cabrera Martinez v. Marich*, No. 25-CV-1110-LJV, 2025 U.S. Dist. LEXIS 268379, at *5 (W.D.N.Y. Dec. 31, 2025); *Qasemi v. Francis*, No. 25-cv-10029, 2025 U.S. Dist. LEXIS 261199, at *7 (S.D.N.Y. Dec. 17, 2025); *Daza v. Albarran*, No. 25-CV-10214-RFL, 2026 U.S. Dist. LEXIS 5708, at *4 (N.D. Cal. Jan. 12, 2026); *Montiel v. Raycraft*, No. 1:25-CV-1610, 2026 U.S. Dist. LEXIS 1726, at *2 (W.D. Mich. Jan. 6, 2026).

73. These decisions all come to a similar, simple conclusion: according to the plain language of the statute, a noncitizen who entered the United States long before their re-detention cannot be considered “arriving.”

74. In *Montiel*, a district court in the Western District of Michigan rejected the government’s argument that petitioner was detained pursuant to § 1225(b)(2) despite the expiration of prior parole pursuant to 8 U.S.C. § 1182(d)(5) because “while § 1182(d)(5)(A) may permit Petitioner to be returned to ICE custody, there is nothing in this text that affirmatively authorizes. . . indefinite detention. . . [t]o the contrary, it provides that, when parole is revoked, the alien shall. . . be returned to the custody from which he was paroled and thereafter his case shall continue to be dealt with in the same manner as that of any other applicant for admission.” 2026 WL 32076, at *2, 6-7 (internal citations omitted). Based on the foregoing, the Montiel court “concluded that § 1226(a), not § 1225(b)(2)(A), governs ‘any other applicant for admission’ who has resided in the United States and was already within the United States when apprehended and arrested.” *Id.* at 7; see also *O.F.B. v. Maldonado*, No. 25-cv-6336, 2025 U.S. Dist. LEXIS 267186, at *5 (E.D.N.Y. Nov. 25, 2025) (holding that “Section 1225 does not apply to a noncitizen like Petitioner [whose

parole has expired but], who has been living in the United States for years, and that his detention can only be authorized if it came about as a result of procedures compliant with 8 U.S.C. § 1226(a).").

75. Here, Petitioner followed all the rules. He arrived in Mexico in September 2023, downloaded the U.S. government's application on his phone, and awaited his appointment. He presented at a U.S. port of entry on March 16, 2024, and was allowed to enter into the United States pursuant to humanitarian parole. He complied with the terms of his parole and filed his application for adjustment of status after he had been residing in the United States for at least a year, as is required by the Cuban Adjustment Act. *See* Cuban Adjustment Act, Pub. L. No. 89-732, 80 Stat. 1161 (1966), as amended, reprinted in 8 U.S.C. § 1255 note.

76. By the time he was re-detained by ICE in October 2025, he had already been residing in the United States for almost two years.

77. Thus, based on factual and legal reality, this Court should find that at the time of his detention by ICE he was not an "arriving alien" who was "seeking admission" into the United States. Instead, he is an applicant for Cuban adjustment who had been residing in the United States for at least a year at Respondent's discretion.

78. Therefore, § 1226(a), not § 1225(b)(2)(A), governs his prolonged detention by Federal Respondents, and Petitioner is not subject to mandatory detention.

79. Instead, he is entitled to a bond hearing, or immediate release because of his unreasonably long detention.

CLAIMS FOR RELIEF

COUNT I
UNLAWFUL DETENTION UNDER 8 U.S.C. § 1225; CUSTODY PROPERLY
GOVERNED BY 8 U.S.C. § 1226
(Misapplication of Mandatory Detention Statute)

80. Petitioner incorporates by reference the allegations of fact set forth in the preceding paragraphs.
81. The mandatory detention provision at 8 U.S.C. § 1225(b)(2) does not apply to all noncitizens residing in the United States who are subject to the grounds of inadmissibility. As relevant here, it does not apply to those who previously entered the country and have been residing in the United States prior to being apprehended and placed in removal proceedings by Respondents.
82. This argument is legally erroneous. Section 1225 applies to noncitizens actively “seeking admission” at the border or its immediate functional equivalent. By contrast, § 1226 governs the arrest and detention of those “already in the country” pursuant to a warrant issued by the Attorney General. The two provisions are mutually exclusive. *See Jennings v. Rodriguez*, 583 U.S. 281, 288–89 (2018); *Matter of M-S-*, 27 I. & N. Dec. 509, 516 (A.G. 2019).
83. Petitioner plainly falls within § 1226. He was paroled into the United States, applied for adjustment of status under the Cuban Adjustment Act, and has resided here for over a year and a half, thereby establishing deep community ties and employment before being detained within the interior of the United States.
84. Petitioner was not “seeking admission” when he was re-detained in October 2025. To hold otherwise would effectively erase the statutory line between §§ 1225 and 1226, converting

virtually all noncitizens present without admission into mandatory detainees and rendering § 1226(a) a dead letter. Courts have consistently rejected this outcome. *See Martinez*, 2025 WL 2084238, at *7 (rejecting interpretation that would “nullify” Congress’s amendment to § 1226(c)); *Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *7 (D. Mass. July 7, 2025) (noting that §§ 1225 and 1226 “apply to different classes” of noncitizens).

85. In sum, Petitioner was not “seeking admission” within the meaning of § 1225(b) but was “already in the country” within the meaning of *Jennings*, 583 U.S. at 288–89. His custody is governed by § 1226(a), under which detention is discretionary and subject to individualized bond hearings. DHS’s argument is contrary to law, unsupported by the record, and must be set aside.
86. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

COUNT II

Violation of the Due Process Clause of the Fifth Amendment to the United States Constitution (Procedural Due Process); 5 U.S.C. §§ 702, 706

87. Petitioner re-alleges the allegations contained in all preceding paragraphs of this Petition-Complaint as if fully set forth herein.
88. The government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that the Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
89. Petitioner has a fundamental interest in liberty and being free from official restraint.
90. The government’s detention of Petitioner without a bond redetermination hearing to determine whether he is a flight risk or danger to others violates his right to due process.

91. Here, Petitioner has been detained for over five months with no opportunity to be heard on whether he is a flight risk or danger to the community, and no allegations by Respondents that he is.
92. The government upon Petitioner's original entry into the United States, made the reasoned decision to allow him to enter the United States. The Due Process Clause entitles Petitioner to meaningful process assessing whether his current detention is justified. The arrest and detention of Petitioner without an opportunity for him to contest his detention in front of a neutral decision-maker after he had been living and working in the United States for over a year and a half provide insufficient due process and violates the Due Process Clause of the Fifth Amendment of the Constitution.
93. Respondents have alleged no changes to the facts that justify this change in custody.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- (1) Assume jurisdiction over this matter;
- (2) Order that Petitioner shall not be transferred outside the Middle District of Florida;
- (3) Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days.
- (4) Declare that the Petitioner's detention violates the Due Process Clause of the Fifth Amendment.
- (5) Issue a Writ of Habeas Corpus ordering Respondents to release Petitioner immediately.
- (6) Grant any further relief this Court deems just and proper.

/s/ Jan Peter Weiss

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LAZARO REINIER	)	
ALONSO DOMINICHE	)	
(A )	)	
Petitioner,	)	
v.	)	Case No.: 2:26-cv-00795
	)	
PAMELA BONDI, U.S. Attorney General, et al.	)	

INDEX OF SUPPORTING DOCUMENTS

Attachment No.	Document Title
1	Civil Cover Sheet
2	Evidentiary Exhibits A – H
3	Summons to the Attorney General of the United States
4	Summons to the U.S. Department of Homeland Security
5	Summons to the Glades County Detention Center
6	Summons to the U.S. Immigration and Customs Enforcement
7	Summons to the ICE Miami Field Office
8	Motion to Show Cause and Proposed Order