

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

HECTOR DAVID CASTILLO SANCHEZ,
Petitioner,

-against-

MARKWAYNE MULLIN, IN HIS OFFICIAL
CAPACITY, SECRETARY OF U.S. DEPARTMENT OF
HOMELAND SECURITY;

TODD BLANCHE, IN HIS OFFICIAL CAPACITY, or
ACTING U.S. ATTORNEY GENERAL IN HIS
OFFICIAL CAPACITY;

TODD LYONS, IN HIS OFFICIAL CAPACITY ICE
FIELD OFFICE DIRECTOR DETENTION AND
REMOVAL

GARRETT RIPA SELECTED AS ERO FLORIDA FIELD
OFFICE DIRECTOR

RONNIE WOODALL WARDEN AT FLORIDA BAKER
CORRECTIONAL INSTITUTE

Respondents .

**PETITION FOR WRIT OF
HABEAS CORPUS**

Case No.:

**PETITION FOR WRIT OF HABEAS CORPUS
PURSUANT TO 28 U.S.C. § 2241 AND**

1. Petitioner, HECTOR DAVID CASTILLO SANCHEZ, ("Mr. Castillo Sanchez"), is a native and citizen of Mexico who has been physically present in the United States since approximately April 15, 1993, when he was approximately six (6) years old. He has maintained over thirty-two (32) years of continuous presence in the U.S. Petitioner will be seeking asylum and withholding of removal before the Immigration Court and a Motion to Reopen his Deferred Action for Childhood Arrivals (D.A.C.A.) Case. He has a Master hearing scheduled for May 27, 2026, before the Immigration Court in Orlando, Florida, within this Court's jurisdiction. See Exhibit 1 - EOIR Automated Case Information.
2. On or about April 2, 2026, the Department of Homeland Security ("DHS") initiated removal proceedings against Petitioner. See Exhibit 2, Notice to Appear ("NTA") and Case Portal.
3. Petitioner has no known convictions on his record. In 2022, he was charged with *driving without a valid driver's license*; however, that matter was dismissed via *nolle prosequi*, meaning no process was taken by the government and the case was dismissed. Accordingly, it does not constitute a conviction for immigration purposes. On March 31, 2026, Petitioner was cited and taken into custody for driving without a valid driver's license; was issued two citations for no valid driver license which remain pending—from March 31, 2026. Petitioner has since been incarcerated under an ICE detainer. The presumption of innocence stands, and Petitioner is presumed innocent unless and until proven guilty (*See Coffin v. United States*, 156 U.S. 432 (1895)). As well, a presumptive no valid driver license citation does not rise to the level of a crime of moral turpitude; it *lacks* any necessary *mens rea* to be a crime of moral turpitude. Accordingly, neither incident places Petitioner within the scope of 8 U.S.C. § 1226(c), nor renders him inadmissible under 8 U.S.C. § 1182(a)(2).
4. Petitioner resides at [REDACTED] but Petitioner is now detained at U.S. Immigration Customs Enforcement Custody at Florida Baker Correctional Institute, 20706 US 90 W, Sanderson, FL 32087, USA, within the jurisdiction of this court. See Exhibit 3 - ICE Locator.
5. Petitioner applied for bond and was denied by the Immigration Judge ("IJ") due to an alleged "lack of jurisdiction." See Exhibit 4 – Decision on Immigration Bond.
6. Petitioner is currently being held unlawfully without due cause, for which this Habeas Corpus, and or forced bond hearing is an appropriate remedy.

7. Petitioner is a class member in *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873SSS-BFM (C.D. Cal.). In *Maldonado Bautista* the court certified the Bond Eligible Class, defined as: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, --- F. Supp. 3d ---, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025). Petitioner is a noncitizen without lawful status detained at the Florida Baker Correctional Institute who (1) entered the United States without inspection, (2) was not apprehended upon arrival, and (3) is not subject to mandatory detention pursuant to 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231. Accordingly, as a member of the Bond Eligible Class, Petitioner is entitled to the application of the law as stated in the *Maldonado Bautista* orders.
8. On July 8, 2025, DHS issued a memo to all employees of Immigration and Customs Enforcement (Hereinafter “ICE”) stating that “[t]his message serves as notice that DHS, in coordination with the Department of Justice (Hereinafter “DOJ”), has revisited its legal position on detention and release authorities. DHS has determined that section 235 of the Immigration and Nationality Act (INA), rather than section 236, is the applicable immigration detention authority for all applicants for admission. The following interim guidance is intended to ensure immediate and consistent application of the Department’s legal interpretation while additional operational guidance is developed.” Memorandum, U.S. Immigration & Customs Enf’t, Interim Guidance Regarding Detention Authority for Applications for Admission (July 8, 2025), available at AILA Doc. No. 25071607, <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>
9. The BIA’s September 5, 2025, precedential decision in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025) held that the plain language of 8 U.S.C. § 1225(b)(2)(A) mandates that all aliens who have entered the United States without admission are subject to mandatory detention. This decision is in contravention with the DHS’s longstanding interpretation that noncitizens already present in the country such as Respondent were detained pursuant to 8 U.S.C. § 1226(a) and not §1225(b)(2)(A).

10. Mr. Castillo Sanchez's instant removal case is still pending.
11. Mr. Castillo Sanchez' therefore seeks immediate release from custody, and requests that this Court issue an Order to Show Cause within three days directing Respondents to explain why Petitioner is being unlawfully detained.
12. Mr. Castillo Sanchez's detention pursuant to § 1225(b)(2)(A) violates the plain language of the INA and its implementing regulations. Mr. Castillo Sanchez, who was apprehended in the interior of the U.S., should not be considered an "applicant for admission" who is "seeking admission." Rather, she should continue to be detained pursuant to 8 U.S.C. § 1226(a), which was DHS's initial determination for Petitioner and allows for release on conditional on an order of release on recognizance.

I. PARTIES

1. **Petitioner**, HECTOR DAVID CASTILLO SANCHEZ, ("Mr. Castillo Sanchez"), is a citizen and national of Mexico, with Immigration Court set before the Orlando Immigration Court. Petitioner resides within the jurisdiction of this Court at [REDACTED]
[REDACTED] Petitioner is now detained at U.S. Immigration Customs Enforcement Custody at Florida Baker Correctional Institute ("FBCI") 20706 US 90 W, SANDERSON, FL 32087, USA, within the jurisdiction of this court.
2. **Respondent**, MARKWAYNE MULLIN, is sued in his *official capacity as Secretary of the U.S. Department of Homeland Security*, responsible for administering and enforcing the laws governing Immigration and Nationality Act, and oversees ICE, which is responsible for Petitioner's detention. Respondent has ultimate custodial authority over Petitioner. Defendant is sued in his official capacity. At all times relevant hereto, Respondent Mullin's address is U.S. Department of Homeland Security, Office of the General Counsel, 2707 Martin Luther King Jr. Ave. SE, Washington, DC 20528-0485.
3. **Respondent**, TODD BLANCHE, is sued in his *official capacity as Acting United States Attorney General*, is responsible for the enforcement of federal laws, including immigration-related matters. He is responsible in an official capacity for the Department of Justice, of which the Executive Office for Immigration Review and the immigration court system operate and is responsible for immigration law administration under the Immigration and Nationality Act.

Defendant is sued in his official capacity. At all times relevant hereto, Respondent's address is U.S. Department of Justice, 950 Pennsylvania Avenue, NW, Washington, DC 20530-0001.

4. **Respondent, TODD LYONS**, is sued in his *official capacity as Acting Director of U.S. Immigration and Customs Enforcement (ICE)*, is charged with administering and enforcing immigration laws and detention operations. Defendant is sued in his official capacity. At all times relevant hereto, Respondent Lyons's address is ICE, Office of the Principal Legal Advisor, 500 12th St. SW, Mail Stop 5900, Washington DC 20536-5900.
5. **Respondent, GARRETT RIPA**, is sued in his *official capacity as the Field Office Director of Enforcement and Removal Operations (ERO), overseeing the Florida Field Offices within Immigration and Customs Enforcement*, and responsible for detention and removal operations within his jurisdiction. At all times relevant hereto, Respondent's address is Field Office Director, ICE ERO Miami, 865 SW 78th Avenue, Suite 101, Plantation, FL 33324.
6. **Respondent, RONNIE WOODALL**, is sued in his *official capacity as Warden of the Florida Baker Correctional Institution located in 20706 US 90 W, SANDERSON, FL 32087*, under U.S. Immigration and Customs Enforcement (ICE). The Facility is responsible for the custody and detention of individuals such as Petitioner who is held at that facility. At all times relevant hereto, Respondent Woodall's address is Baker Correctional Institution: Warden, 20706 US Highway 90 West Sanderson, Florida 32087-2359.

II. CUSTODY

7. Petitioner is currently in custody of Respondent Garrett Ripa, Field Office Director for Enforcement and Removal Operations (ERO) of U.S. Immigration and Customs Enforcement (ICE) and Department of Homeland Security (DHS), and Respondent WARDEN Ronnie Woodall, Warden of FLORIDA BAKER CORRECTIONAL INSTITUTION ("FBCI"), (20706 U.S. Highway 90 West, Sanderson, Florida 32087). At the time of filing this petition, Plaintiff-Petitioner is detained at the FBCI, in Sanderson, Florida. The Florida Baker Correctional Institution is run by DHS to detain noncitizens such as Petitioner. Petitioner is under the direct control of respondents and their agents.

III. JURISDICTION

8. Jurisdiction is proper and relief is available pursuant to 28 U.S.C. 1131 (federal question), 28 USC 1346 (original jurisdiction), 5 USC 702 (waiver of sovereign immunity), 28 USC § 2241 (habeas corpus jurisdiction), 8 U.S.C. § 1226(a), and Article I, § 9, cl. 2 of the United States Constitution (Suspension Clause), the United States Constitution, Section I 5th and 14th Amendments (Due Process Clause).

IV. VENUE

9. Venue is proper because Petitioner is detained in Sanderson, Florida and now remains detained at the FLORIDA BAKER CORRECTIONAL INSTITUTION (“FBCI”), located at 20706 U.S. Highway 90 West, Sanderson, Florida 32087; Venue is the Jacksonville division in the Middle District of Florida. *See also generally Rumsfeld v. Padilla*, 542 U.S. 426, 447 (2004) (generally, “[w]henver a § 2241 habeas petitioner seeks to challenge his present physical custody within the United States,” he must file the petition in the district of confinement and name his immediate custodian as the respondent), *see also Braden v. 30th Judicial Circuit of Kentucky*, 410 U.S. 484, 493-500 (1973), venue properly lies in the United States Middle District of Florida, the judicial district in which petitioner is currently detained.

V. APPLICABLE LAW

10. The Fifth Amendment’s Due Process Clause protects the right of all persons to be free from “depriv[ation] of life, liberty, or property, without due process of law.” U.S. Const. amend. V.
11. “It is well established that the Fifth Amendment entitles aliens to due process of law[.]” *Trump v. J. G. G.*, 604 U.S. —, 145 S. Ct. 1003, 1006 (2025) (quoting *Reno v. Flores*, 507 U.S. 292, 306, 113 S. Ct. 1439 (1993)).
12. “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.

13. The INA prescribes three basic mechanisms for detention for non-citizens, 8 U.S.C. § 1225, for arriving aliens and applicants for admission, § 1226 the default detention statute, and § 1231 for post-final order detention. 8 U.S.C. § 1226(a) review applies.
14. Writ of Habeas Corpus Under 28 U.S.C. § 2241 applies. Section 2241 of 28 United States Code provides in relevant part that “[w]rits of habeas corpus may be granted by . . . the district courts within their respective jurisdictions” when a petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(a), (c)(3); *See also I.N.S. v. St. Cyr*, 533 U.S. 289, 305, 121 S. Ct. 2271 (2001).
15. District courts grant writs of habeas corpus to those who demonstrate their custody violates the Constitution or laws of the United States. 28 U.S.C. § 2241(c)(3).
16. Habeas corpus “entitles [a] prisoner to a meaningful opportunity to demonstrate that he is being held pursuant to ‘the erroneous application or interpretation’ of relevant law.” *Boumediene v. Bush*, 553 U.S. 723, 779, 128 S. Ct. 2229 (2008) (quoting *St. Cyr*, 533 U.S. at 302).
17. A Nation-wide Class--*Maldonado Bautista Class* applies. This case is based on individuals seeking bond hearings as Maldonado Bautista Class Members--Those who entered without inspection and are subject to *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). November 25, 2025, the U.S. District Court for the Central District of California issued an order in *Maldonado Bautista v. Santacruz*, (Case 5:25-cv-01873-SSS-BFM)¹ certifying a nationwide class of noncitizens who are in immigration detention, and are being denied access to a bond hearing based on the government’s allegation that they entered the United States without admission or inspection. The Court granted declaratory relief to the entire class, holding that the government is unlawfully subjecting them to mandatory (meaning no-bond) detention and that class members are eligible for release on bond under the immigration laws. Thus, under the Court’s order, class members should be able to request a bond hearing in immigration court before an immigration judge (IJ) who must consider whether they are suitable for release on bond while their removal proceedings are pending.
18. In the Case *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), on September 5, 2025, the Board of Immigration Appeals held that:

¹ *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM, Dkt. 81 (C.D. Cal. Nov. 20, 2025), <https://www.aclu.org/cases/maldonadobautista-v-dhs?document=Order-Granting-PSJ>

Based on the plain language of section 235(b)(2)(A) of the Immigration and Nationality Act, 8 U.S.C. § 1225(b)(2)(A) (2018), Immigration Judges lack authority to hear bond requests or to grant bond to aliens who are present in the United States without admission.

The Immigration Judge determined that he lacked jurisdiction to hear the respondent's bond request because the respondent was subject to mandatory detention under section 235(b)(2) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1225(b)(2) (2018) and, in the alternative, that the respondent is a flight risk.

As such, the Board of Immigration Appeals ("BIA") is part of the Executive Office for Immigration Review and is an agency within the U.S. Department of Justice, therefore this Court may treat the BIA as a federal administrative agency to undergo APA review.

19. Meanwhile, ICE Interim Guidance Policy instructs Immigration Judges ("IJs")² via Interim Guidance Regarding Detention Authority for Applicants for Admission:

Custody Determinations

An "applicant for admission" is an alien present in the United States who has not been admitted or who arrives in the United States, whether or not at a designated port of arrival INA § 235(a)(1). Effective immediately, it is the position of DHS that such aliens are subject to detention under INA § 235(b) and may not be released from ICE custody except by INA § 212(d)(5) parole. These aliens are also ineligible for a custody redetermination hearing ("bond hearing") before an immigration judge and may not be released for the duration of their removal proceedings absent a parole by DHS. For custody purposes, these aliens are now treated in the same manner that "arriving aliens" have historically been treated. The only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception those subject to mandatory detention under INA § 236(c).³ [emphasis added]

[...]

Moving forward, ICE will not issue Form I-286, Notice of Custody Determination, to applicants for admission because Form I-286 applies by its terms only to custody determinations under INA § 236 and part 236 of Title 8 of the Code of Federal Regulations. With a limited exception for certain habeas petitioners, on which the Office of the Principal Legal Advisor (OPLA) will individually advise, if Enforcement and Removal Operations (ERO) previously conducted a custody

² See: ICE Memo: Interim Guidance Regarding Detention Authority for Applications for Admission, AM. IMMIGR. LAWYERS ASS'N (July 8, 2025), <https://www.aila.org/library/ice-memo-interim-guidance-regarding-detention-authority-for-applications-for-admission>

³ *Id.*

determination for an applicant for admission still detained in ICE custody, ERO will affirmatively cancel the Form I-286.⁴ [emphasis added]

20. As a result, according to DHS, all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including long-time U.S. residents, are now considered to be subject to mandatory detention under INA § 235(b) and ineligible for release on bond. Conversely, according to DHS “[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).” *Id.*
21. Prior to July 8, 2025, the predominant form of detention authority for anyone arrested in the interior of the United States was 8 U.S.C. § 1226(a). Further, the Petitioner in this case was initially released into the interior of the U.S. when he was approximately six years old in 1993, because of 8 U.S.C. § 1226(a).
22. Section 2241 of 28 United States Code provides in relevant part that “[w]rits of habeas corpus may be granted by...the district courts within their respective jurisdictions” when a petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(a), (c)(3); *see also—I.N.S. v. St. Cyr.* 533 U.S. 289, 305, 121 S. Ct. 2271 (2001).
23. District courts grant writs of habeas corpus to those who demonstrate their custody violates the Constitution of laws of the United States. 28 U.S.C. § 2241(c)(3).
24. The INA prescribes three basic mechanisms for detention for non-citizens, 8 U.S.C. § 1225, for arriving aliens and applicants for admission, § 1226 the default detention statute, and § 1231 for post-final order detention.
25. The detention provisions at § 1226(a) and § 1225(b)(2) 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, 300-582 to 3009-583, 3009-585. Section 1226 was most recently amended earlier this year by the Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025).
26. As a result, according to DHS all noncitizens who have entered the United States without inspection and are subject to the grounds of inadmissibility, including long-time U.S. residents,

⁴ *Id.*

are now considered to be subject to mandatory detention under INA § 235(b) and ineligible for release on bond. Conversely, according to DHS “[t]he only aliens eligible for a custody determination and release on recognizance, bond, or other conditions under INA § 236(a) during removal proceedings are aliens admitted to the United States and chargeable with deportability under INA § 237, with the exception of those subject to mandatory detention under INA § 236(c).” *Id.*

27. Following the enactment of the IIRIRA, the U.S. Department of Justice’s Executive Office of Immigration Review (“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) (“Despite being applicants for admission, aliens who are present without having been admitted or paroled (formed referred to as aliens who entered without inspection) will be eligible for bond and bond redetermination”).
28. Thus, in the decades that followed, most people who entered without inspection and were thereafter detained and placed in standard removal proceedings were considered for release on bond and also received bond hearings before an Immigration Judge (“IJ”), unless their criminal history rendered them ineligible. That practice was consistent with many more decades of prior practice, in which noncitizens who had entered the United States, even if without inspection, were entitled to a custody hearing before an IJ or other hearing officer. In contrast, those who were stopped at the border were only entitled to release on parole. See 8 U.S.C. § 1225(a) (1994); see also H.R. Re. No. 104-469, pt. 1 at 220 (1996) (noting that § 1226(a) simply “restates” the detention authority previously found at § 1252(a)).
29. For decades, residents of the U.S. who entered without inspection and were subsequently apprehended by ICE in the interior of the country have been detained pursuant to § 1226 and entitled to bond hearings before an IJ, unless barred from doing so due to their criminal history.
30. Under § 1226(a) the Attorney General may release a detainee on bond on the authority of ICE or by an Immigration Judge. There are standards for release: bond is available if the detainee “demonstrate[s] . . . that such release would not pose a danger to property or persons, and that [he] is likely to appear for any future proceeding.” 8 C.F.R. § 36.1(c)(8). “[T]he immigration judge is authorized to exercise the authority . . . to detain the alien in custody, release the alien,

and determine the amount of bond.” *Id.* § 236.1(d)(1). If denied release at the initial bond hearing, a § 1226(a) detainee may request a custody redetermination hearing before an IJ. That request will “be considered only upon a showing that the alien’s circumstances have changed materially.” *Id.* § 1003.19(e).

VI. CAUSE OF ACTION – COUNT 1:
VIOLATION OF THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT OF
THE UNITED STATES CONSTITUTION AND MATTHEWS V. EDRIDGE FACTORS
PROCEDURAL DUE PROCESS CLAIM

31. *Petitioner* repeats and incorporates by reference all allegations above as set forth fully herein.
32. The Due process clause asks whether the government’s deprivation of a person’s life, liberty, or property is justified by a sufficient purpose. Here, there is no question that the government has deprived *Petitioner* of their liberty. This continued detention violates their right to substantive and procedural due process guaranteed by the Fifth Amendment to the U.S. Constitution.
33. The Due Process Clause of the Fifth Amendment to the U.S. Constitution provides that “[n]o person shall...be deprived of life, liberty, or property without due process of law.” As a noncitizen who shows over “two years” physical presence in the United States (indeed he has over been in the U.S. since April 15, 1993, he is being deprived of life, liberty, or property without due process of law (See Immigration Documents Exhibits).
34. *Petitioner* is entitled to Due Process Clause protections against deprivation of liberty and property. See *Zadvydas*, 533 U.S. at 693 (“[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.”). Any deprivation of this fundamental liberty interest must be accompanied not only by adequate procedural protections, but also by a “sufficiently strong special justification” to outweigh the significant deprivation of liberty. *Id.* at 690. As well, *Petitioner* is in asylum proceedings with the final Immigration Court Scheduled for June 30, 2026, and Respondent(s) already denied *Petitioner* the right to have a bond due to “lack of jurisdiction” (See *Exhibit- Bond denial “lack of jurisdiction”*).
35. Thus, Respondent’s new policy and decision along with the BIA’s decision in *Yajure-Hurtado*, and the Bond denial in *Petitioner*’s case violates the procedural due process rights of noncitizen detainees, both facially and as applied. It lacks any reference to or establishment of any

procedure for challenging its invocation. The Court should find that there can be no possible application of this policy that would satisfy due process where it purports to authorize the most severe and recognized deprivation of liberty without a hint of a process to challenge such deprivation. In contrast, as the Supreme Court in *Demore* highlighted in upholding the mandatory detention of a noncitizen convicted of a crime under § 1226(c), “process” has been built into that mandatory detention scheme. For example, § 1226(c) applies to detainees whose convictions were generally “obtained following the full procedural protections [the] criminal justice system offers.” *Demore v. Kim*, 538 U.S. 510, 513 (2003); *id.* at 525 n.9, (noting that “respondent became ‘deportable’ under § 1226(c) only following criminal convictions that were secured following full procedural protections. *Id.* at 525” also noting that detention is authorized for aliens who committed certain crimes such as “aggravated felony or any two crimes involving moral turpitude.”) *Id.* at 513”. And if mandatory detention becomes unnecessarily prolonged in that context, the due process’ prohibition of arbitrary government detention could entitle a detainee “to an individualized determination as to his risk of flight and dangerousness if the continued detention became unreasonable or unjustified.” *Id.* at 532 (Kennedy, J., concurring). Detention pursuant to the automatic stay after the government already failed to establish a justification for it, with no process afforded to challenge the detention as arbitrary, is facially violative of procedural due process.

36. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. *U.S. Const. Amend. V*. “Freedom from imprisonment—from government custody, detention, or other forms of physical restraint—lies at the heart of the liberty that Clause protects.” *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). “Government detention violates the Due Process Clause unless it is ordered in a criminal proceeding with adequate procedural safeguards, or in certain special and non-punitive circumstances ‘where a special justification ... outweighs the individual's constitutionally protected interest in avoiding physical restraint.’” *Zavala v. Ridge*, 310 F. Supp. 2d 1071, 1076, (N.D. Cal. 2004) (quoting *Kansas v. Hendricks*, 521 U.S. 346, 356 (1997)).
37. Here, DHS, affirmed by the BIA, determined, improperly, that all persons present in the U.S. who entered without admission are ineligible for bond. It is thus a foregone conclusion that the BIA will affirm the IJ’s decision here and find Petitioner ineligible for bond. Like the accused

in criminal cases, habeas is proper. See *Moore v. Dempsey*, 261 U.S. 86 (1923); *Johnson v. Zerbst*, 304 U.S. 458 (1938); *Burns v. Wilson*, 346 U.S. 137, 154 (1953).

38. To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319, 96 S.Ct. 893, 47 L.Ed.2d 18 (1976). Those factors are: (1) "the private interest that will be affected by the official action"; (2) "the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards"; and (3) "the Government's interest, including the function involved and the fiscal and administrative burdens that the additional or substitute procedural requirement would entail." *Mathews*, 424 U.S. at 335, 321, 96 S.Ct. 893.
39. *This Court* has rejected government arguments such as, (1) 8 U.S.C. § 1252(g) and (b)(9) strip the Court of jurisdiction over the petitioner's claims, (2) the petitioner failed to exhaust available administrative remedies, and (3) the petitioner is properly detained under § 1225(b)(2) and is not eligible for release or a bond hearing, in cases with similarly situated persons who presented similar issues, such as *Hinojosa Garcia v. Noem*, No. 2:25-cv-879-SPCNPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025) and *Vasquez Carcamo v. Noem*, 2:25-cv-922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025).
40. *This Court* has held in similar cases that, Noncitizens detained under § 1226(a) have a right to a bond hearing. See *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) ("Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.") (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)), (See also: *Mendoza-Rivas v. Blanche*, No. 2:26-cv-01245-SPC-NPM (M.D. Fla. May 1, 2026) (opinion and order)).
41. Petitioner's is governed by § 1226(a), not § 1225(b)(2). As a noncitizen detained under § 1226(a), has a right to a bond hearing. See *Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) ("Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.") (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)); (Citing *Yeyson Alexander Munguia Valle v. Warden, Glades Cnty. Det. Ctr.*, No. 2:26-cv-01239-SPC-DNF (M.D. Fla. May 1, 2026) (opinion and order)).

VI. CAUSE OF ACTION – COUNT 2: GOVERNMENT INTEREST

42. Regardless of the government's purported interest in enforcing its interpretation of the immigration detention statutes, a habeas petitioner's constitutional interest in his liberty exists as due process requires adequate notice and time for detainees to seek habeas relief before removal. (*See A.A.R.P. v. Trump*, 605 U.S. 91, 94 (2025)).

VI. CAUSE OF ACTION – COUNT 3: HORIZONTAL STARE DECISIS

43. Federal courts in the Middle District of Florida have repeatedly granted Habeas Corpus, either partially or fully on similar grounds. Here is a list of a few helpful cases to reference:
44. *Gomez Godinez v. Blanche et al.*, 2:26-cv-01106-JES-DNF (M.D. Fla. Apr. 30, 2026).
45. *Graterol Gomez v. Blanche et al.*, 2:26-cv-01124-SPC-NPM (M.D. Fla. Apr. 30, 2026).
46. *Rodriguez Alvarez v. Warden, South Florida Detention Center et al.*, 2:26-cv-01115-SPC-DNF (M.D. Fla. Apr. 30, 2026).
47. *Ramos Zavala v. U.S. ICE et al.*, 2:26-cv-01128-JES-DNF (M.D. Fla. Apr. 30, 2026).
48. *Guida Ferreira v. Florida Soft Side South*, 2:26-cv-01104-SPC-DNF (M.D. Fla. Apr. 30, 2026).

VI. CAUSE OF ACTION – COUNT 4: VIOLATION OF 8 U.S.C. SECTION 1226(A)

49. Petitioner incorporates by reference all preceding paragraphs, including Counts 1 through 48, as if fully set forth herein. All subsequent counts are likewise incorporated by reference. All subsequent counts are incorporated by reference.

VI. CAUSE OF ACTION – COUNT 5: UNLAWFUL DENIAL OF RELEASE ON BOND

50. Petitioner incorporates by reference all preceding paragraphs, including Paragraphs 1 through 49, as if fully set forth herein. All subsequent counts are incorporated by reference.
51. 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 relevant here, § 1225(b)(2) does not apply to those persons Respondents previously determined should be detained and released under § 1226(a). Further, 8 U.S.C. § 1225(b)(2) does not justify cancellation of a bond or release order issued under 8 U.S.C. § 1226(a). Nonetheless,

Respondents have adopted a policy and practice of re-interpreting the detention and release statutory scheme in the INA. The unlawful application of 8 U.S.C. § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates the INA.

52. Nonetheless, Respondents have adopted a policy and practice of applying 8 U.S.C. § 1225(b)(2) to noncitizens like Petitioner whom Respondents previously determined should be detained and released pursuant to § 1226(a).
53. The unlawful application of 8 U.S.C. § 1225(b)(2) to Petitioner unlawfully mandates his continued detention and violates 8 C.F.R. §§ 236.1, and 1003.19.

VI. CAUSE OF ACTION – COUNT 6: MALDONADO BAUTISTA V. SANTACRUZ

54. Under *Maldonado Bautista v. Santacruz*, the relevant inquiry for determining the statutory basis of detention is the Petitioner's most recent arrest and custody determination, not the historical fact of his entry into the United States.
55. Here, *Petitioner entered the United States without inspection in or about 1993*, after leaving his country with his family at approximately six years old and traversing to the U.S. Critically, however, *DHS most likely did affirmatively exercise its discretion to release Petitioner pursuant to 8 U.S.C. § 1226(a)* after conducting a danger and flight risk assessment and determining Petitioner posed neither a risk of flight nor a danger to the community.
56. Petitioner's current detention arises from ICE's arrest in the interior of the United States in 2026, well after his entry, due to driving without a valid driver license, which is not a crime of moral turpitude, nor has a conviction been placed yet, see *supra*.
57. Under *Maldonado Bautista*, detention authority must be assessed based on the circumstances of this most recent arrest, which constitutes the operative deprivation of liberty. Section 1225(b)(2) applies only to individuals who are apprehended "upon arrival" or who are "seeking admission" at the time DHS exercises custody authority. Applying § 1225(b)(2) to Petitioner—who was previously released under § 1226(a) and later re-detained in the interior—impermissibly transforms "apprehended upon arrival" into a perpetual status, a reading expressly rejected by *Maldonado Bautista*.
58. Accordingly, because Petitioner's current detention is based on a re-detention in the interior following a prior release under § 1226(a), Petitioner remains detained, if at all, under 8 U.S.C. § 1226(a) and is entitled to an individualized bond hearing before an Immigration Judge.

VII. FACTS

59. Petitioner resides at [REDACTED] within the jurisdiction of this Court.
60. Petitioner is a native and citizen of Mexico who has been physically present in the United States since **April 15, 1993**, and has maintained **approximately thirty-two years** of continuous presence in the U.S. Petitioner will seek before the Immigration Court relief in the form of asylum and withholding of removal, along with re-opening of his D.A.C.A. Deferred Action for Childhood Arrivals case.
61. Petitioner entered the United States at the age of five (5) turning approximately six (6) years old and has maintained continuous physical presence since that time.
62. Petitioner has applied for Deferred Action for Childhood Arrivals (DACA) and is in the process of reapplying with U.S. Citizenship and Immigration Services (USCIS) after a prior application was closed without notice to Petitioner who believed it was still pending. (This D.A.C.A. and I-765 Work Permit approval would have enabled him to obtain his work permit to start steps to get a driver license).
63. Petitioner is detained at *Florida Baker Correctional Institute, 20706 US 90 W, SANDERSON, FL 32087*, a U.S. Immigration and Customs Enforcement (“ICE”) Facility.
64. Petitioner has a Master Calendar Hearing scheduled for May 27, 2026, before the Immigration Court in Orlando, Florida, within this Court’s jurisdiction. Petitioner intends to apply for asylum and re-open his D.A.C.A. case.
65. Petitioner has established substantial family, employment, and community ties in Tampa, Florida, where he resides and works in his family’s painting business.
66. Petitioner shares custody of his three United States citizen children and remains involved in their upbringing, providing financial and emotional support.
67. In 2022, Petitioner was charged with No Valid Driver License; however, that charge was dismissed via *nolle prosequi* [Tampa, Florida [REDACTED] and does not constitute a conviction for immigration purposes, nor does it qualify as involvement in crimes of moral turpitude.
68. In March 2026, Petitioner was detained by U.S. Immigration and Customs Enforcement (ICE) in connection with *No Valid Driver License* charge(s), one of which appears duplicative as

both were obtained on the same date and within a similar time frame, and at the same location. These two citations for No Valid Driver License [Tampa, Florida  ] which do not constitute crimes involving moral turpitude are pending. Petitioner has not accepted a conviction for this case, and he has retained defense counsel to address those matters.

69. Petitioner maintains strong community ties, such as his three U.S. citizen children, and he still has responsibility to them as they are minors. See also letters of support submitted with his Habeas Petition from family members and friends as character references.
70. Petitioner intends to pursue relief, including asylum and withholding of removal, through the filing of a Form I-589, which will provide notice to the U.S. government of his well-founded fear of persecution pursuant to 8 U.S.C. § 1158. Petitioner plans to file to re-open his D.A.C.A. which was closed without his knowledge.
71. Petitioner applied for bond, which was denied by the Immigration Court on April 30, 2026, based on an “lack of jurisdiction.”
72. Petitioner is currently being held in custody without sufficient legal basis, and habeas corpus relief and/or a bond hearing is warranted.

VIII. REQUEST FOR RELIEF

WHEREFORE, Plaintiff respectfully requests this Honorable Court:

- a. Accept jurisdiction over the instant matter, and Grant the Writ of Habeas Corpus.
- b. Grant the Writ for Habeas Corpus—Petitioner should be *immediately released from custody, or, in the alternative, provided a constitutionally adequate bond hearing before a neutral decisionmaker* – the Immigration Court with an Immigration Judge IJ.
- c. *Plaintiff seeks this Honorable Court stop Respondents from detaining Petitioner* unless she is provided with individualized bond hearing, with ability to appeal before an IJ Judge.
- d. *Plaintiff seeks this Honorable Court* order to prohibit Respondents from relocating Petitioner outside of the Middle District of Florida Court District pending final resolution of this litigation
- e. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

/s/ Morgan E. Granoff, Esq.

May 4, 2026

Morgan E. Granoff, Esq.

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SAMPLE ORDER TO SHOW CAUSE.

RE: PETITION FOR WRIT OF HABEAS CORPUS

Upon consideration of Petitioner's **Petition for Writ of Habeas Corpus**, and the supporting declarations and exhibits, and for good cause shown, **IT IS HEREBY ORDERED:**

1. **Respondents SHALL SHOW CAUSE three (3) days** in writing, why the Petition for Writ of Habeas Corpus should not be granted and why Petitioner should not be immediately released from custody, or, in the alternative, provided a **constitutionally adequate bond hearing before a neutral decisionmaker** – the Immigration Court with an Immigration Judge IJ.
2. Respondents shall file and serve a written response to this Order to Show Cause **no later than three (3) days from the date of this Order.**
3. Petitioner may file a reply to Respondents' response **no later than [_____] days thereafter.**
4. In light of the allegations that Petitioner is being **unlawfully detained without an Immigration Court proceeding, without due process, and under conditions causing immediate and irreparable harm**, the Court finds that expedited consideration is warranted.
5. **Pending resolution of this Order to Show Cause**, Respondents are **ORDERED NOT to remove, transfer, or otherwise change Petitioner's custodial status or location outside** of the Jurisdiction of this Court **without prior leave of Court.**
6. Failure by Respondents to timely comply with this Order **may result in the Court granting the requested relief by default**, including immediate release or other appropriate injunctive relief.
7. The Court retains jurisdiction to issue further orders as necessary to prevent irreparable harm and to ensure compliance with constitutional and statutory requirements.

IT IS SO ORDERED.

EXHIBIT LIST

Exhibit A/1	Automated Case Information
Exhibit B/2	Notice to Appear
Exhibit C/3	ICE Locator
Exhibit D/4	IJ Bond Denial and EOIR Portal
Exhibit E/5	Prior DACA Receipt Exhibit
Exhibit F/6	I-213 Record
Exhibit G/7	Passport Copy
Exhibit H/8	Child Custody and Support Paperwork Plan
Exhibit I/9	Letters of Support

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 4, 2026, I electronically filed the forgoing document with the Clerk of Court using PACER. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties, either via transmission of Notices of Electronic Filing generated by PACER or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Respectfully submitted,

May 4, 2026

s/ Morgan E. Granoff, Esq.

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