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**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

Celso Cabrera Ortiz,

Case No.: 3:26-cv-1048

Petitioner,

**PETITION FOR WRIT OF
HABEAS CORPUS**

v.

IMMIGRATION HABEAS CASE

Warden, Baker Correctional Center; Garrett J. Ripa,
Field Office Director, ICE Jacksonville Field Office;

EMERGENCY RELIEF

Todd Lyons, Director of U.S. Immigration and
Customs Enforcement; Markwayne Mullin, Secretary
of the U.S. Department of Homeland Security; and
Todd Blanche, Acting Attorney General of the United
States,

REQUESTED

Respondents.

PRELIMINARY STATEMENT

COMES NOW, Petitioner Celso Cabrera Ortiz, by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging the legality of his continued civil immigration detention by the United States Department of Homeland Security and U.S. Immigration and Customs Enforcement.

Petitioner is a national of Honduras who has resided continuously in the United States for approximately nineteen (19) years. He entered the United States without inspection in 2006 and

has since established deep community ties, stable employment, and a family unit anchored by his six-year-old United States citizen son who depends entirely upon him for care and support.

On February 28, 2026, Petitioner was taken into ICE custody following a constitutionally infirm state arrest in Ocala, Florida. Petitioner was a **passenger** — not the operator — of a vehicle stopped by local law enforcement on U.S. Highway 27. No traffic citation was issued to Petitioner or the driver. Petitioner was nonetheless removed from the vehicle and arrested solely on the basis that he did not possess a driver's license — a license he had no legal obligation to carry as a non-operator under Florida law. This arrest served as the pretext for transferring him into immigration custody.

Petitioner has a pending Form I-589 Application for Asylum and Withholding of Removal, filed in 2022 through retained counsel. His asylum interview has been completed and a decision is pending. He is not subject to a final order of removal. He has no criminal history.

Petitioner's continued mandatory detention is unlawful. He is not an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2). He is a long-term resident of the United States who has been present in this country since 2006 and is properly classified under 8 U.S.C. § 1226(a), which provides for discretionary detention and the right to a bond hearing before an immigration judge.

For the reasons set forth herein, Petitioner respectfully requests that this Court: (1) issue an emergency temporary restraining order enjoining Respondents from transferring Petitioner outside the Middle District of Florida pending adjudication of this Petition; (2) declare that his detention is unlawful under the Constitution and laws of the United States; (3) order his immediate release from custody; and (4) in the alternative, order a constitutionally adequate individualized bond hearing at which the Government bears the burden of justifying continued detention by clear and convincing evidence.

EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER

Petitioner moves on an emergency basis for a temporary restraining order enjoining Respondents from transferring Petitioner outside the Middle District of Florida pending adjudication of this Petition. Transfer out of this District would deprive this Court of jurisdiction, disrupt Petitioner's

access to counsel, and render any meaningful habeas relief impossible. *See Rumsfeld v. Padilla*, 542 U.S. 426, 440–41 (2004) (habeas jurisdiction attaches at time of filing).

Likelihood of Success on the Merits. As set forth herein, Petitioner is a long-term resident of the United States who has been present since 2006. He is not an applicant for admission subject to mandatory detention under § 1225(b)(2). The great weight of authority in this District supports his position, including the directly analogous grant in *Torres v. Baker Correctional Detention Center, et al.*, No. 3:26-cv-334-MMH-SJH (M.D. Fla. Mar. 30, 2026), which arose from this same facility and presented the identical legal question. Petitioner’s likelihood of success on the merits is substantial.

Irreparable Harm. Transfer to an out-of-district facility would cause immediate and irreparable harm. Petitioner would lose meaningful access to undersigned counsel, whose office is located in Jacksonville, Florida. He would be removed from the jurisdiction of this Court, potentially stripping this Court of habeas jurisdiction. He would be separated from his six-year-old United States citizen son, who is entirely dependent upon him and has no other caregiver. The harm is not compensable in damages and cannot be undone after transfer occurs.

Balance of the Equities. The balance of equities strongly favors Petitioner. A TRO maintaining the status quo imposes minimal burden on Respondents, who retain full custody of Petitioner and the ability to continue removal proceedings. By contrast, transfer would effectively moot this Petition and strand a U.S. citizen child in Florida without his primary caregiver.

Public Interest. The public interest is served by ensuring that federal courts retain jurisdiction over constitutional challenges to immigration detention and that U.S. citizen children are not deprived of their primary caregiving parent through extraterritorial transfers designed to evade judicial review.

Petitioner requests that this Court issue a temporary restraining order within 24 hours of filing, enjoining Respondents from transferring Petitioner outside the Middle District of Florida pending this Court’s adjudication of this Petition on the merits.

JURISDICTION AND VENUE

This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 2241, which authorizes federal district courts to grant writs of habeas corpus to persons held in custody under or by color of the authority of the United States in violation of the Constitution or laws of the United States.

This Court also has jurisdiction pursuant to 28 U.S.C. § 1331, as this action arises under the Constitution and laws of the United States. Petitioner alleges that his continued detention without constitutionally adequate process violates the Due Process Clause of the Fifth Amendment.

Venue is proper in this District because Petitioner is currently detained at Baker Correctional Center within the territorial jurisdiction of the Middle District of Florida, Jacksonville Division, and his removal proceedings are pending before the Immigration Court.

Petitioner is not attacking ICE's decision to commence removal proceedings, adjudicate his case, or execute an order of removal. He is challenging his classification under § 1225(b) and the legality of his detention. Accordingly, 8 U.S.C. § 1252(g) does not bar this Court's jurisdiction. *See Torres v. Baker Correctional Detention Center, et al.*, No. 3:26-cv-334-MMH-SJH (M.D. Fla. Mar. 30, 2026).

The "Zipper Clause" of 8 U.S.C. § 1252(b)(9) does not bar review. Petitioner does not challenge a final order of removal or the process by which removability is determined. *See Dep't of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 19 (2020).

PARTIES

Petitioner Celso Cabrera Ortiz is a citizen of Honduras currently detained by U.S. Immigration and Customs Enforcement at Baker Correctional Center. His Alien Registration Number is A#



Respondent Warden, Baker Correctional Center, is Petitioner's immediate custodian and is responsible for his day-to-day detention.

Respondent Garrett J. Ripa is the Field Office Director for ICE's Jacksonville Field Office, responsible for overseeing immigration enforcement and detention operations in this region.

Respondent Todd Lyons is the Director of U.S. Immigration and Customs Enforcement, responsible for the administration and enforcement of immigration detention policies nationwide.

Respondent Markwayne Mullin is the Secretary of the U.S. Department of Homeland Security, responsible for the overall administration and enforcement of the immigration laws of the United States.

Respondent Todd Blanche is the Acting Attorney General of the United States, responsible for the administration of the immigration court system through the Executive Office for Immigration Review.

FACTUAL AND PROCEDURAL BACKGROUND

A. Entry and Long-Term Continuous Residence

Petitioner Celso Cabrera Ortiz is a native and citizen of Honduras, born [REDACTED] His Honduran Passport, No. [REDACTED] issued [REDACTED] and valid through [REDACTED] confirms his identity and nationality.

In 2006, Petitioner entered the United States by crossing the southern border without inspection. He did not present himself to immigration authorities at that time.

Petitioner has resided continuously in the United States for approximately nineteen (19) years. Throughout this period, he has maintained stable employment, built a family, and established deep ties to his community in the State of Florida.

Petitioner has never received any government assistance or public benefits. He has supported himself and his family exclusively through his own labor throughout his time in the United States.

B. Pending Asylum Application

In 2022, Petitioner retained legal counsel and timely filed a Form I-589, Application for Asylum and Withholding of Removal. His application was received by U.S. Citizenship and Immigration Services on May 9, 2022. His Receipt Number is [REDACTED] and his A-Number is [REDACTED]

[REDACTED]

Approximately six (6) months prior to his detention, Petitioner attended and completed his asylum interview before an asylum officer. As of the date of this Petition, no decision has been issued and his asylum application remains pending.

Petitioner has actively engaged with the immigration process at every stage. His pending, interviewed asylum application demonstrates a colorable claim to lawful status and relief from removal, and confirms that he is not facing a certain or imminent removal order.

Petitioner's removal proceedings are pending before Immigration Judge Hon. Pedro J. Espinal. No final order of removal has been entered against Petitioner.

C. Circumstances of Arrest and Immigration Detention

On February 28, 2026, law enforcement officers stopped a vehicle on U.S. Highway 27 in Ocala, Florida. Petitioner was a passenger in that vehicle — he was not the driver and was not operating the vehicle in any capacity.

Despite the fact that Petitioner was a passenger, law enforcement officers asked him whether he possessed a driver's license. No traffic citation or ticket was issued to Petitioner or to the driver of the vehicle.

Petitioner was removed from the vehicle and arrested solely on the basis that he did not possess a driver's license, even though he was under no legal obligation to do so as a non-operator of the vehicle. Under Florida Statute § 322.03, the obligation to be licensed applies to operators of motor vehicles, not passengers.

The arrest of a vehicle passenger for failure to possess a driver's license he had no legal obligation to carry is not supported by probable cause and is facially inconsistent with Florida law and the protections of the Fourth Amendment of the United States Constitution.

Following this arrest, Petitioner was transferred into ICE custody. He has been detained at Baker Correctional Center since February 28, 2026, constituting approximately fifty-five (55) days of detention as of the filing of this Petition.

Petitioner has no criminal history. The February 28, 2026 arrest — itself constitutionally suspect — is the sole basis for his immigration detention.

D. United States Citizen Child and Family Hardship

Petitioner is the father of K [REDACTED], a United States citizen born on [REDACTED] at Shands Hospital at UF in Gainesville, Alachua County, Florida. K [REDACTED] birth is documented in Florida State Certification of Birth, State File Number [REDACTED] issued [REDACTED]

K [REDACTED] is six (6) years old. Petitioner is his primary caregiver and sole financial provider. K [REDACTED] resides with Petitioner and is fully dependent upon him for housing, food, financial support, and daily care and emotional well-being.

K [REDACTED]'s mother, Lilia Hernandez Nunez, also lacks lawful immigration status and is currently unemployed. The family receives no government assistance. Petitioner's detention has effectively rendered K [REDACTED] without a primary caregiver and without any source of income.

The detention of Petitioner imposes exceptional, concrete, and demonstrable hardship upon his U.S. citizen child. Courts have consistently recognized the best interests of U.S. citizen children as a significant factor in immigration proceedings.

E. Employment and Community Ties

Prior to his detention, Petitioner was employed by [REDACTED], located at [REDACTED]. His employer, Steven Venosa, has confirmed in writing that Petitioner "has been an employee of [REDACTED] for several years" and that he is "very hard-working, loyal and responsible" and "a big part of our team."

Petitioner's work involves the daily care and feeding of thoroughbred racehorses — a skilled, specialized occupation requiring consistent reliability and expertise. His sustained employment in this industry over a multi-year period reflects strong community ties and a demonstrated work ethic across nearly two decades of residence in the United States.

STATUTORY AND CONSTITUTIONAL FRAMEWORK GOVERNING DETENTION

The Immigration and Nationality Act authorizes the detention of noncitizens in certain circumstances during the pendency of removal proceedings. The Government's authority here derives, at most, from 8 U.S.C. § 1226(a), which allows **discretionary** detention of a noncitizen pending a decision on removal.

Section 1225 governs “applicants for admission,” which the statute defines as “[a]n alien present in the United States who has not been admitted” or those “arriving in the United States.” 8 U.S.C. § 1225(a)(1). Section 1225(b)(2) provides for mandatory detention and serves as a catchall provision for such applicants. *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

On July 8, 2025, DHS issued guidance asserting that all noncitizens present without admission — including long-term residents — are subject to mandatory detention under § 1225(b)(2). The Board of Immigration Appeals adopted this position in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025).

The vast majority of federal district courts to have considered this issue — including courts within this District — have rejected the Government’s expanded interpretation of § 1225(b)(2) as applied to long-term residents who entered without inspection. *See Torres v. Baker Correctional Detention Center, et al.*, No. 3:26-cv-334-MMH-SJH (M.D. Fla. Mar. 30, 2026); *Guaiquire v. Quinones et al.*, No. 6:26-cv-169-RBD-RMN (M.D. Fla. Feb. 3, 2026); *Perez v. Quinones et al.*, No. 6:26-cv-228-GAP-DCI (M.D. Fla. Feb. 9, 2026); *Cetino v. Hardin*, No. 2:25-CV-1037-JES-DNF, 2025 WL 3558138 (M.D. Fla. Dec. 12, 2025).

Petitioner entered without inspection in 2006 and has been present in the United States continuously since that time. He is properly classified under 8 U.S.C. § 1226(a) — not § 1225(b)(2) — and is entitled to a bond hearing before an immigration judge. *See Torres*, No. 3:26-cv-334-MMH-SJH, at *10 (“Torres entered the United States without inspection and has been residing here since 2013. Thus, he is not properly detained under § 1225(b)(2).”).

The Fifth Amendment prohibits the Government from depriving any person of liberty without due process of law. This protection extends to all persons within the United States, including noncitizens in removal proceedings. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

As detention becomes prolonged, due process requires a meaningful individualized determination by a neutral adjudicator as to whether continued detention is justified. Because *Matter of Yajure Hurtado* has predetermined this issue and immigration judges have been instructed that they lack the authority to consider bond requests, requiring Petitioner to seek administrative relief would be futile. *See McCarthy v. Madigan*, 503 U.S. 140, 148 (1992).

Additionally, the underlying state arrest that placed Petitioner in immigration custody appears constitutionally infirm. Under the Fourth Amendment, an arrest must be supported by probable cause. Arresting a vehicle passenger for failure to possess a driver's license he had no legal obligation to carry fails this standard. If the predicate arrest was unlawful, the immigration detention flowing from it may be independently subject to challenge. *See Arizona v. United States*, 567 U.S. 387 (2012).

EXHAUSTION OF ADMINISTRATIVE REMEDIES

There is no statutory exhaustion requirement for habeas petitions brought pursuant to 28 U.S.C. § 2241 challenging the legality of immigration detention.

To the extent exhaustion is required, it is excused because administrative remedies are inadequate and futile. *Matter of Yajure Hurtado* has effectively predetermined the custody question: immigration judges have been directed that they lack authority to consider bond requests from noncitizens who entered without inspection, rendering any request for administrative relief an exercise in futility. *See Torres*, No. 3:26-cv-334-MMH-SJH, at *5–6; *Sundar v. INS*, 328 F.3d 1320, 1323 (11th Cir. 2003).

CLAIMS FOR RELIEF

COUNT I: UNLAWFUL MANDATORY DETENTION UNDER 8 U.S.C. § 1225 (ALTERNATIVE)

Petitioner re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

To the extent Respondents claim authority to detain Petitioner as an applicant for admission under 8 U.S.C. § 1225(b)(2)(A), that detention is unlawful. Petitioner has been present in the United States since 2006, approximately nineteen (19) years. He is not an arriving alien; he has never presented himself at a port of entry. He is a long-term resident of the United States.

The Government's application of § 1225(b)(2)(A) to individuals such as Petitioner — who have resided in the United States for years or decades — is contrary to the plain text and longstanding interpretation of the statute, and to the weight of judicial authority in this and other districts.

As this Court and its colleagues have repeatedly held, Petitioner's detention under § 1225(b)(2) is contrary to law and warrants immediate release. *See Torres*, No. 3:26-cv-334-MMH-SJH (M.D. Fla. Mar. 30, 2026).

**COUNT II: PROLONGED DETENTION IN VIOLATION OF THE DUE PROCESS
CLAUSE OF THE FIFTH AMENDMENT**

Petitioner re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

Petitioner has been detained since February 28, 2026, and faces continued detention of indefinite duration while his removal proceedings remain pending. No final order of removal has been entered.

Petitioner has not been provided a constitutionally adequate, individualized bond hearing before a neutral decisionmaker at which the Government bears the burden of justifying continued detention. Any such request to an immigration judge has been predetermined as futile by binding BIA precedent under *Matter of Yajure Hurtado*.

Petitioner is not a danger to the community. The February 28, 2026 arrest — the sole basis for his immigration detention — is itself constitutionally suspect, and Petitioner has no criminal history whatsoever.

Petitioner is not a flight risk. He has a U.S. citizen child in Florida upon whom he is the sole caregiver, a pending asylum application to which he has actively responded and appeared, and nearly two decades of community ties that make flight implausible.

Petitioner's continued confinement violates the Due Process Clause of the Fifth Amendment and is subject to correction by this Court through habeas corpus.

**COUNT III: UNLAWFUL DETENTION IN EXCESS OF STATUTORY AUTHORITY
UNDER 8 U.S.C. § 1226**

Petitioner re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

Section 1226 authorizes detention only for the limited regulatory purposes of ensuring appearance at removal proceedings and protecting the community. Petitioner's continued detention without an individualized, current determination that it serves those purposes exceeds the statute's authorization.

Petitioner's detention is not reasonably related to ensuring his appearance: he attended all required immigration hearings before his detention, has a pending asylum case, has a U.S. citizen child in Florida, and has deep community ties making flight implausible.

Petitioner's detention is not reasonably related to protecting the community: he has no criminal history, and the only basis for his immigration detention was a constitutionally suspect state arrest as a vehicle passenger. Continued detention under these circumstances exceeds the scope of statutory authorization and is independently unlawful.

COUNT IV: UNLAWFUL PREDICATE ARREST — FOURTH AMENDMENT VIOLATION

Petitioner re-alleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

The state arrest that served as the predicate for Petitioner's transfer into immigration custody was constitutionally infirm. Petitioner was a passenger — not an operator — of the stopped vehicle. Under Florida Statute § 322.03, the obligation to possess and present a driver's license applies to operators of motor vehicles, not passengers.

The arrest of Petitioner as a passenger for failure to possess a driver's license he had no legal obligation to carry is not supported by probable cause and constitutes an unreasonable seizure in violation of the Fourth Amendment.

The fact that no traffic citation or ticket was issued to Petitioner or the driver of the vehicle further undermines any asserted basis for the stop and removal of Petitioner from the vehicle.

Where the predicate state arrest is constitutionally infirm, Petitioner's immigration detention flowing from that arrest is tainted and provides an independent ground for habeas relief.

REQUESTED RELIEF

WHEREFORE, Petitioner Celso Cabrera Ortiz respectfully requests that this Court grant the following relief:

1. IMMEDIATELY issue a temporary restraining order enjoining Respondents from transferring Petitioner outside the Middle District of Florida pending adjudication of this Petition;
2. Issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241 declaring that Petitioner's continued detention violates the Constitution and laws of the United States;
3. Order Petitioner's immediate release from custody under reasonable conditions of supervision;
4. In the alternative, order Respondents to provide Petitioner with a prompt bond hearing before a neutral adjudicator that comports with the requirements of due process, at which the Government bears the burden of justifying continued detention by clear and convincing evidence, within seven (7) days of this Court's order;
5. Order that the Immigration Judge consider less restrictive alternatives to detention, including supervision, electronic monitoring, and regular check-ins;
6. Pending final resolution of this Petition, enjoin Respondents from re-arresting or detaining Petitioner on the same or similar grounds absent further order of this Court;
7. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

April 29, 2026

/s/ Anny Leon

Anny Leon

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4243 Sunbeam Rd, Suite 2

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904-293-7626

Attorney for Petitioner

VERIFICATION

I, Anny Leon, am counsel for Petitioner Celso Cabrera Ortiz in this habeas corpus proceeding. Petitioner is currently detained in immigration custody and is therefore unable to personally verify this Petition.

Pursuant to 28 U.S.C. § 2242, I verify on behalf of Petitioner that the factual statements contained in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge, information, and belief, based upon my communications with Petitioner and review of records and information available to me.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on this 29th day of April, 2026, at Jacksonville, Florida.

/s/ Anny Leon

Anny Leon, Esq.

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 29th day of April, 2026, a true and correct copy of the foregoing Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 was filed with the Clerk of the Court.

I further certify that a true and correct copy of the foregoing Petition is being served upon Respondents in accordance with Rule 4(i) of the Federal Rules of Civil Procedure, including service upon the Office of the United States Attorney for the Middle District of Florida, and the United States Attorney General.

Date: April 29, 2026

/s/ Anny Leon

Anny Leon, Esq.

Attorney for Petitioner