

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

YEILER DIAZ PEREZ

(A# )

Petitioner,

v.

Ronnie Woodall, in his official capacity as Field
Office Director, U.S. Immigration and Customs
Enforcement Miami Field Office, Warden of the
Baker Correctional; Markwayne Mullin,
Secretary of the U.S. Department of Homeland
Security; and Todd Blanche, Attorney General of
the United States,

Respondents.

Case No. 3:26-cv-01024

PETITION FOR WRIT OF HABEAS CORPUS
Pursuant to 28 U.S.C. § 2241

TO THE HONORABLE JUDGE OF SAID COURT:

NOW COMES, Petitioner, **Yeiler Diaz Perez** ("Petitioner"), by and through undersigned counsel, respectfully petitions this Court for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and states as follows:

I. INTRODUCTION

1. Petitioner, Yeiler Diaz Perez, is a Cuban national currently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Florida Baker Correctional Institute.
2. Petitioner came to the United States on March 17, 2022, and after being processed by immigration authorities, he was released on his own recognizance, with an I-220A stating

that the Petitioner was released pursuant to DHS' authority under INA § 236¹ demonstrating that the government previously determined that his detention was not necessary.

3. Petitioner was subsequently detained by the Florida Highway Patrol and transferred to ICE custody. Although Petitioner sought a bond hearing before an Immigration Judge, the Immigration Judge declined to consider the merits of Petitioner's release, ruling instead that he lacked jurisdiction to conduct a bond hearing. Petitioner's case remains pending before the Immigration Court and no final order of removal has been entered.
4. The Immigration Judge's jurisdictional ruling is legally erroneous. Petitioner entered and resided in the United States and is detained under 8 U.S.C. § 1226(a), which expressly authorizes bond hearings. The government's classification of Petitioner as an "applicant for admission" subject to mandatory detention under § 1225(b)(2), which was the basis for the IJ's finding of no jurisdiction, is contrary to the documents the Petitioner was given when initially released from detention.
5. The Immigration Judge's refusal to exercise jurisdiction over Petitioner's bond hearing leaves Petitioner without any avenue for release and constitutes a violation of the Due Process Clause of the Fifth Amendment.
6. Absent relief from this Court, Petitioner will remain subject to indefinite detention with no path to seek release, even though less restrictive alternatives are clearly available, and the law entitles him to a merits bond hearing.

¹ 8 U.S.C. § 1226 is the codified version of INA 236.

II. JURISDICTION

7. This Court has jurisdiction over this action pursuant to 28 U.S.C. § 2241, as Petitioner is in custody under the authority of the United States and challenges the legality of his detention as violating the Constitution and laws of the United States.
8. This Court also has jurisdiction under 28 U.S.C. § 1331 because this action arises under federal law, including the Immigration and Nationality Act, 8 U.S.C. § 1101 et seq., and the Fifth Amendment to the United States Constitution.
9. Jurisdiction is further supported by the Suspension Clause, U.S. Const. art. I, § 9, cl. 2, which guarantees the availability of habeas corpus to challenge unlawful detention. Petitioner is detained within the Middle District of Florida, and therefore this Court has authority to grant habeas relief.

III. PARTIES

10. **Petitioner:** Yeiler Diaz Perez is a citizen of Cuba currently detained at the Florida Baker Correctional Institute.
11. **Respondent:** The Field Office Director, U.S. Immigration and Customs Enforcement Orlando Field Office, Warden of the Florida Baker Correctional Institute, who exercises legal authority over Petitioner's detention.
12. **Respondent:** Markwayne Mullin, Secretary of the U.S. Department of Homeland Security, responsible for immigration detention.
13. **Respondent:** Todd Blanche, Attorney General of The United States, responsible for immigration adjudication.

IV. PRELIMINARY STATEMENT

14. This is a civil habeas corpus action challenging Petitioner's ongoing immigration detention by the Department of Homeland Security ("DHS") and U.S. Immigration and Customs Enforcement ("ICE") without constitutionally adequate procedural protections.
15. Although immigration detention is civil rather than punitive, Petitioner has been deprived of his liberty for an extended period while his removal proceedings remain pending, without a meaningful opportunity to secure release.
16. Federal courts consistently recognize that prolonged civil detention without adequate process raises serious constitutional concerns. *See Zadvydas v. Davis*, 533 U.S. 678 (2001); *Jennings v. Rodriguez*, 583 U.S. 281 (2018).

V. STATEMENT OF FACTS

17. Petitioner, Yeiler Diaz Perez, is a citizen and national of Cuba, born on  who entered the United States on March 17, 2022. He was subsequently placed in removal proceedings and DHS released him on his own recognizance, demonstrating that the government determined Petitioner did not pose a danger to the community or a risk of flight.
18. During the pendency of those proceedings, Petitioner sought protection in the form of asylum by filing Form I-589, Application for Asylum and for Withholding of Removal, which remains pending before the Orlando Immigration Court.
19. Petitioner was detained by the Florida Highway Patrol and subsequently transferred to ICE custody. He is presently held at the Florida Baker Correctional Institute. Petitioner's removal proceedings remain pending before the Orlando Immigration Court and no final order of removal has been entered.

20. Petitioner sought a bond hearing before the Immigration Judge. The Immigration Judge, however, ruled that he lacked jurisdiction to conduct a bond hearing, declining to consider the merits of Petitioner's release. The basis for this ruling was the government's classification of Petitioner as subject to mandatory detention under 8 U.S.C. § 1225(b)(2) as an alleged "applicant for admission," rather than as a person detained under § 1226(a) who is entitled to a bond hearing.
21. Petitioner has no criminal history, has complied with all immigration requirements, and previously demonstrated his reliability and compliance when released on his own recognizance. Nevertheless, he remains detained without any individualized determination that his continued confinement is necessary to serve any legitimate governmental purpose.
22. Petitioner is married to Aliannes Perez Fuentes, who has a pending case before the Immigration Court. If released, Petitioner would reside with his wife at [REDACTED]. [REDACTED]. His brother-in-law, Jose Angel Jorge Riveron, is a lawful permanent resident and has committed himself to take full responsibility for Petitioner's basic needs during his immigration proceedings.
23. Petitioner's ongoing detention has imposed significant hardship, including the inability to adequately assist in the preparation of his legal case, limited access to counsel, emotional distress, and separation from his spouse and community. Given his prior release and compliance, less restrictive alternatives to detention are readily available, rendering his continued confinement unnecessary and excessive.

VI. LEGAL GROUNDS FOR RELIEF

COUNT I: PROLONGED CIVIL DETENTION WITHOUT ADEQUATE PROCESS VIOLATES THE FIFTH AMENDMENT.

24. The Fifth Amendment's Due Process Clause applies to all persons within the United States, including noncitizens. *See Zadvydas v. Davis*, 533 U.S. 678, 693 (2001). Immigration detention must bear a reasonable relationship to its purpose and cannot become arbitrary or excessive. *Id.* at 690. Prolonged detention without a meaningful opportunity to obtain release violates due process. *See Jennings v. Rodriguez*, 583 U.S. 281 (2018) (acknowledging serious constitutional concerns with prolonged detention).
25. Civil immigration detention must be reasonably related to its purpose and accompanied by adequate procedural safeguards. Here, Petitioner has been effectively denied any merits review of his detention. The Immigration Judge declined to exercise jurisdiction over his bond hearing, leaving Petitioner with no mechanism to challenge his confinement before a neutral decisionmaker. Detention without any meaningful opportunity to seek release is inherently arbitrary and violates due process.
26. The Supreme Court has recognized that individuals detained under 8 U.S.C. § 1226(a) are entitled to custody determinations, including bond hearings. *See Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) (noting that federal regulations provide for bond hearings for individuals detained under § 1226(a)). Despite this, Petitioner has been deprived of any such process.
27. Courts in the Eleventh Circuit have emphasized that detention without access to these procedural safeguards is unlawful. As the court explained in *Hinojosa Garcia v. Noem*, No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025), a noncitizen detained under § 1226(a) must be provided the statutory process, including a bond hearing.

Similarly, the court found that failure to provide a bond hearing under § 1226(a) renders detention unlawful. *See Vasquez Carcamo v. Noem*, 2:25-cv-922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025).

28. Courts across the country have held that due process requires a custody hearing at which the government bears the burden of proving, by clear and convincing evidence, that continued detention is necessary. *See, e.g., Velasco Lopez v. Decker*, 978 F.3d 842 (2d Cir. 2020); *Hernandez v. Sessions*, 872 F.3d 976 (9th Cir. 2017).
29. Because the Immigration Judge refused to exercise jurisdiction over Petitioner's bond hearing, Petitioner has been left without any avenue to challenge his detention before a neutral decisionmaker. His continued confinement under these circumstances violates the Fifth Amendment's guarantee of due process.

COUNT II: UNLAWFUL DETENTION UNDER THE IMMIGRATION AND NATIONALITY ACT.

30. The Immigration Judge's ruling that he lacked jurisdiction to conduct a bond hearing was premised on the government's position that Petitioner is detained under 8 U.S.C. § 1225(b)(2) as an "applicant for admission" subject to mandatory detention. This classification is legally wrong and directly causes Petitioner's unlawful detention.
31. Section 1225 applies to individuals "seeking admission," while § 1226 applies to noncitizens already present in the United States who have been placed in removal proceedings. *See Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018). Petitioner entered the United States in 2022, was processed by immigration authorities, and was released on his own recognizance. He has been present in and residing in the United States. He is not "seeking admission" and cannot lawfully be classified as such.

32. Federal courts in this Circuit have consistently and repeatedly rejected the government's attempt to classify noncitizens who are already living in the United States as "applicants for admission" subject to mandatory detention. In *Hinojosa Garcia v. Noem*, No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025), the court held that a noncitizen who had been living in the United States was properly detained under § 1226(a), not § 1225(b)(2), and was therefore entitled to a bond hearing. The Immigration Judge's finding of no jurisdiction in this case is directly at odds with that holding.
33. The same conclusion was reached in *Vasquez Carcamo v. Noem*, 2:25-cv-922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025), and in *Martinez Garcia v. Bondi*, No. 2:25-cv-01158 (M.D. Fla. Dec. 22, 2025), where the court held that a noncitizen present in the United States during removal proceedings must be afforded a bond hearing under § 1226(a) and ordered the government to provide such a hearing or release the petitioner.
34. These decisions reflect a consistent consensus rejecting the government's reliance on *Matter of Yajure Hurtado*², 29 I&N Dec. 216 (B.I.A. 2025), and related DHS policy changes that improperly expand § 1225 beyond its statutory limits. The IJ's jurisdictional ruling in this case was based on that same erroneous framework.
35. Because Petitioner was present in the United States, was previously released under supervision, and is not an "arriving alien," his detention is governed by § 1226(a). The IJ's refusal to conduct a bond hearing based on a finding of no jurisdiction was legal error. Respondents' continued detention of Petitioner without a merits bond hearing is therefore unlawful and must be remedied by this Court.

² The Board of Immigration Appeals concluded that immigration judges lack authority to conduct bond hearings for noncitizens who entered the United States without inspection, reasoning that such individuals are treated as applicants for admission under 8 U.S.C. § 1225(b)(2)(A) and are therefore subject to mandatory detention during the pendency of their removal proceedings. 29 I&N Dec. 216 (B.I.A. 2025)

COUNT III: DETENTION IS EXCESSIVE AND NOT NARROWLY TAILORED TO SERVE ANY LEGITIMATE GOVERNMENT PURPOSE.

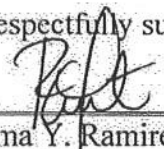
36. The government's legitimate interests in immigration detention are limited to ensuring appearance at proceedings and protecting the community. Petitioner was previously released on his own recognizance, demonstrating that less restrictive alternatives to detention are effective in his case. Because the Immigration Judge declined jurisdiction, no individualized determination has ever been made on the merits that Petitioner presents a danger or flight risk that cannot be mitigated through conditions of supervision. Continued detention under these circumstances is excessive, punitive in effect, and unconstitutional. *See Zadvydas*, 533 U.S. at 690.
37. Petitioner has no criminal history and was previously released on recognizance, demonstrating that the government itself determined that detention was not necessary. Despite this prior determination, Petitioner was detained without any new individualized assessment, and the Immigration Judge's refusal to exercise bond jurisdiction has left that determination entirely unchallenged.
38. Here, Respondents have provided no justification for reversing their prior decision to release Petitioner, nor have they offered any mechanism for Petitioner to challenge his detention. Under these circumstances, continued detention is excessive, not narrowly tailored, and punitive in effect.
39. Accordingly, Petitioner's detention violates the Due Process Clause and must be terminated, or at a minimum, Petitioner must be afforded a prompt bond hearing.

VII. REQUEST FOR RELIEF

WHEREFORE, PREMISES CONSIDERED, Petitioner, **Yeiler Diaz Perez,** respectfully requests that this Court:

1. Assume jurisdiction over this action pursuant to 28 U.S.C. § 2241;
2. Declare that Petitioner's continued detention without a constitutionally adequate custody hearing violates the Fifth Amendment;
3. Order Respondents to immediately release Petitioner from ICE custody; or, in the alternative,
4. Order Respondents to provide Petitioner with a bond hearing on the merits before an Immigration Judge, at which the government bears the burden of proving, by clear and convincing evidence, that continued detention is justified, and at which the Immigration Judge shall not decline jurisdiction on the basis that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(2); and
5. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,



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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
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YEILER DIAZ PEREZ

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Case No. 3:26-cv-01024

ORDER GRANTING PETITION FOR WRIT OF HABEAS CORPUS

Pursuant to 28 U.S.C. § 2241

On this day, the Court considered Petitioner **Yeiler Diaz Perez's** Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241. Having reviewed the petition, the response (if any), and the applicable law, the Court finds that the petition should be **GRANTED**.

The Court finds that:

1. Petitioner is presently held in custody within the Middle District of Florida, Orlando Division.
2. There is no valid arrest warrant, indictment, criminal complaint, or lawful order supporting Petitioner's continued detention.
3. Petitioner's continued detention violates the Fourth Amendment's probable cause requirement and the Fifth Amendment's due process protections.

4. No statutory or regulatory authority exists to justify the continued detention under the present circumstances.

IT IS THEREFORE ORDERED that:

1. The Petition for Writ of Habeas Corpus is **GRANTED**.
2. Respondent shall **immediately release** Petitioner **Yeiler Diaz Perez** from custody.
3. The Clerk of Court shall enter judgment in favor of Petitioner.

SIGNED this ____ day of _____, 2026.

UNITED STATES DISTRICT JUDGE

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

YEILER DIAZ PEREZ

(A# [REDACTED])

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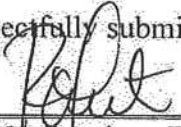
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Yeiler Diaz Perez, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this ____ day of _____, 2026.

Respectfully submitted,



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