

Michelle Reyes, Esq.
8270 Woodland Center Blvd.
Tampa, FL 33614
Fla. Bar No. 1004206
Attorney.reyes@reyesfirm.com
813-600-5403
Attorney for Petitioner

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

**JUAN CARLOS FERRETIZ
GONZALEZ**

Petitioner,

WARDEN or Current Warden,

Florida Soft Side South a/k/a Alligator)
Alcatraz, et. Al.
Respondents.

Case No. 2:26-cv-846-KCD-DNF

PETITION FOR WRIT OF HABEAS CORPUS

**PETITIONER'S NOTICE OF BOND DENIAL AND MOTION TO REOPEN
AND RENEW CONSTITUTIONAL CLAIMS**

SUMMARY OF KEY LEGAL ARGUMENTS

1. This Court ordered a bond hearing under 8 U.S.C. § 1226(a) and expressly authorized Petitioner to renew his constitutional and APA claims if the Government failed to provide an adequate hearing or Petitioner remained detained. (Doc. 11 at 6.)

2. The April 22, 2026 bond hearing was not constitutionally adequate because the Immigration Judge did not review all evidence submitted in advance of the hearing, depriving Petitioner of a meaningful opportunity to be heard.

3. The dangerousness determination rested principally on arrests that did not result in filed charges or convictions, and Petitioner's sole conviction—driving without a driver's license—does not, standing alone, support continued detention without bond. (Ex. A.)

4. The flight-risk determination is not supported by substantial evidence in light of Petitioner's long-term residence, immediate-family ties to United States citizens, caregiving responsibilities, and extensive documentary submissions (Exs. B–G), including medical records and multiple community character references. (Ex. A.)

5. The Immigration Judge applied an incorrect burden of proof by requiring Petitioner to prove that he is not a danger and not a flight risk; due process requires the Government to justify continued civil detention by clear and convincing evidence in this context.

6. Because Petitioner's continued detention follows a hearing employing constitutionally deficient procedures and relying on legally insufficient grounds, it

violates the Fifth Amendment and constitutes arbitrary and capricious agency action under the Administrative Procedure Act. See 5 U.S.C. § 706(2)(A).

7. Petitioner therefore seeks immediate release or, at minimum, a new bond hearing at which the Government bears the burden to prove danger or flight risk by clear and convincing evidence, together with appropriate injunctive relief. (See Relief Requested, *infra*.)

I. PROCEDURAL BACKGROUND

On Friday, April 17, 2026, this Court granted Petitioner's habeas petition in part, finding that he was being unlawfully detained under 8 U.S.C. § 1225(b)(2) when § 1226(a)'s discretionary framework properly governs. (Doc. 11 at 5-6.) The Court ordered the Government to provide Petitioner with a bond hearing under § 1226(a). (Id. at 6.) The Court expressly declined to address Petitioner's Fifth Amendment due process and APA claims, noting that he could renew those claims "in a subsequent case" if the Government failed to provide the required hearing or he remained in custody. (Id.)

Following the Court's Order, the Government scheduled an immigration bond hearing to take place on Wednesday, April 22, 2026, with notice issued after the Court granted habeas relief on Friday and scheduling occurring sometime between late Friday and early Monday. In preparation for that hearing, Petitioner's immigration counsel filed documentary evidence with the Immigration Court on Monday and Tuesday for consideration at the Wednesday hearing. The Immigration Judge did not review all of the evidence submitted. Accordingly, Petitioner includes that evidence here as Exhibits A–H filed with this Court. On April 22, 2026,

Immigration Judge Liviu Lungu of the Miami Krome Immigration Court conducted the bond hearing pursuant to this Court's Order and denied bond, finding that Petitioner failed to meet his burden to show he is not a danger to the community and not a flight risk, despite not having the opportunity to review all of the evidence provided. (Ex. A at 1–2.)

Exhibits (A–G):

- Exhibit A: Immigration Judge Bond Decision/Order (April 22, 2026)
- Exhibit B: *B_I130_Notice*
- Exhibit C: *C_Arrest_Documents*
- Exhibit D: *D_Family_Background*
- Exhibit E: *E_Medical_Documents*
- Exhibit F: *F_Sponsor_Documents*
- Exhibit G: *G_Good_Moral_Character_Letters*

Bond hearing timeline (summary):

- **Friday, April 17, 2026:** This Court issued the Order granting habeas relief in part and directing the Government to provide a § 1226(a) bond hearing. (Doc. 11.)
- **Late Friday–early Monday:** The Government scheduled the bond hearing and issued notice for a Wednesday morning hearing date.
- **Monday–Tuesday:** Petitioner's immigration counsel filed documentary evidence for the Immigration Court's consideration at the bond hearing.
- **Wednesday, April 22, 2026:** The Immigration Court held the bond hearing and denied bond. (Ex. A.)

As a result, Petitioner remains in ICE custody. This Court anticipated precisely this outcome and invited the instant motion.

II. THE BOND DENIAL RESTED ON CONSTITUTIONALLY INFIRM GROUNDS

A. The Immigration Judge Relied on Arrests That Did Not Result in Conviction

The Immigration Judge's dangerousness finding rested heavily on Petitioner's January 10, 2026 arrest for Grand Theft and Dealing in Stolen Property. (Ex. A at 1.) The Order itself concedes that the State Attorney's Office elected not to file criminal charges arising from that arrest. (*Id.*) Reliance on an arrest that resulted in no charges as the primary basis for a finding of dangerousness raises serious constitutional concerns. An arrest without prosecution is not evidence of guilt, and using it to justify continued civil detention implicates the most fundamental protections of the Fifth Amendment's Due Process Clause. See *Mathews v. Eldridge*, 424 U.S. 319 (1976); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) ("[F]reedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that [the Due Process] Clause protects.").

The only other criminal history cited by the Immigration Judge consists of a 2019 DUI arrest in which the DUI charge was ultimately not prosecuted after Petitioner completed court-mandated classes, and a conviction for operating a vehicle without a license. (Ex. A at 2.) Petitioner's only criminal conviction is for driving without a driver's license, which—standing alone—does not constitute a sufficient danger to the community to justify his continued detention without bond.

B. The Flight Risk Finding Is Not Supported by the Record

The Immigration Judge found Petitioner to be a flight risk despite acknowledging that he claims continuous residence in the United States since 2003, that his wife is a United States citizen, and that he has three United States citizen children. (Ex. A at 2.) Although the Immigration Judge referenced an asserted lack of documentary proof of a fixed address and employment history, the record before the Immigration Court included substantial evidence of family unity, financial support, and longstanding community ties, all of which bear directly on the likelihood of appearance. Specifically, Petitioner's immigration counsel submitted documentary evidence in advance of the hearing—reflected in Exhibits B–G filed with this Court—including tax returns and related proof of financial support, photographs documenting Petitioner's longstanding family life and residence, and his children's birth certificates. (Exs. D, F.) The submissions also included medical records reflecting that Petitioner's nine-year-old child receives specialized care and requires ongoing support. (Ex. E.)

The record further includes nine character-reference letters from members of Petitioner's community—including letters from his wife, pastor, sister-in-law, brother-in-law, and multiple long-time friends who have known him for a decade or more—attesting to his character, reliability, and consistent presence in the community. (Ex. G.) In addition, Petitioner's wife recently gave birth to an infant who required NICU care, relies on the Petitioner financially, and she is currently experiencing postpartum depression. These circumstances further corroborate

Petitioner's substantial family responsibilities and provide additional, concrete reasons to conclude that Petitioner has strong incentives to remain in the community and to appear for all immigration proceedings and comply with any conditions of release.

On this record, the conclusion that Petitioner presents a risk of flight is not supported by substantial evidence. To the contrary, the evidence reflects longstanding residence, immediate-family ties to United States citizens, caregiving obligations, and sustained community support—factors that strongly favor a finding that Petitioner will appear for further proceedings if released on reasonable conditions.

C. The Burden of Proof Applied at the Bond Hearing Was Incorrect

Critically, the Immigration Judge placed the burden of proof on Petitioner to establish that he is not a danger and not a flight risk. (Ex. A at 1-2.) However, courts across the country have held—and several have ordered as relief in habeas proceedings—that where a petitioner has been unlawfully detained under § 1225(b)(2) and is entitled to a § 1226(a) bond hearing, due process requires that the Government bear the burden of justifying continued detention by clear and convincing evidence. See, e.g., *Rodriguez Muniz v. Noem*, No. 3:25-cv-00671-DB (W.D. Tex. Dec. 22, 2025) (ordering Government to bear burden by clear and convincing evidence at bond hearing); *Gonzalez Carmona v. Ripa*, 2:25-cv-01128-SPC-DNF (M.D. Fla. 2025) (granting habeas and immediate release). Petitioner was denied that constitutionally adequate process.

III. PETITIONER'S CONTINUED DETENTION VIOLATES THE FIFTH AMENDMENT AND THE APA

This Court deferred ruling on Petitioner's Fifth Amendment and APA claims only because it had already granted sufficient relief through the statutory order requiring a bond hearing. (Doc. 11 at 6.) That relief has proven inadequate. Petitioner now renews those claims.

The Due Process Clause prohibits the Government from detaining an individual based primarily on uncharged arrests. The Supreme Court has made clear that due process requires more than the mere form of a hearing—it requires a meaningful opportunity to be heard before a neutral arbiter applying constitutionally adequate procedures. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976). Because the Immigration Judge placed the burden on Petitioner and relied principally on a dismissed arrest, the hearing Petitioner received did not satisfy due process.

Additionally, Petitioner's continued detention under these circumstances is arbitrary and capricious within the meaning of the APA. The Government's decision to continue Petitioner's detention, following a bond hearing that placed an unconstitutional burden on him and credited legally insufficient evidence, constitutes agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).

IV. RELIEF REQUESTED

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Reopen this matter pursuant to the Court's April 17, 2026 Order;
2. Order Petitioner's immediate release from ICE custody, or in the alternative, order a new bond hearing at which the Government bears the burden of proving, by clear and convincing evidence, that Petitioner poses a danger to the community or a flight risk;
3. Enjoin Respondents from detaining Petitioner under 8 U.S.C. § 1225(b)(2);
4. Enjoin Respondents from removing Petitioner pending further order of this Court; and
5. Grant such other and further relief as this Court deems just and proper.

April 30, 2026

Respectfully submitted,

/s/ Michelle M. Reyes

Michelle Reyes, Esq.
8270 Woodland Center Blvd.
Tampa, FL 33614
Fla. Bar No. 1004206
Attorney.reyes@reyesfirm.com
813-600-5403
Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 30th day of April, 2026, a true and correct copy of the foregoing was served upon all counsel of record via the Court's CM/ECF electronic filing system.

/s/ Michelle M. Reyes
Michelle Reyes, Esq.