

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

Case No. 2:26-cv-00813-JES-NPM

ELIAZAR RUIZ DIAZ,

Petitioner,

v.

**FIELD OFFICE DIRECTOR,
Miami Field Office,
U.S. Immigration and Customs Enforcement;**

Respondent.

VERIFIED PETITION FOR WRIT OF HABEAS CORPUS

The petitioner, Eliazar Ruiz Diaz, submits this Verified Petition for Writ of Habeas Corpus, by and through undersigned counsel, and alleges as follows:

INTRODUCTION

1. Mr. Ruiz Diaz is a native and citizen of Guatemala, and is currently under civil immigration custody by the respondent at the Florida Soft Side South in Ochopee, Florida. **Ex. A.**

2. On or about March 8, 2026, the petitioner was driving and subsequently stopped and detained by Immigration and Customs Enforcement (ICE) where he remains.

3. Petitioner has not filed a request for bond redetermination as the

Immigration Judges (IJ) at the Krome Detention Processing Center¹ are denying bond based on jurisdiction and relying on *Matter of Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that applicants for admissions are subject to mandatory detention for the remainder of their removal proceedings under 8 U.S.C. § 1225(b)(2)(A).

4. The reliance of the Department of Homeland Security (DHS) on *Matter of Hurtado*, rejecting the argument that a noncitizen who entered the United States without inspection and has resided here for years is not seeking admission under § 1225(b)(2)(A), is misplaced and does not align with the circumstances surrounding the petitioner's recent detention.

5. The petitioner is entitled to an individualized bond hearing as a detainee under 8 U.S.C. § 1226(a).

JURISDICTION

6. The Court has jurisdiction over this case and may grant relief pursuant to 28 U. S. C. § 2241, et seq., (habeas corpus) and pursuant to Art. I § 9, cl. 2 of the U.S. Constitution (the Suspension Clause).

7. The Court also has jurisdiction over this case under 28 U. S. C. § 1331 (federal question), and may grant relief pursuant to the All-Writs Act, 28 U. S. C. § 1651, and the Declaratory Judgment Act, 28 U. S. C. §§ 2201–02.

¹ Although the petitioner is detained at Florida Soft Side South, jurisdiction for purposes of the Executive Office of Immigration Review (EOIR) lies with Krome Detention Processing Center in Miami, Florida.

8. Federal district courts have jurisdiction to hear habeas claims by non-citizens challenging the lawfulness of their detention. *See, e.g., Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

VENUE

9. Venue is proper in this district under 28 U. S. C. § 2241 because this is the district where the “the custodian can be reached by service of process.” *Rasul v. Bush*, 542 U. S. 466, 478–79 (2004).

10. The petitioner, Mr. Ruiz Diaz, is a Guatemalan citizen and national, who resides in Sunrise, Florida. His alien registration number (“A no.”) is A  . He last entered the United States on March 14, 2024, as an unaccompanied minor, on or near the Southwest land border of the United States.

PARTIES

11. The Field Office Director is sued in his or her official capacity as the Field Office Director for the U.S. Immigration and Customs Enforcement Miami Field Office. In this capacity, he has jurisdiction over the detention facility in which the petitioner is held, is authorized to release the petitioner, and is a legal custodian of the petitioner.

EXHAUSTION OF REMEDIES

12. No exhaustion is statutorily required for the petitioner’s habeas claims because “Section 2241 itself does not impose an exhaustion requirement,” *Santiago-Lugo v. Warden*, 785 F.3d 467, 474 (CA11 2015).

13. As to the petitioner's claims under the Administrative Procedure Act, there are no administrative remedies available that the plaintiff is required to exhaust under *Darby v. Cisneros*, 509 U.S. 137 (1993), and an agency's failure to act is reviewable agency action, *Norton v. S. Utah Wilderness Alliance*, 542 U. S. 55, 61-62 (2004).

14. In this case, exhaustion serves no purpose because the conclusion of the administrative process can be readily presumed and would not provide for an adequate remedy given the Board of Immigration Appeal's (BIA) recent decision in *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025).

15. Generally, "exhaustion is not required where no genuine opportunity for adequate relief exists . . . or an administrative appeal would be futile[.]" *Linfors v. United States*, 673 F. 2d 33, 334 (CA11 1982). Accordingly, the petitioner urgently seeks and is entitled to habeas relief because he has no meaningful opportunity to challenge the constitutionality of his detention through any available administrative process. *Boumediene v. Bush*, 553 U. S. 723, 783 (2008).

LEGAL FRAMEWORK FOR ENTRY AND DETENTION

16. Section 1229a of Title 8 of the U.S. Code (Section 240 of the INA) describes the primary process through which the government seek to remove non-citizens from the United States. It specifies that "[u]nless otherwise specified in this chapter, a proceeding under this section shall be the sole and exclusive procedure for determining whether an alien may be . . . removed from the United States." 8

U.S.C. § 1229a(a)(3).

17. To initiate removal proceedings against a non-citizen under Section 1229a, the Government must issue the non-citizen a Notice to Appear (NTA). 8 U.S.C. § 1229(a)(1). Most non-citizens go through removal proceedings from outside detention. But ICE is increasingly detaining non-citizens during their removal proceedings.

18. Section 1226 of Title 8 of the U.S. Code (Section 236 of the INA) is the default provision that governs the arrest and detention of non-citizens pending removal proceedings. It states that “on a warrant issued by the Attorney General,² a[] [non-citizen] may be arrested and detained pending a decision on whether the [non-citizen] is to be removed from the United States” 8 U.S.C. § 1226(a). **Non-citizens arrested upon a warrant and in ongoing removal proceedings are eligible to seek bond from an IJ.** *Id.* § 1226(a)(2) (emphasis added).

19. A **separate** provision governs the detention of people who seek admission to the United States **at the border**. It states that “in the case of a [non-admission, if the examining immigration officer determines that a [non-citizen] seeking admission is not clearly and beyond a doubt entitled to be admitted, the non-citizen shall be detained for a proceeding under section 1229a of this title.” 8 U.S.C. § 1225(b)(2)(A). IJs do not have jurisdiction to grant bond for such

² In 2003, the Immigration and Naturalization Service (INS) within the Department of Justice (DOJ) became what is now ICE, which is housed within DHS. Therefore, some statutory references to the “Attorney General,” like this one, now refer to the Secretary of DHS.

“applicant[s] for admission,” though DHS retains the discretion to release such non-citizens on a specific type of parole “for urgent humanitarian reasons or significant public benefit.” 8 U.S.C. § 1182(d)(5)(A).

FACTUAL ALLEGATIONS

20. On or about March 14, 2024, the petitioner entered the United States without inspection or parole at or near the Southwest United States land border, as an unaccompanied minor.

21. The petitioner, was stopped, apprehended or detained by immigration officials when he entered the United States on or about March 14, 2024.

22. Immigration officials transferred the petitioner to the Office of Refugee and Resettlement facility. **Ex. B.**

23. The petitioner was released to the custody of his biological father several weeks later.

24. On or about January 2, 2026, the petitioner’s biological father was deported from the United States to Guatemala.

25. On or about March 8, 2026, while driving, the petitioner was stopped and apprehended by Immigration and Custom Enforcement officers.

26. Petitioner has been detained by Immigration and Custom Enforcement since March 8, 2026.

27. Removal proceedings against the petitioner have not been initiated.

28. The petitioner entered the United States as an unaccompanied minor

and just recently turned 18 years old on November 8, 2007. **Ex. B.**

29. Petitioner is eligible to apply for relief under 8 U.S.C. § 1158, asylum.

30. Petitioner is not barred by the one-year filing deadline because he falls under 8 U.S.C. § 1158(a)(2)(B), as he can demonstrate by clear and convincing evidence that an exception applies to him, namely turning 18 years-old on November 8, 2007.

31. The petitioner remains detained at Florida soft Side South as of the date of this petition.

ALLEGATIONS OF LAW

I. The Petitioner's Detention Without a Bond Redetermination Hearing is Unlawful Because He is Not Subject to Mandatory Detention under 8 U.S.C. § 1225(b)(2).

32. The respondent has subjected the petitioner to unlawful mandatory detention pursuant to 8 U.S.C. § 1225(b)(2), despite the fact that he was apprehended inside the United States after having resided here for over two years.

33. As a result, the respondent has deprived the petitioner of his liberty without due process, contrary to the Fifth Amendment and the INA.

34. The Immigration Judges at Krome Processing Center, refuse to adjudicate bond redetermination hearings on the merits, because § 1225(b)(2) mandates detention until the conclusion of removal proceedings and the petitioner's custody is lawful and the Immigration Court lacks jurisdiction to review it.

35. Petitioner disputes these contentions and submits that his detention falls squarely within the scope of § 1226(a), which provides for discretionary detention and permits release on bond or conditional parole pending completion of removal proceedings.

36. The Immigration Judges rely on the BIA decision *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), which courts in this district and other districts across the country have rejected to follow. *See e.g., Garcia v. Noem*, Case No. 2:25-CV-00879-SPC-NPM, 2025 WL 3043895 (M.D. Fla. Oct. 31, 2025); *Puga v. Ass't Field Office Director*, Case No. 25-24535-CIV-ALTONAGA, 2025 WL 2938369 (S.D. Fla. Oct. 15, 2025); *Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025).³

37. This Court should also decline to follow *Matter of Yajure Hurtado*, whose interpretation of § 1225 is at odds with the text of § 1225 and § 1226, is inconsistent with earlier BIA decisions.

38. Specifically, Chief Judge Altonaga issued a decision in *Puga* rejecting the Respondents' reliance on *Matter of Yajure Hurtado*. In that decision, the Court explained:

“Respondents’ reliance on the BIA’s decision in *Matter of Yajure Hurtado* — rejecting the argument that a noncitizen who entered the United States without inspection and has resided here for years is not

³ *See also Barrera v. Tindall*, No. 3 :25-CV-541-RGJ, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025); *Zumba v. Bondi*, No. 25-CV-14626-KSH-, 2025 WL 2753496 (D.N.J. Sept. 26, 2025); *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828 (W.D. Tex. Sept. 22, 2025); *Lopez-Campos*, No. 2:25-CV12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Valencia Zapata v. Kaiser*, No. 25-CV07492-RFL, 2025 WL 2741654 (N.D. Cal. Sept. 26, 2025).

‘seeking admission’ under section 1225(b)(2)(A) — is also misplaced. The Court need not defer to the BIA’s interpretation of law simply because the statute is ambiguous. *See Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024) (“[C]ourts need not and under the APA may not defer to an agency interpretation of the law simply because a statute is ambiguous.” (alteration added)). As explained, the statutory text, context, and scheme of section 1225 do not support a finding that a noncitizen is ‘seeking admission’ when he never sought to do so. Additionally, numerous courts that have examined the interpretation of section 1225 articulated by Respondents — particularly following the BIA’s decision in *Matter of Yajure Hurtado* — have rejected their construction and adopted Petitioner’s. ... For these reasons, the Court finds that section 1226(a) and its implementing regulations govern Petitioner’s detention, not section 1225(b)(2)(A). Petitioner is entitled to an individualized bond hearing as a detainee under section 1226(a).”

39. In a similarly postured case, Judge Martinez explained:

“In distinguishing between noncitizens arriving to the U.S. versus noncitizens residing in the U.S., Congress acknowledged the more substantial due process rights of noncitizens already residing in the U.S. with those of noncitizens recently arriving. See H.R. REP. 104-469, p. 1, at 163-66 . . . Since then, agencies interpreting the INA have applied § 1226(a) to noncitizens like Petitioner, who were apprehended while residing in the U.S., rather than at the border . . . DHS’ interpretation of the applicability of § 1225(b)(2), rather than § 1226, to noncitizens who have resided in the country for years and were already in the United States when apprehended runs afoul of the statutes’ legislative history, plain meaning, and interpretation by courts in the First, Second, Fifth, Sixth, Eighth, and Ninth Circuits.”

Merino v. Ripa, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609 (S.D. Fla. Oct. 15,

2025) (citations omitted).

40. This case turns on the statutory distinction between § 1226(a) and § 1225(b)(2) of the INA. Section 1226(a) governs the arrest and detention of noncitizens already present in the United States pending removal proceedings,

while § 1225(b)(2) governs the detention of noncitizens arriving at the border or ports of entry. In enacting these provisions, Congress expressly recognized the greater due process rights of noncitizens residing within the United States as compared to those of “arriving” noncitizens. *See* H.R. REP. 104-469, pt. 1, at 163–66 (“an alien present in the U.S. has a constitutional liberty interest to remain in the U.S.”) (citing *Knauff v. Shaughnessy*, 338 U.S. 537 (1950)).

41. Consistent with this statutory framework, immigration agencies and courts have long applied § 1226(a)—not § 1225(b)(2)—to noncitizens apprehended inside the United States who were not seeking admission at the border. *See Maldonado v. Feely*, No. 25-cv-01542-RFB-EJY (D. Nev. Sept. 17, 2025) (“Despite being applicants for admission, aliens who are present without admission or parole will be eligible for bond and bond redetermination... inadmissible aliens, except for arriving aliens, have available to them bond redetermination hearings before an immigration judge, while arriving aliens do not.”) (citing *Inspection and Expedited Removal of Aliens*, 62 Fed. Reg. 10312, 10323 (Mar. 6, 1997)).

42. Nonetheless, on July 8, 2025, DHS issued a notice instructing ICE officers to detain all noncitizens “who have not been admitted” under § 1225(b)(2), regardless of where they were apprehended. *See* ICE Memo: *Interim Guidance Regarding Detention Authority for Applications for Admission*, AILA Doc. No. 25071607 (July 8, 2025). The Notice purports to eliminate bond eligibility for such individuals, directing that they “may not be released from ICE custody except by INA § 212(d)(5) parole.”

43. This expansive interpretation contradicts the statutory text, legislative history, and consistent judicial authority in multiple circuits. *See, e.g., Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609 (S.D. Fla. Oct. 15, 2025); *Lopez-Campos v. Raycraft*, No. 2:25-CV-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, No. 1:25-cv-11571-JEK, 2025 WL 1869299 (D. Mass. July 7, 2025); *Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. July 28, 2025); *Rosado v. Figueroa*, No. 2:25-cv-02157-DLR, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025). Each of these courts rejected DHS's position and held that noncitizens residing in the United States when taken into custody are detained under § 1226(a) and therefore entitled to a bond hearing.

44. Petitioner, who has lived in the United States for the last two years, was initially apprehended as a minor at a non-port of entry, and then targeted by ICE for apprehension a few weeks ago, is therefore not properly classified as an "arriving alien." His detention under § 1225(b)(2) is unlawful. Because § 1226(a) governs his custody, Petitioner is entitled to a custody redetermination and to consideration for bond based on individualized factors.

The government's continued reliance on § 1225(b)(2) to deny bond violates both the statute and Petitioner's constitutional right to due process.

II. The Petitioner's Continued Detention Violates His Substantive and Procedural Due Process Rights.

45. The Fifth Amendment guarantees that no person shall be deprived of

life, liberty, or property without due process of law. U.S. Const. Amend. V. This protection extends to all persons within the United States—citizens and noncitizens alike—regardless of immigration status. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Because Petitioner has been detained for an extended period without a meaningful opportunity to seek release, his detention offends both procedural and substantive due process.

46. Civil immigration detention must always “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore v. Kim*, 538 U.S. 510, 527 (2003) (citing *Zadvydas*, 533 U.S. at 690). The Supreme Court has made clear that there are only two plausible purposes for immigration detention: ensuring a non-citizen’s appearance at his removal proceedings and/or preventing danger to the community. *Zadvydas*, 533 U.S. at 690. Indeed, where civil detention “is of potentially *indefinite* duration,” courts have “also demanded that the dangerousness rationale be accompanied by some other special circumstance.” *Id.* If immigration detention is not reasonably related to one of these purposes, it is essentially punitive and therefore violative of the Due Process Clause. *See id.*

47. To determine whether the Government’s procedures satisfy procedural due process, courts apply the three-part balancing test from *Mathews v. Eldridge*, 424 U.S. 319 (1976). *See Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206 (9th Cir. 2022). Under *Mathews*, courts consider:

(1) the private interest affected by the government action; (2) the risk of erroneous deprivation of that interest through existing procedures and the probable

value of additional safeguards; and (3) the government's interest, including administrative or fiscal burdens of additional process. *Mathews*, 424 U.S. at 335. Each of these factors strongly favors the petitioner.

48. First, the petitioner's liberty interest is undoubtedly substantial. Freedom from physical constraint is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 525 (2004). Petitioner has been detained for almost two weeks without any individualized assessment of flight risk or danger despite his age, age at entry, and lack of any disqualifying criminal record because the Immigration Judges refuse to consider those factors, finding they lack jurisdiction to set bond.

49. Second, the risk of erroneous deprivation is extreme. The Immigration Judge's refusal to even consider bond, based on DHS's position that petitioner is subject to "mandatory detention" under §1225(b)(2), deprived him of the only procedural mechanism designed to test the necessity of his continued confinement. This result effectively transforms the bond hearing into an empty formality, denying petitioner a meaningful opportunity to contest his detention. Courts have consistently held that procedures which categorically foreclose individualized review of detention violate due process. *See Günaydin v. Trump*, No. 25-cv-1151, 2025 WL 1459154 (D. Minn. May 21, 2025) (describing DHS's unilateral detention authority as creating "not just a risk, but a likelihood" of erroneous deprivation).

50. Third, the Government's interests are adequately protected by the individualized bond determination procedure already contemplated by §1226(a). As the Ninth Circuit recognized in *Hernandez v. Sessions*, 872 F.3d 976, 994 (9th Cir. 2017), "the government has no legitimate interest in detaining individuals who have been determined not to be a danger to the community and whose appearance at future proceedings can be reasonably ensured by less restrictive conditions." Far from imposing any undue burden, allowing bond hearings for noncitizens apprehended inside the United States promotes fairness and efficiency.

51. Accordingly, under *Mathews*, the procedures used to detain petitioner fail to satisfy procedural due process. The Immigration Judge's refusal to exercise jurisdiction, based solely on DHS's misclassification of Petitioner as subject to §1225(b)(2), constituted a denial of any meaningful opportunity to be heard. The Government's blanket invocation of "mandatory detention" cannot substitute for constitutionally required process.

52. Even apart from procedural deficiencies, the petitioner's continued confinement violates substantive due process. Government detention is constitutionally permissible only when it occurs in a criminal context with robust procedural protections, or in civil circumstances where a "special justification" outweighs the individual's liberty interest. *Zadvydas*, 533 U.S. at 690. No such justification exists here.

53. The petitioner's confinement is purely civil and ostensibly intended to ensure his presence for removal proceedings. Yet the Government has offered no

individualized justification for his ongoing detention, no finding that he poses a danger or flight risk, because the Immigration Judge will never reach those issues, citing lack of jurisdiction. Detaining a young man who, only months ago, was a minor and entered the United States alone as a minor, without such findings serves no legitimate regulatory purpose and instead amounts to impermissible punishment.

54. Respondent rely on *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025), to argue that the Immigration Judge lacks jurisdiction to consider bond because petitioner is “an arriving alien” detained under §1225(b)(2). That reliance is misplaced. As discussed *supra*, the petitioner was apprehended well inside the United States, after residing here for two years. He is therefore properly detained under §1226(a), which provides for discretionary release on bond. The BIA’s decision in *Yajure-Hurtado* cannot override Congress’s clear statutory distinction between §1225(b)(2) (governing ‘applicants for admission’ **seeking admission at the border**) and §1226(a) (governing those already present in the United States).

55. By adopting DHS’s erroneous interpretation, the Immigration Judge effectively denies the petitioner any opportunity for an individualized bond determination. This denial renders his continued detention arbitrary, indefinite, and unconstitutional. *See Rodriguez v. Bostock*, 779 F. Supp. 3d 1239 (W.D. Wash. 2025) (holding that detention of noncitizens apprehended within the U.S. under §1225(b)(2) violates due process and exceeds statutory authority).

56. Because the petitioner's detention falls under §1226(a), he is entitled to a prompt and meaningful bond hearing at which the Government bears the burden to justify continued detention by clear and convincing evidence. The Immigration Judge's refusal to conduct such a hearing, and DHS's misapplication of *Yajure-Hurtado*, violated the Due Process Clause of the Fifth Amendment.

CLAIMS FOR RELIEF

COUNT I

Violation of the Immigration and Nationality Act, 8 U.S.C. § 1226(a)

57. The allegations in paragraphs 1-56 are realleged and incorporated herein.

58. 8 U.S.C. § 1226(a) authorizes immigration detention only during pending removal proceedings. The respondents' reliance on § 1225(b)(2) to deny the petitioner a bond hearing and to classify him as subject to mandatory detention is contrary to the plain language and structure of the INA, as well as its legislative history and judicial interpretations.

59. Because the petitioner is not subject to mandatory detention, the respondents lack authority to detain him without providing a meaningful opportunity for release on bond. Continued confinement under § 1225(b)(2) exceeds the government's statutory authority and violates both the INA and the Due Process clause of the Fifth Amendment.

COUNT II

Violation of the Due Process Clause of the Fifth Amendment Substantive Due Process

60. The allegations in paragraphs 1-56 are realleged and incorporated herein.

61. The Supreme Court has found that the “Due Process Clause applies to all persons within the United States, including [non-citizens], whether their presence is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 682.

62. Immigration detention must always “bear[] a reasonable relation to the purpose for which the individual was committed.” *Demore*, 538 U.S. at 527. The petitioner has been detained for two weeks without any individualized custody determination. The Immigration Judges at Krome Detention Center declined to exercise jurisdiction over bond, citing *Matter of Yajure-Hurtado*, 28 I&N Dec. 1 (BIA 2025), and therefore refused to assess whether the petitioner posed a danger or flight risk. As a result, the petitioner remains confined without any finding that his detention is necessary to serve a legitimate regulatory purpose. Such unexamined and indefinite detention bears no reasonable relation to ensuring appearance at removal proceedings or protecting public safety.

63. By categorically denying the petitioner the opportunity for individualized review, the respondents have transformed a civil regulatory scheme into punitive confinement in violation of substantive due process. The Fifth Amendment forbids detention that is arbitrary, excessive in relation to its purpose, or unsupported by individualized justification. *See Zadvydas*, 533 U.S. at 690.

64. Because the petitioner has never been found to be a danger or flight risk, and because the respondent has provided no special justification for continued incarceration, his detention is not reasonably related to its purpose and thereby violates his due process rights.

COUNT III

Violation of the Due Process Clause of the Fifth Amendment Procedural Due Process

65. The allegations in paragraphs 1-56 are realleged and incorporated herein.

66. Under *Mathews v. Eldridge*, 424 U.S. 319 (1976), courts evaluate whether adjudicatory procedures sufficiently protect individuals' due process rights.

67. The petitioner has been denied any meaningful process to challenge his confinement. The Immigration Judges at Broward Transitional Center Court refuse to issue a decision regarding bond hearings, citing *Matter of Yajure-Hurtado*, 28 I. & N. Dec. 1 (BIA 2025). As a result, the petitioner will never be afforded an individualized determination of whether he poses a danger or flight risk.

68. The respondents' application of *Matter of Yajure-Hurtado* and the resulting refusal to hold a bond hearing violate the procedural component of the Due Process Clause of the Fifth Amendment.

PRAYER FOR RELIEF

WHEREFORE, Plaintiff prays that this Honorable Court grant the following relief:

- (a) Assume jurisdiction over this matter;
- (b) Order, under the All-Writs Act, 28 U.S.C. § 1651, that the respondents not transfer the petitioner outside of the jurisdiction of the U.S. District Court for the Southern District of Florida during the pendency of this petition;
- (c) Declare the respondent's actions or omissions violate the Due Process Clause of the Fifth Amendment to the U.S. Constitution and the Immigration and Nationality Act;
- (d) Order the respondent to provide the petitioner with a prompt and constitutionally adequate bond hearing before an Immigration Judge with jurisdiction under 8 U.S.C. § 1226(a), at which the government bears the burden of proving by clear and convincing evidence that continued detention is justified;
- (e) Award costs, and attorney's fees under the Equal Access to Justice Act (EAJA), as amended, 5 U.S.C. § 2412, and on any other basis justified under law; and
- (f) Grant any other and further relief that the Court deems just and proper.

Dated: March 17, 2026

Respectfully submitted,

s/Jessica M. Reyes
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**VERIFICATION BY SOMEONE ACTING ON THE PETITIONER'S BEHALF
PURSUANT TO 28 U.S.C. § 2242**

I, Jessica M. Reyes, am submitting this verification on behalf of the petitioner because I am the petitioner's attorney in these proceedings. Based upon a review of the administrative record, discussions with the petitioner's other attorney, and/or discussions with the petitioner, I hereby verify that the statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated: March 17, 2026

s/ Jessica M. Reyes
N.Y. Bar No. 4436978