

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE, FLORIDA

YENNDY NUÑEZ GONZÁLEZ,
Petitioner,

V.

ACTING ATTORNEY GENERAL of the United States;)
MARKWAYNE MULLINS, Secretary, Department of)
Homeland Security; TODD LYONS, Acting Director,)
U.S. Immigration and Customs Enforcement;)
GARRETT J. RIPA, Field Office Director - Miami ERO;)
And RONNIE WOODALL, Facility Administrator -)
Baker Correctional Institution.)

Respondents.

Case No. _____

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

Petitioner, Yenndy Nuñez González (or “Mr. González”), by and through undersigned counsel, respectfully submits this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. 2241, seeking immediate release from unlawful detention by the Respondents. Petitioner is currently detained at Florida Baker Correctional Institution (or “Baker”) under the authority of the Department of Homeland Security (DHS) and Immigration and Customs Enforcement (ICE). Petitioner asserts that his continued detention violates the Constitution, laws, and treaties of the United States.

JURISDICTION AND VENUE

1. This Court has jurisdiction over this matter pursuant to 28 U.S.C. 2241, as Petitioner is in custody under the color of authority of the United States, and such custody violates the Constitution, laws, or treaties of the United States.
2. Venue is proper in the Middle District of Florida pursuant to 28 U.S.C. 1391(e) because Petitioner is detained within this District, and the Respondents, in their official capacity, reside or operate within this District.

PARTIES

3. Petitioner, Yenndy Nuñez González, is a Cuban national currently in ICE custody, detained at the Florida Baker Correctional Institute, located at 20706 FL-10, Sanderson, FL 32087 (“Baker”).

4. Ronnie Woodall is sued in his official capacity as the Warden of Florida Baker Correctional Institute. In this capacity, he is responsible for overseeing Baker's daily operations, inmate safety and security, and staffing, as well as knowing correctional policies and procedures. Mr. Woodall is a legal custodian of the Petitioner.
5. Garrett J. Ripa is sued in his official capacity as the Field Office Director for the Miami Field Office of Immigration and Customs Enforcement ("ICE"). In this capacity, he has jurisdiction over the detention facility in which Petitioner is held, is authorized to release Petitioner, and is a legal custodian of Petitioner. *Masingene v. Martin*, 424 F. Supp. 3d 1298 (S.D. Fla. 2020).
6. Todd M. Lyons is sued in his official capacity as the Acting Director of ICE. In this capacity, he has responsibility for the enforcement of immigration laws and immigration detention. As such, he is a legal custodian of Petitioner.
7. Markwayne Mullins is sued in his official capacity as the Secretary of the Department of Homeland Security, the arm of the U.S. government responsible for the enforcement of the immigration laws. Because ICE is a subagency of the DHS, Secretary Mullins is a legal custodian of Petitioner.
8. The Acting Attorney General is sued in their official capacity as the Attorney General of the United States, the chief officer within the

Department of Justice ("DOJ"). The DOJ encompasses the Board of Immigration Appeals ("BIA") and the Immigration Courts as sub-agencies of the Executive Office of Immigration Review ("EOIR"). The Acting Attorney General shares responsibility for implementing and enforcing immigration laws and is the legal custodian of Petitioner.

FACTUAL BACKGROUND

9. Mr. González was born in Havana, Cuba, on  He first began to have problems with the Cuban government due to his political opinions as a teenager. Eventually, voicing his political opinions led to his incarceration, without charge, where he was beaten by government officials. He was jailed for 20 days in 2019, then for five in 2021. This treatment led him to seek asylum in the United States.
10. Mr. González escaped Cuba on July 16, 2022, and entered the U.S. at Eagle Pass, Texas, two weeks later, on July 30, as an asylum seeker. He was placed in removal proceedings and released on his own recognizance on July 31, 2022, on an Order of Release, the day after his arrival. *See* Ex. B1. He was concurrently issued a Notice to Appear and ordered to appear before an Immigration Judge in Orlando, Florida, on November 2, 2023. *See* Ex. F1, filed as subexhibit C, Notice to Appear. Mr. González relocated to Florida and has unfailingly adhered to all terms of his release.

11. Upon arrival, Mr. González applied for asylum and withholding of removal under the Convention against Torture (CAT), which was received by DHS on October 27, 2022. *See* Ex. D1. He also filed an application to become a permanent resident under the Cuban Adjustment Act on August 2, 2023. *See* Ex. E1. Both applications are currently pending.

12. Mr. González has a wife, Yurisleni Labrada Espinosa (Ms. Espinosa), and a twelve-year-old daughter, M , both also from Cuba, who joined him in the U.S. He is college-educated and a hard-working, a productive contributor to the economy, who supports his family as a self-employed construction worker and business owner with employment authorization.

13. At approximately 7:00 p.m. on April 20, 2026, Mr. González and his wife were pulled over by Officer Wilson of the Alachua County Police for a “traffic violation.” *See* Ex. C1, Respondent’s I-213. However, no citation or warning was ever issued, and there is no proof of any traffic violation whatsoever. *See id.* Officer Wilson attempted to arrest both of them anyway, reportedly because they “were on a list that the federal government” had provided the local police. *See* Ex. F1, filed as subexhibit A, Respondent Declaration. Officer Wilson released Ms. Espinosa to the care of a neighbor; however, Mr. González was transferred to ICE custody at Baker.

14. Baker is a former state prison for men that was closed in 2021. In August 2025, Florida Governor Ron DeSantis reopened Baker, dubbing it “Deportation Depot,” to take advantage of its proximity to the Lake City Airport “for quickly deporting illegal aliens that have been processed at this facility.”¹ Baker reopened with a 1,300-bed capacity with plans to expand to 2,000.² As of April 12, experts mark the rate that detainees die in ICE civil detention in 2026 at approximately one death every six days, and nine of the 47 deaths that have been reported under the current administration are taking place in Florida.³

LEGAL FRAMEWORK

A. The Detention of a Non-Citizen, Like Petitioner, Who Has Been Released on His Own Recognizance Is Governed by 8 U.S.C § 1226(a), not Section 1225(b)(2).

15. The INA prescribes three basic forms of detention for most noncitizens in removal proceedings.

¹ Press Release, “Governor Ron DeSantis Announces Expansion of Florida’s Capacity to Detain and Deport Illegal Aliens,” August 14, 2025, available at <https://www.flgov.com/eog/news/press/2025/governor-ron-desantis-announces-expansion-floridas-capacity-detain-and-deport#:~:text=The%20Deportation%20Depot%20in%20Sanderson%2C%20Florida%20is,15%20minutes%20from%20the%20Lake%20City%20Airport> (last accessed April 28, 2026).

² PBS News, “DeSantis announces plans for second immigration detention facility dubbed ‘Deportation Depot,’” Aug 14, 2025, available at <https://www.pbs.org/newshour/politics/desantis-announces-plans-for-second-immigration-detention-facility-dubbed-deportation-depot> (last accessed April 28, 2026).

³ Austin Kocher, PHD, “Aled Damien Carbonell-Betancourt is the 17th Reported ICE Detention Death of 2026,” April 17, 2026, available at <https://austinkocher.substack.com/p/aled-damien-carbonell-betancourt> (last accessed April 28, 2026).

16.First, 8 U.S.C. § 1226 authorizes the detention of noncitizens in standard removal proceedings before an IJ, *see* 8 U.S.C. § 1229(a). Individuals in detention pursuant to § 1226(a) 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).

17.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). Those who have been paroled for over two years are not eligible for expedited removal. *See Silva-Toruno v. Ripa*, 2026 U.S. Dist. LEXIS 37015, at **8-9 (M.D. Fla. Feb. 24, 2026) (“ICE clearly exceeded its statutory authority when it designated him for expedited removal.”) (citing 8 U.S.C. § 1225(b)(1)(A)(iii)(II), “excluding aliens who have been paroled in the United States for more than two years from the class eligible for expedited removal”).

18.Last, the INA provides for the detention of noncitizens who have been ordered removed, including individuals in withholding-only proceedings. *See* 8 U.S.C. § 1231(a)–(b).

19. Where expedited removal pursuant to 8 U.S.C. § 1225(b)(1) is subsequently cancelled, the individual is then placed in standard removal proceedings pursuant to 8 U.S.C. § 1226. *Vega Cala v. Sec'y, Dep't of Homeland Sec.*, 2026 U.S. Dist. LEXIS 47263, at *41 (M.D. Fla. Mar. 9, 2026) (where a noncitizen is not “subject to expedited removal” the government’s “authority to detain him stems from section 1226(a),” which includes “a right to a bond hearing.”); *accord Ceballo v. Parra*, 2025 U.S. Dist. LEXIS 250326, at *7 (S.D. Fla. Dec. 4, 2025) citing *Jennings*, 583 U.S. at 306.

20. This case concerns the detention provisions at §§ 1226(a) and 1225(b)(2).

Those provisions 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) provides, in relevant part, that upon a “warrant issued by the Attorney General, an alien may be arrested and detained pending a decision” on their removability, and “pending such a decision, the Attorney General...may release the alien” on a bond. Section 1225(b)(2) provides, in relevant part, that “alien who is an applicant for admission,” who is “seeking admission” but is “not clearly and beyond a doubt entitled to be admitted” shall be detained.

21. 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).

22. 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)).

23. On July 8, 2025, DHS, “in coordination with” DOJ, announced a new policy that rejects this well-established understanding of the statutory framework and breaks with decades of practice. The new policy, entitled “Interim Guidance Regarding Detention Authority for Applicants for Admission,”⁴

⁴ Available at <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>.

claims that all persons who entered the United States without inspection shall be subject to mandatory detention under 8 U.S.C. § 1225(b)(2) regardless of when that person is apprehended and how long they have resided in the United States.

24. On September 5, 2025, the BIA adopted this same position in a published, precedential decision, *Matter of Yajure Hurtado*. There, the Board held that all noncitizens who entered the United States without admission or parole are subject to mandatory detention under § 1225(b)(2) and are ineligible for bond hearings before an immigration judge. *Matter of Yajure Hurtado*, 29 I&N Dec. 216 at 221–25.

25. However, district courts throughout Florida have considered the novel interpretation of § 1225(b) in *Matter of Yajure Hurtado* and rejected it, explaining that the plain text of the statute demonstrates that § 1226(a) applies to petitioners such as Mr. González who have resided for some time in the United States prior to apprehension. See *Merino v. Ripa*, 2025 U.S. Dist. LEXIS 206662, at *1 (S.D. Fla. Oct. 15, 2025); *Lopez v. Hardin*, 2025 U.S. Dist. LEXIS 188368, at *2 (M.D. Fla. Sep. 25, 2025); *Moya v. Ripa*, 2026 LX 46743, at *6, n. 3 (S.D. Fla. Feb. 19, 2026) (recognizing “the Fifth Circuit’s recent, divided opinion in *Victor Buenrostro-Mendez v. Bondi, et al.*,” while noting its lack of precedence and joining and citing to 82 district

court cases that “have uniformly rejected the Government's expansive interpretation of § 1225.”).

26. Florida is far from alone. Courts around the country have resoundingly rejected *Yajure Hurtado* and the collapse of Sections 1225 and 1226 of the INA. *See also* *Bautista v. Santacruz*, 813 F. Supp. 3d 1084, 1105 (C.D. Cal. 2025) (“Thus, Respondents' expansive interpretation of ‘applicants for admission’ would effectively nullify a portion of the INA through the DHS's legislative or interpretive exercise of power. Neither is appropriate under the separation of powers.”) (internal citations omitted); *Hasan v. Crawford*, 2025 WL 2682255 (E.D. Va. Sept. 19, 2025); *Kostak v. Trump*, 2025 WL 2472136, at *3 (W.D. La. Aug. 27, 2025); *Hernandez Marcelo v. Trump*, 3:25-cv-00094 (S.D. Iowa Sept. 10, 2025); *Singh v. Lewis*, 2025 WL 2699219, at *3 (W.D. Ky. Sept. 22, 2025); *Gomes v. Hyde*, 2025 WL 1869299 (D. Mass. July 7, 2025); *Lopez Benitez v. Francis*, 2025 WL 2371588 (S.D.N.Y. Aug. 13, 2025); *Maldonado v. Olson*, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Martinez v. Hyde*, 2025 WL 2084238 (D. Mass. July 24, 2025); *Rosado v. Figueroa*, 2:25-cv-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Samb v. Joyce*, 2025 WL 2398831 (S.D.N.Y. Aug. 19, 2025); *Salcedo Aceros v. Kaiser*, 3:25-cv-06924, 2025 WL 263705 (N.D.

Cal. Sept. 12); *Vasquez Garcia v. Noem*, 2025 WL 2549431 (S.D. Cal. Sept. 3, 2025); *Jimenez v. Bostock*, 2025 WL 2430381 (D. Or. Aug. 22, 2025).

27. There is currently a circuit split regarding the legality of *Yajure Hurtado*. The Fifth and Eighth Circuits have found that individuals in Petitioner's position are not eligible for bon. See *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 498 (5th Cir. 2026); *Avila v. Bondi*, 170 F.4th 1128 (8th Cir. 2026). However, the Second Circuit issued a decision following with the long line cases across the country rejecting *Yajure Hurtado*. Indeed, the Eighth Circuit confirmed this position as recently as April 28, 2026.

The plain text of both Sections 1225(b)(2)(A) and 1226(a) make clear that only one applies to a noncitizen like Petitioner: Section 1226(a) . . . This result is dictated by the plain text of these provisions, and further confirmed by the statute's context, structure, history, and purpose. It likewise comports with the Supreme Court's established understanding of Sections 1225 and 1226. It reflects Executive Branch practice over thirty years and across five Presidential administrations. Moreover, it explains why Congress has never challenged that settled practice despite making numerous amendments to the immigration laws. Finally, even if the government's newfound interpretation of Section 1225(b)(2)(A) were plausible—and it is not—we would nonetheless reject it based on our obligation to construe these statutes in a manner that would avoid the serious constitutional questions attendant to what would be the broadest mass-detention-without-bond mandate in our Nation's history for millions of noncitizens.

Da Cunha v. Freden, 2026 U.S. App. LEXIS 12201, at *2-3 (2d Cir. Apr. 28, 2026)

28. The *Da Cunha* decision is in line with decades of practice, the statutory language of the INA, and Supreme Court precedent. See *Jennings v. Rodriguez*, 583 U.S. 281, 289 (2018) (“U. S. immigration law authorizes the Government to detain certain aliens seeking admission into the country under §§1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings under §1226(a) and (c).”) (emphasis added).

29. Section 1226(a) applies by default to all persons “pending a decision on whether the [noncitizen] is to be removed from the United States.” 8 U.S.C. § 1226(a). Removal hearings are held under § 1229a, to “decid[e] the inadmissibility or deportability of a[] [noncitizen].” Section § 1226(a) thus contemplates that those who faces charges of inadmissibility, including those who are present without being admitted or paroled, will be subject to detention while removal proceedings are pending, but will be eligible for a bond hearing unless they fall within the mandatory detention provisions of Section 1226(c). *Jennings*, 583 U.S. at 287. Thus, Sections 1225 and 1226 “differentia[te] between the detention of arriving aliens who are asking entry...and the detention of those who are already present in the United States.” *Hernandez Lopez v. David Hardin*, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025).

30. Respondents' misinterpretation of the statute should not be entitled to any deference. *Loper Bright v. Raimundo*, 603 U.S. 369 (2023). It is the "responsibility of the court to decide whether the law means what the agency says." *Perez v. Mortgage Bankers Assn.*, 575 U.S. 92, 109 (2015) (Scalia, J., concurring in judgment). The text of § 1226 makes clear that its detention provisions apply to people like Petitioner who are charged as inadmissible, including those who entered without inspection. See 8 U.S.C. § 1226(c)(1)(E). Section 1226(c)(1)(E) includes in the category of individuals excluded from the default permissive detention provisions of § 1226(a) inadmissible noncitizens with certain criminal charges or convictions. When "Congress has created specific exceptions" to a statute's applicability, it "proves" that absent those exceptions, the statute generally applies." *Carbone v. CNN, Inc.*, 910 F.3d 1345, 1353 (11th Cir. 2018) (quoting *Shady Grove Orthopedic Assocs., P.A. v. Allstate Ins. Co.*, 559 U.S. 393, 400 (2010)); see also *Rodriguez v. Vasquez*, 779 F. Supp. 3d 1239, 1257 (W.D. Wash. 2025).

31. By contrast, § 1225(b) governs inspection and processing at U.S. borders or ports of entry. See *Jennings*, 583 U.S. at 297. To determine the meaning of Section 1225(b)(2)(A)'s text mandating detention for "arriving aliens" who are "seeking admission," the Court analyzes this text in its context. See

Bautista v. Star Cruises, 396 F.3d 1289, 1295 (11th Cir. 2005) (“As we take up this issue of statutory interpretation, the first step is to determine whether the statutory language has a plain and unambiguous meaning by referring to “the language itself, the specific context in which that language is used, and the broader context of the statute as a whole.”).

32. The title of a statutory provision may be “especially valuable [where] it reinforces what the text’s nouns and verbs independently suggest.” *Yates v. United States*, 574 U.S. 528, 552 (2015) (Alito, J., concurring in the judgment). Here, Section 1225’s title confirms the statute’s focus on inspections at the border: “Inspection by immigration officers; expedited removal of inadmissible *arriving* aliens; referral for hearing.” (emphasis added). 8 U.S.C. § 1225. “The use of ‘arriving’ indicates that the statute governs incoming noncitizens, not those present already.” *Patel v. Hardin*, 2025 U.S. Dist. LEXIS 233409, at *10 (M.D. Fla. Dec. 1, 2025). Subsection 1225(b)(2)(A) reiterates this focus with the subheading “*Inspection of Other Aliens*.” 8 U.S.C. § 1225(b)(2)(A) (emphasis added). This subsection “which is focused on inspections for noncitizens when they arrive via ‘crewman’ or as ‘stowaways,’” by carving out for “limited and more specific methods of entry” further suggests “that § 1225 applies to noncitizens arriving at a border or port.” *Id.* (quoting 8 U.S.C. § 1225(b)(2)); *see also*

Pizarro Reyes, 2025 WL 2609425, at *4; *Barrera v. Tindall*, 2025 WL 2690565 (W.D. Ky. Sept. 19, 2025).

33.Finally, § 1225(b)(2)(A) applies only to those applicants for admission who are “seeking admission,” a term that “implies action” and “would most logically occur at the border upon inspection.” *Lopez-Campos v. v. Raycraft*, 2025 WL 2496379 at *6 (E.D. Mich. Aug. 29, 2025). Bolstering this reading, the Supreme Court has held that § 1225(b) 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*, 583 U.S. at 287; *see also Policarpo v. Parra*, 2025 U.S. Dist. LEXIS 264048, at *7 (S.D. Fla. Dec. 22, 2025).

34.The facts here support a finding that Petitioner’s detention falls under Section 1226, not 1225. In the Order of Release on Recognizance, Respondents released Petitioner “[i]n accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, you are being released on your own recognizance.” Ex. B1. In Petitioner’s NTA, Respondents designated Petitioner as a noncitizen who was present in the United States and who had not been admitted or paroled, not as an arriving alien. Ex. F1, filed as subexhibit C, Notice to Appear.

35. Additional records confirm that Respondents understood Petitioner to be subject to detention under 8 U.S.C. § 1226(a), and eligible for conditional parole under 8 CFR § 236.1(c)(8). The governing regulations grant DHS the authority to release on conditional parole any noncitizen “not described in section 236(c)(1) of the Act, under the conditions at section 236(a)(2) and (3) of the Act; provided that the [noncitizen] must demonstrate to the satisfaction of the officer that such release would not pose a danger to property or persons, and that the [noncitizen] is likely to appear for any future proceeding.” 8 CFR § 236.1(c)(8). Thus, Respondents’ own records establish that they designated Petitioner as subject to detention under INA § 236(a), 8 U.S.C. § 1226(a). This Court “cannot credit Respondents’ new position as to the basis for Petitioner’s detention, which was adopted post hoc[.]” *Lopez Benitez*, 2025 WL 2371588, at *5 (citing *Dep’t of Homeland Sec. v. Regents of the Univ. of Cal.*, 591 U.S. 1, 22, 24 (2020); *Guaquire v. Quinones*, 2026 LX 76190, at *17-18 (M.D. Fla. Feb. 3, 2026) (petitioner granted parole was not subject to § 1225 mandatory detention simply due to agency statutory reinterpretation)).

36. Respondents’ classification of initial detention and release as pursuant to § 1226 precludes application of the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). “[T]here is no dispute that the provisions at issue here

are mutually exclusive—a noncitizen cannot be subject to both mandatory detention under § 1225 and discretionary detention under § 1226[.]” *Benitez v. Francis*, 795 F. Supp. 3d 475, 485 (S.D.N.Y. 2025).

37. Accordingly, the mandatory detention provision of § 1225(b)(2)(A) does not apply to people like Petitioner, who had already entered the United States, were deemed present without inspection at the time they were encountered by immigration enforcement, and were released on conditional parole.

38. Respondent’s contrary policy of subjecting all non-citizens charged with these inadmissibility grounds to mandatory detention would also “render the Laken Riley Act’s recent amendments to § 1226(c) both superfluous and ineffective.” *Guaquire v. Quinones*, 2026 U.S. Dist. LEXIS 21745, at *14 (M.D. Fla. Feb. 3, 2026) (citing *Gomes*, 2025 WL 1869299, at *5–8. Through the Laken Riley Act, Congress expanded the range of conduct under § 1226(c) that bars noncitizens from accessing § 1226(a)’s permissive detention provisions. *See* Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025). This expansion includes subsection (1)(E), which imposes mandatory on noncitizens charged as inadmissible under 8 U.S.C. § 1182(a)(6)(A), who have been arrested, charged, convicted, or who have admitted to committing certain crimes. *See* 8 U.S.C. § 1226(c)(1)(E). “When Congress acts to amend a statute, we presume it intends its amendment to

have real and substantial effect.” *Stone v. I.N.S.*, 514 U.S. 386, 397 (1995). If Congress had intended for Section 1225 to govern all noncitizens present in the country, who had not been admitted, then it would not have recently amended Section 1226 to provide a recourse that was already available, and interpreting it that way ““would be the definition of improper surplusage.”” *Guaquire v. Quinones*, 2026 LX 76190, at *15-16 (M.D. Fla. Feb. 3, 2026); quoting *Ndiaye v. Jamison*, 2025 U.S. Dist. LEXIS 227253, 2025 WL 3229307, at *6 (E.D. Pa. Nov. 19, 2025).

B. The Due Process Clause of the Constitution Protects Non-Citizens like Petitioner from Arbitrary Arrest and Detention

39. The Due Process Clause prohibits deprivations of life, liberty, and property without due process of law. U.S. Const. amend. V. It is firmly established that these protections extend to noncitizens living in the United States. *See e.g., Trump v. J.G.G.*, 604 U. S. 670, 673, (2025) (*per curiam*) (“‘It is well established that the Fifth Amendment entitles aliens to due process of law’ in the context of removal proceedings.” (citation omitted)); *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (“[T]he Due Process Clause applies to all ‘persons’ within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.”); *Wong Wing v. United States*, 163 U.S. 228, 238 (1896) (similar).

40. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty [the Due Process Clause] protects.” *Zadvydas*, 533 U.S. at 690; *see also Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (defining freedom from physical detention as “the most elemental of liberty interests”).

41. Even those who face significant constraints on their liberty or those over whose liberty the government wields significant discretion retain a protected interest in their liberty. *See Ortega v. Bonnar*, 415 F. Supp. 3d 963, 969 (N.D. Cal. 2019) (“The fact that a decision-making process involves discretion does not prevent an individual from having a protectable liberty interest.”), citing *Young v. Harper*, 520 U.S. 143, 150 (1997).; *accord Schmidt v. Bondi*, 2012 LX 60976, at *1-2 (N.D. Fla. Oct. 1, 2012).

42. The Fifth and Fourteenth Amendments to the U.S. Constitution provide at least two types of protection for noncitizens in removal proceedings: substantive and procedural due process.

a. Substantive due process requires that the government have sufficient justification to overcome an individual’s constitutional right to liberty.

43. “[G]overnment detention violates substantive due process unless it is ordered in a criminal proceeding with adequate procedural protections, or in non-punitive circumstances “where a special justification. . . outweighs the

individual's constitutionally protected interest in avoiding physical restraint.”” *Mendoza v. Assistant Field Officer Dir. Broward Transitional Ctr.*, 2026 U.S. Dist. LEXIS 25200, at *13-14 (S.D. Fla. Feb. 6, 2026) (quoting *Zadvydas*, 533 U.S. at 690).

44. Immigration proceedings and detention “are civil, not criminal, and . . . nonpunitive in purpose and effect.” *Zadvydas*, 533 U.S. at 690. Substantive due process requires that all forms of civil detention, including immigration detention, bear a “reasonable relation” to a non-punitive purpose. *See Jackson v. Indiana*, 406 U.S. 715, 738, (1972); U.S. Const. amend. V. The Supreme Court has recognized only two legitimate government interests in civil immigration detention: addressing flight risk and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *Demore v. Kim*, 538 U.S. 510, 519–20, 527–28 (2003).

45. Because the federal government has authority to make rules determining the admission and exclusion of noncitizens, some allowance is given regarding administratively necessary detention. *Fernandez v. Fla. Soft Side S. Det. Ctr.*, 2026 U.S. Dist. LEXIS 92611, at *3-4 (M.D. Fla. Apr. 28, 2026), citing *Dep’t of State v. Munoz*, 602 U.S. 899, 911-12 (2024); *Mathews v. Diaz*, 426 U.S. 67, 79-80 (1976). For example, to ensure a noncitizen is present for removal, “detention during deportation proceedings [is] a constitutionally

valid aspect of the deportation process.” *Fernandez*, 2026 U.S. Dist. LEXIS 92611 at *4, quoting *Demore*, 538 U.S. at 523.

46. Nevertheless, the purpose of administrative detention is to ensure removal, and there must be sufficient nexus between removal and detention to avoid the latter becoming impermissibly punitive. *Zadvydas*, 533 U.S. at 699.

47. The *Zadvydas* Court found that a six-month period of detention to effectuate removal after issuance of a final order was presumptively reasonable. 533 U.S. at 700-01. After the six-month expiration, a burden-shifting framework is employed under which a detainee may provide good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future, and the Government may then respond with evidence sufficient to rebut that showing. *Zadvydas*, 533 U.S. at 701. The removal period for purposes of *Zadvydas* begins at the onset of the removal period. *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 n.3 (11th Cir. 2002).

48. However, the premise underlying *Zadvydas* is that the reasonableness of detention should be measured by a habeas court “primarily in terms of the statute’s basic purpose, namely assuring the alien’s presence at the moment of removal.” *Zadvydas*, 533 U.S. at 699.

49. The regulations reflect this by authorizing ICE to release a noncitizen, such as Petitioner, if that individual can “demonstrate to the satisfaction of the

officer that such release would not pose a danger to property or persons” and that the noncitizen is “likely to appear for any future proceeding.” 8 C.F.R. § 1236.1(c)(8). Release therefore “reflect[s] ICE's determination that [the noncitizen] neither posed a flight risk nor a danger to the community.” *Guerrero v. Noem*, 2026 U.S. Dist. LEXIS 42335, at *13 (S.D. Fla. Feb. 27, 2026) (citing 8 C.F.R. § 1236.1(c)(8)). Absent changed circumstances, ICE lacks any legitimate interest in depriving a released noncitizen of their liberty, and re-detention would violate due process. *See id.* at *15 (citing *Mathews*, 424 U.S. at 348).

a. Procedural due process requires the government to provide specific protections to ensure fairness and prevent arbitrary deprivation of liberty.

50. The “essence” of procedural due process is that a person risking a serious loss be given notice and an opportunity to be heard in a meaningful manner and at a meaningful time. *See e.g., Mathews v. Eldridge*, 424 U.S. 319, 348 (1976); *Zinerman v. Burch*, 494 U.S. 113, 127 (1990) [“[T]he Constitution requires some kind of a hearing *before* the State deprives a person of liberty or property.”].

51. The Due Process Clause safeguards these protections even in cases where that freedom is lawfully revocable. *See Hurd v. D.C., Gov’t*, 864 F.3d 671,

683 (D.C. Cir. 2017) (citing *Young*, 520 U.S. at 152 (re-detention after pre-parole conditional supervision requires pre-deprivation hearing)); *Gagnon v. Scarpelli*, 411 U.S. 778, 782 (1973) (same, in probation context); *Morrissey v. Brewer*, 408 U.S. 471, 482 (1972) (same, in parole context).

52. In *Mathews v. Eldridge*, the Court set out a three-part test to determine what procedures are constitutionally required when a protected interest is at stake. 424 U.S. at 335. Under the *Mathews* test, the Court considers: 1) the private interests that will be affected by the official action; 2) the risk that this interest will be erroneously deprived and the probable value of additional or substitute procedural safeguards; and 3) the government's interest in acting without these safeguards. *Id.*

53. Courts apply the *Mathews*' factors to evaluate procedural due process challenges to immigration detention. *Arellano v. Ripa*, 2026 U.S. Dist. LEXIS 13005, *9; see also *Rodriguez Diaz v. Garland*, 53 F.4th 1189, 1206–07 (9th Cir. 2022); *Miranda v. Garland*, 34 F.4th 338, 368–69 (4th Cir. 2022); *Hernandez-Lara v. Lyons*, 10 F.4th 19, 27–28 (1st Cir. 2021); *Velasco Lopez v. Decker*, 978 F.3d 842, 851 (2d Cir. 2020).

54. First, noncitizens released from detention have a protected private interest in remaining out of custody. *Arellano v. Ripa*, 2026 LX 69689, at *10 (S.D. Fla. Jan. 23, 2026) (citing *Khabazha v. U.S. Immigr. & Customs Enft*, 2025

U.S. Dist. LEXIS 232130, 2025 WL 3281514 (S.D.N.Y. Nov. 25, 2025); *Sanchez v. Larose*, 2025 U.S. Dist. LEXIS 253831, 2025 WL 3470432 (S.D. Cal. Dec. 3, 2025)). While ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, “the government’s decision to release an individual from custody creates ‘an implicit promise,’ upon which that individual may rely, that their liberty ‘will be revoked only if they fail to live up to the conditions of release.’” *Arellano v. Ripa*, 2026 LX 69689, at *10 (S.D. Fla. Jan. 23, 2026) (citing *Pinchi v. Noem*, 792 F. Supp. 3d 1025, 1032 (N.D. Cal. July 24, 2025) (alterations adopted; quoting *Morrissey*, 408 U.S. at 482)).

55. Noncitizens released from Respondents’ custody thus have a protected liberty interest in remaining out of custody. *Arellano v. Ripa*, 2026 U.S. Dist. LEXIS 13005, at *10 (S.D. Fla. Jan. 23, 2026) (quoting *Pinchi*, 792 F. Supp. 3d at 1032) (“[t]hus, even when ICE has the initial discretion to detain or release a noncitizen pending removal proceedings, after that individual is released from custody [h]e has a protected liberty interest in remaining out of custody.” (alterations adopted)); *see also Ortega*, 415 F. Supp. 3d at 969 (“Just as people on preparole, parole, and probation status have a liberty interest, so too does [a noncitizen released from immigration detention] have

a liberty interest in remaining out of custody on bond.”); *Zhu v. Genalo*, 2025 WL 2452352, at *5 (S.D.N.Y. Aug. 26, 2025).

56. This liberty interest only strengthens over time as a noncitizen, such as Petitioner, establishes ties to a community within the United States. See *Landon v. Plasencia*, 459 U.S. 21, 32, 103 (1982) (“once an alien gains admission to our country and begins to develop the ties that go with permanent residence, his constitutional status changes accordingly. Our cases have frequently suggested that a continuously present resident alien is entitled to a fair hearing when threatened with deportation.”).

57. In this case, Mr. González has been living as a beloved and respected member of the community in the Alachua, Florida area for well over three years. He is an entrepreneur and small business owner. He supports his family by using his degree in design as a contractor. Mr. González enjoys a loving relationship with his wife, and is a committed and supportive father to his twelve year-old daughter. Therefore, he has a strong protected private interest in his continued liberty.

58. Second under *Mathews*, courts weigh the risk of erroneous deprivation of liberty. The initial consideration is that immigration detention is civil, and “is by definition non-punitive.” *Zadvydas*, 533 U.S. at 690. The Supreme Court has recognized only two legitimate government interests in civil

immigration detention: addressing flight risk and preventing danger to the community. *Zadvydas*, 533 U.S. at 690–92; *Demore v. Kim*, 538 U.S. 510, 519–20, 527–28 (2003).

59. When, as with Petitioner, a noncitizen is released on his own recognizance, ICE makes it evident that they considered him to be neither a flight risk nor a danger to the community. See *Arellano v. Ripa*, 2026 U.S. Dist. LEXIS 13005, at *12 (S.D. Fla. Jan. 23, 2026), citing 8 C.F.R. § 1236.1(c)(8).

60. Re-detention “without ICE providing Petitioner any notice, hearing, opportunity to be heard, or making a finding of changed circumstances sufficient to justify re-detention and the revocation of the Recognizance Order, present[s] a significant risk of erroneous deprivation.” *Id.* at *13-14 (see also *Lopez v. Sessions*, 2018 U.S. Dist. LEXIS 98712, at *30 (S.D.N.Y. June 12, 2018) (“without prior notice, a showing of changed circumstances, or a meaningful opportunity to respond, does not satisfy the procedural requirements of the Fifth Amendment.”)).

61. Further, once a noncitizen has gained a protected liberty interest, to curtail that liberty, “[t]he law requires a change in relevant *facts*, not just a change in attitude.” *Arellano*, 2026 LX 69689, at *13 (S.D. Fla. Jan. 23, 2026) (quoting *Valdez v. Joyce*, No. 25-Civ-4627, 2025 U.S. Dist. LEXIS 117131, 2025 WL 1707737, at *3 (S.D.N.Y. June 18, 2025) emphasis in original.).

62. In Petitioner's case, there has been no such change in facts, nor has there been notice or opportunity to be heard prior to any possibly erroneous deprivation of a protected liberty interest, underlining the need for procedural safeguards. Therefore, the second *Mathews* factor likewise weighs in Mr. González's favor.

63. Finally, the *Mathews* test weighs the government's interest in detaining the noncitizen without a pre-deprivation hearing. The Due Process Clause requires a pre-deprivation hearing when the interest in freedom from detention and the risk of erroneous deprivation outweigh the minimal cost to the government of providing such a hearing. The government must identify some interest beyond its own administrative practices to justify depriving an individual of his liberty without any pre-deprivation protections. *Hurd*, 864 F.3d at 684 (holding that re-detention after pre-parole conditional supervision requires a pre-deprivation hearing); *Gagnon*, 411 U.S. at 778 (same, in probation context); *Morrissey*, 408 U.S. at 482 (1972) (same, in parole context).

64. In this case, the government fails to claim either a change in circumstances or that Mr. González is a flight risk or danger to the community. To the contrary, he has never committed the slightest infraction regarding the terms of his release on his own recognizance; therefore, the government's interest

in re-detaining Mr. González is insubstantial and cannot outweigh Petitioner's liberty interest. *Arellano*, 2026 U.S. Dist. LEXIS 13005, at *14-15. Thus, the third factor in the *Mathews* test also weighs in favor of Mr. González.

65. Applying the *Mathews* factors to cases involving noncitizen petitioners facing re-detention because of Respondents' changed policies, courts have concluded that due process requires a pre-deprivation hearing. *See Arellano v. Ripa*, 2026 U.S. Dist. LEXIS 13005, *17; *Patel v. Tindall*, 2025 U.S. Dist. LEXIS 196325, at *5-6 (W.D. Ky. Oct. 3, 2025); *Rosado*, 2025 WL 2337099 at *12; *Pinchi*, 2025 WL 2084921, at *4-5.

66. Indeed, the regulations governing the re-detention of noncitizens released on parole provide for due process protection by requiring notice and "meaningful opportunity to contest the reasons for revocation" upon revocation of release. *See Someillan v. Mullin*, 2026 U.S. Dist. LEXIS 92719, at *12 (M.D. Fla. Apr. 28, 2026) ("Once an individual is released from detention under an order of supervision, revocation of that release is subject to the provisions of 8 C.F.R. § 241.4(l)."); *Grigorian*, 2025 U.S. Dist. LEXIS 175489, at *27-28 (citing 8 C.F.R. § 241.4(l)). Therefore, by improperly redetaining Mr. González, ICE declined to follow its own regulations, which must be followed as a matter of course, particularly when

“implicat[ing] basic due process rights.” *Id.* at *25-26 (quoting *Sharma v. Drug Enf't Agency*, 511 F. App'x 898, 902 (11th Cir. 2013); and citing *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 268 (1954); *Gonzalez v. Reno*, 212 F.3d 1338, 1349 (11th Cir. 2000)).

67. Therefore, by both the constitutional *Mathews* test, and DHS regulations, the re-detention of Mr. González violates his procedural due process rights.

CLAIMS FOR RELIEF

COUNT I

Violation of the INA

1. Petitioner repeats, re-alleges, and incorporates by reference every allegation in the preceding paragraphs of this Petition as if fully set forth herein.
2. 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 Respondents recognized upon originally releasing Petitioner, he is instead subject to 8 U.S.C. § 1226(a)'s permissive detention provisions during the duration of his removal proceedings.
3. The application of § 1225(b)(2) to Petitioner unlawfully mandates his continued detention in violation of the INA.

4. He is entitled to be released or, at least, to be provided a bond hearing pursuant to Section 1226(a) within seven days. Nearly every court to have addressed this question has “either ordered the alien’s release or required a bond hearing.” *Lopez v. Hardin*, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025); *Arellano* 2026 U.S. Dist. LEXIS 13005, at *17 (ordering release from custody); *Miza-Chipix v. Field Office Dir. Mia. Field Office*, 2026 U.S. Dist. LEXIS 49701, at *6 (M.D. Fla. Mar. 11, 2026) (awarding bond hearing); *Policarpo*, 2025 U.S. Dist. LEXIS 264048, at *10 (awarding individualized bond hearing or release); *Guaquire*, 2026 U.S. Dist. LEXIS 21745, at *24-26 (ordering release and requiring notice and hearing upon any re-detention).

5. Further, Petitioner’s re-detention after an Order of Release violates 8 C.F.R. § 241.4(l).

COUNT II

Violation of the Fifth Amendment to the United States Constitution Procedural Due Process

6. Petitioner, re-alleges, and incorporates by reference every allegation in the preceding paragraphs of this Petition as if fully set forth herein.

7. Under the Fifth Amendment to the U.S. Constitution, the government may not deprive a person of life, liberty, or property without due process of law. U.S. Const. amend. V.

8. The Constitution establishes due process rights for “all ‘persons’ within the United States, including [noncitizens], whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693.

9. The Due Process Clause of the Fifth Amendment protects Petitioner's weighty liberty interest in avoiding re-detention after release from immigration custody. *See Young*, 520 U.S. at 146–47; *Gagnon*, 411 U.S. at 781–82 (1973); *Morrissey*, 408 U.S. at 482–83 (1972); *see also Ortega*, 415 F. Supp. 3d at 969–70 (holding that a noncitizen has a protected liberty interest in remaining out of custody after initial release determination); *Arellano*, 2026 LX 69689, at *10; *Rosado*, 2025 WL 2337099, at *12; *Pinchi*, 2025 WL 2084921, at *3.

10. It is thus well settled that due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the ‘individual’s constitutionally protected interest in avoiding physical restraint.’” *Zadvydas*, 533 U.S. at 690 (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)).

11. Petitioner's re-detention without notice and opportunity to be heard violated that due process right. Approximately four years after deciding to release Petitioner from custody on his own recognizance, Respondents re-detained him without providing any notice, any explanation to justify his re-detention, or any opportunity to contest his re-detention before being taken into custody. To make

matters worse, they did so pursuant to an unlawful stop and seizure without probable cause. *See* Ex. C1. Further, Respondents alleged that Petitioner was not bond eligible based on a misinterpretation of statute and case precedent. The finding of ineligibility for bond has stripped Petitioner of the right to due process and opportunity to advocate for his release.

12. Petitioner's procedural due process rights were also violated by denying him a substantive bond hearing, and instead erroneously finding Petitioner ineligible for bond. *See* Ex. F1.

13. Application of the *Matthews* test further establishes that detention without a bond hearing violates the Fifth Amendment. Petitioner has a profound personal interest in his liberty. *See Arellano v. Ripa*, 2026 LX 69689, at *11-12; *Diaz v. Kaiser*, 2025 WL 1676854 (N.D. Cal. June 14, 2025); *Rosado*, 2025 WL 2337099, at *13; *Patel*, 2025 U.S. Dist. LEXIS 196325 at *5-6; *Pinchi*, 2025 WL 2084921, at *3. Because he received no procedural protections, the risk that the government will wrongfully deprive Petitioner of this liberty interest is high. And the government has no legitimate interest in detaining Petitioner without a custody hearing on the merits; bond hearings are conducted as a matter of course in immigration proceedings, and nothing in Petitioner's record suggested that he would abscond or endanger the community before a bond hearing could be carried out.

14. The government's detention of Petitioner without a bond redetermination hearing on the merits to determine whether he is a flight risk or danger to others violates his right to procedural due process and requires intervention from this Court. *See Patel*, 2025 U.S. Dist. LEXIS 196325 at *6 (ordering immediate release for a bond hearing after re-detention after finding due process violation); *Rocha Rosado v. Figueroa*, 2025 WL 2349133, at *1 (D. Ariz. Aug. 13, 2025) (adopting magistrate's report and recommendation and ordering immediate release from custody based on due process violation); *Savane v. Francis*, 2025 WL 2774452, at *10 (S.D.N.Y. Sept. 28, 2025) (ordering release after finding violation); *Guaquire*, 2026 U.S. Dist. LEXIS 21745, at *25-26 (enjoining re-detention unless the government establishes its necessity at a bond hearing).

COUNT III

Violation of the Fifth Amendment to the United States Constitution Substantive Due Process

15. Petitioner repeats, re-alleges, and incorporates by reference every allegation in the preceding paragraphs of this Petition as if fully set forth herein.

16. "Freedom 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." *Zadvydas*, 533 U.S. at 690.

17. Immigration detention is constitutionally permissible only when it furthers the government's legitimate goals of ensuring the noncitizen's appearance during removal proceedings and preventing danger to the community. *See id.*

18. That Petitioner was first released on an Order of Release on Recognizance in July 2022, "reflects" a determination by the government that [he] is not a danger to the community or a flight risk." *Saravia*, 280 F. Supp. 3d at 1176. The government does not claim any material circumstances have changed to warrant a reassessment of risk.

19. Because Petitioner does not pose any danger to the community and is not a flight risk, his detention thus violates his fundamental interest in being free from unjustified detention under the Due Process Clause of the Fifth Amendment. Indeed, courts have already found that Respondents' implementation of the "Interim Guidance Regarding Detention Authority for Applicants for Admission" led to substantive due process violations. *See Arellano v. Ripa*, No. 26-20044-CIV, 2026 U.S. Dist. LEXIS 13005, at *13-14 (S.D. Fla. Jan. 23, 2026) (ordering immediate release subject to the pre-existing conditions of petitioner's Order of Release on Recognizance); *Valencia Zapata*, 2025 WL 2741654, at *12 (granting preliminary injunction where petitioners likely to succeed on claim that re-detention without any new evidence of danger or flight risk violated substantive due process); *Lopez*, 2018 WL 2932726, at *14 (granting habeas petition where

there was “no evidence adduced concerning the process of, or the substantive basis for, Petitioner’s redetention” without a pre-deprivation hearing); *see also Gamez Lira v. Noem*, No. 25-cv00855-WJ-KK, 2025 WL 2581710, at *2–3 (D.N.M. Sept. 5, 2025) (finding the noncitizen petitioner was likely to succeed on substantive due process claim because the evidence established he was not a flight risk).

20. Moreover, Petitioner detention is punitive as it bears no reasonable relation to any legitimate government purpose. *See Zadvydas*, 533 U.S. at 690 (holding that the civil nature of detention renders it “nonpunitive in purpose and effect”). The purpose of Petitioner detention appears to be “not to facilitate deportation, or to protect against risk of flight or dangerousness, but to incarcerate for other reasons”—namely, to meet newly-imposed DHS quotas and disincentivize Petitioner from pursuing his statutory rights to seek asylum. *Demore*, 538 U.S. at 532–33 (Kennedy, J., concurring).

COUNT IV

Violation of the Administrative Procedure Act and the *Accardi Doctrine*

21. Petitioner repeats, re-alleges, and incorporates by reference every allegation in the preceding paragraphs of this Petition as if fully set forth herein.

22. The Administrative Procedure Act empowers courts to set aside agency action that is “arbitrary, capricious, an abuse of discretion, or otherwise not

in accordance with law,” or “in excess of statutory jurisdiction, authority, or limitations, or short of statutory right.” 5 U.S.C. § 706(2)(A), (C).

23. Under the *Accardi* doctrine, agencies are bound to follow their own rules that affect the fundamental rights of individuals, even self-imposed policies and processes that limit otherwise discretionary decisions. *See United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260 (1954) (holding that the BIA must follow its own regulations in its exercise of discretion); *Morton v. Ruiz*, 415 U.S. 199, 235 (1974) (“Where the rights of individuals are affected, it is incumbent upon agencies to follow their own procedures... even where the internal procedures are possibly more rigorous than otherwise would be required.”).

24. The requirement that an agency follow its own policies is not “limited to rules attaining the status of formal regulations.” *Montilla v. INS*, 926 F.2d 162, 167 (2d. 1991). Even an unpublished policy binds the agency if “an examination of the provision’s language, its context, and any available extrinsic evidence” supports the conclusion that it is mandatory. *Doe v. Hampton*, 566 F.2d 265, 281 (D.C. Cir. 1977); see also *Morton*, 415 U.S. at 235-36 (applying *Accardi* to a violation of internal agency manual).

25. When agencies fail to adhere to their own policies as required by *Accardi*, courts typically follow one of two courses of action. The first is to frame the violation as arbitrary capricious, and contrary to law under the APA. *See*

Damus v. Nielson, 313 F. Supp. 3d 317, 337 (D.D.C. 2018) (“It is clear, moreover, that [*Accardi*] claims may arise under the APA”). The second is to consider it a due process violation. See *Sameena Inc. v. United States Air Force*, 147 F.3d 1148, 1153 (9th Cir. 1998) (“An agency’s failure to follow its own regulations tends to cause unjust discrimination and deny adequate notice and consequently may result in a violation of an individual’s constitutional right to due process.”) (internal quotes omitted).

26. Prejudice is generally presumed when an agency violates its own policy. See *Montilla*, 926 F.2d at 167 (“We hold that a [noncitizen] claiming the INS has failed to adhere to its own regulations... is not required to make a showing of prejudice before [they are] entitled to relief. All that need be shown is that the subject regulations were for the [noncitizen’s] benefit and that the INS failed to adhere to them.”); *Heffner*, 420 F.2d at 813 (“The *Accardi* doctrine furthermore requires reversal irrespective of whether a new trial will produce the same verdict.”).

27. To remedy an *Accardi* violation, a court may direct the agency to properly apply its policy. See *Damus*, 313 F. Supp. 3d at 343 (“[T]his Court is simply ordering that Defendants do what they already admit is required.”). Or a court may apply the policy itself and order relief consistent with the policy. See *Jimenez v. Cronen*, 317 F. Supp. 3d 626, 657 (D. Mass. 2018) (scheduling bail

hearing to review petitioners' custody under ICE's standards because "it would be particularly unfair to require that petitioners remain detained... while ICE attempts to remedy its failure.").

28. Petitioner was released on an Order of Release in July 2022, "[i]n accordance with section 236 of the Immigration and Nationality Act and the applicable provisions of Title 8 of the Code of Federal Regulations, [] on [his] own recognizance." On information and belief, he has received neither an informal interview nor a formal hearing as required upon the revocation of his parole. *Grigorian*, at *25-27 (citing 8 C.F.R. § 241.4(l)).

29. Respondents violated the APA and the *Accardi* doctrine when Petitioner' parole was arbitrarily revoked without a change in circumstances and without notice or opportunity provided to challenge his re-detention.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue a writ of habeas corpus directing Respondents to produce Petitioner before this Court and to show cause why Petitioner is being detained;
2. Order that Petitioner shall not be transferred outside the Middle District of Florida while this Petition is pending before the Court.
3. Order Petitioner's immediate release from ICE custody;

4. Declare that Petitioner's arrest and detention violated the Fifth Amendment of the United States Constitution;
5. Enjoin Respondents from re-detaining Petitioner without lawful probable cause and compliance with applicable statutes and regulations;
6. Award reasonable attorneys' fees and costs where authorized; and
7. Grant such further relief as the Court deems just and proper.

Respectfully submitted this 1st day of May, 2026.

/s/ Katherine H. Blankenship
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Attorney for Petitioner

Certificate of Service

I hereby certify that on May 1, 2026, a true and correct copy of the foregoing Petition for Writ of Habeas Corpus was served via Pacer/ECF electronic filing.

Respectfully submitted,

/s/ Katherine H. Blankenship
Katherine H. Blankenship

**VERIFICATION BY SOMEONE ACTING ON THE PETITIONER'S
BEHALF PURSUANT TO 28 U.S.C. § 2242**

I, Katherine H. Blankenship, am submitting this verification on behalf of Petitioner because I am his attorney. I have conferred with Mr. Yenndy Nunez González and also reviewed the administrative record of his case as his counsel acting before the agency. On the basis of this review, 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: May 1, 2026

/s/ Katherine H. Blankenship

Katherine H. Blankenship (FL Bar No. 1031234)