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

Jose Luis Basurto-Jimenez,

Petitioner,

v.

Warden, Florida Baker Correctional Institute;

Garrett J. Ripa, Field Office Director, ICE Miami
Field Office;

Todd Lyons, Director of Immigration and Customs
Enforcement;

Markwayne Mullin, Secretary of the U.S.
Department of Homeland Security; and

Todd Blanche, Acting Attorney General of the
United States,

Respondents.

Case No.: 3:26-cv-1160

PETITION FOR WRIT OF
HABEAS CORPUS

IMMIGRATION HABEAS CASE

A-Number: 

PRELIMINARY STATEMENT

COMES NOW, Petitioner Jose Luis Basurto-Jimenez ("Petitioner"), by and through undersigned counsel, respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging the legality of his ongoing civil immigration detention by the United

States Department of Homeland Security ("DHS") and U.S. Immigration and Customs Enforcement ("ICE").

Petitioner is currently detained at the Florida Baker Correctional Institute in Sanderson, Florida, within the territorial jurisdiction of this Court, where he has been held since March 20, 2026—a period now exceeding forty-five (45) days—following his arrest for a minor traffic offense (driving without a valid driver's license) in Pinellas County, Florida.

Petitioner is a native and citizen of Mexico who has resided continuously in the United States for approximately twenty-six (26) years, having entered this country on or about March 19, 2000. He is the father of a sixteen (16)-year-old United States citizen daughter who resides in Texas with her mother and who depends on him for daily emotional support and financial sustenance. Petitioner communicates with his daughter every day and provides financial assistance to her on a consistent, regular basis.

Petitioner is a self-employed tradesman who has worked throughout his time in the United States, including performing essential disaster relief work in the aftermath of hurricane emergencies. His employer,  has praised his exceptional work ethic, reliability, and dedication. Petitioner poses no danger to the community and no meaningful flight risk.

The Government is detaining Petitioner without a constitutionally adequate individualized bond determination. The administrative charges against Petitioner under INA §§ 212(a)(6)(A)(i) and 212(a)(7)(A)(i)(I) do not render him subject to mandatory detention under 8 U.S.C. § 1226(c). Accordingly, Petitioner is subject to the discretionary detention scheme of § 1226(a), which requires an individualized determination of whether continued custody is necessary. Respondents have failed to provide Petitioner with such a determination.

Petitioner's prolonged detention, without a meaningful individualized bond hearing, violates the Due Process Clause of the Fifth Amendment to the United States Constitution. He is further harmed by his inability to support his minor United States citizen daughter during his confinement.

Accordingly, Petitioner respectfully requests that this Court grant the writ of habeas corpus and order Respondents to either: (1) immediately release Petitioner under reasonable conditions of supervision; or (2) provide Petitioner with a prompt and constitutionally adequate individualized

bond hearing before a neutral adjudicator, at which the Government bears the burden of demonstrating by clear and convincing evidence that detention is justified.

JURISDICTION AND VENUE

1. This Court has subject matter jurisdiction over this action pursuant to 28 U.S.C. § 2241, which authorizes federal district courts to grant writs of habeas corpus to persons held in custody under or by color of the authority of the United States in violation of the Constitution or laws of the United States. Petitioner challenges the legality of his continued immigration detention and therefore properly invokes this Court's habeas jurisdiction.
2. This Court also has jurisdiction pursuant to 28 U.S.C. § 1331, as this action arises under the Constitution and laws of the United States. Petitioner alleges that his continued detention without constitutionally adequate process violates the Due Process Clause of the Fifth Amendment.
3. Federal district courts retain jurisdiction under 28 U.S.C. § 2241 to review the statutory and constitutional basis for executive detention, including detention imposed pursuant to the immigration laws. Petitioner's challenge to the legality of his continued confinement falls squarely within this Court's habeas jurisdiction.
4. Venue is proper in this District pursuant to 28 U.S.C. § 2241(a) because Petitioner is detained within the territorial jurisdiction of this Court. Petitioner is currently confined at Florida Baker Correctional Institute, located at 20706 FL-10, Sanderson, Baker County, Florida 32087, within the Middle District of Florida, Jacksonville Division.
5. Venue is further proper because Petitioner's immediate custodian, the Warden of Florida Baker Correctional Institute, is located within this District, and Respondent Garrett J. Ripa, Field Office Director for ICE Miami, exercises legal custody and control over Petitioner's detention within this District.

PARTIES

6. Petitioner Jose Luis Basurto-Jimenez (A-Number: ) is a noncitizen presently detained by U.S. Immigration and Customs Enforcement ("ICE") at the Florida Baker Correctional Institute in Sanderson, Florida. He is in the custody of Respondents and is

being subjected to ongoing civil immigration detention without lawful justification and in violation of the Constitution and laws of the United States.

7. Respondent Warden, Florida Baker Correctional Institute, is the official responsible for Petitioner's immediate physical custody and day-to-day detention. The Warden is sued in his or her official capacity.
8. Respondent Garrett J. Ripa, Field Office Director for ICE's Miami Field Office, is responsible for overseeing immigration enforcement and detention operations within this region. He is sued in his official capacity.
9. Respondent Todd Lyons, Director of U.S. Immigration and Customs Enforcement, is responsible for the administration and enforcement of immigration detention policies nationwide. He is sued in his official capacity.
10. Respondent Markwayne Mullin, Secretary of the U.S. Department of Homeland Security, is responsible for the overall administration and enforcement of the immigration laws of the United States, including the detention of noncitizens. He is sued in his official capacity.
11. Respondent Todd Blanche, Acting Attorney General of the United States, is responsible for the administration of the immigration court system through the Executive Office for Immigration Review. He is sued in his official capacity.

FACTUAL AND PROCEDURAL BACKGROUND

A. Petitioner's Background and Ties to the United States

12. Petitioner Jose Luis Basurto-Jimenez is a native and citizen of Mexico, born on   n Iztacalco, Distrito Federal, Mexico.

13. Petitioner entered the United States on or about March 19, 2000, without inspection at an official port of entry, and has resided continuously in the United States for approximately twenty-six (26) years.

14. During his more than two decades in this country, Petitioner has established deep and substantial ties to the United States, including long-term community roots, consistent employment, and close family relationships.

15. Petitioner is the father of a sixteen (16)-year-old United States citizen daughter who resides in Texas with her mother. Petitioner and his daughter maintain daily telephone contact

without exception. Petitioner provides financial support to his daughter on a consistent basis, depositing funds for her benefit every eight (8) days. His daughter relies on him for both emotional and financial support.

16. Petitioner is self-employed and has worked steadily as a skilled tradesman and handyman throughout his residence in the United States. He has demonstrated outstanding work ethic, reliability, and commitment to his community, including providing critical assistance during hurricane disaster relief efforts. His employer,  has provided a letter of strong support for Petitioner, attesting to his exceptional character, professionalism, and contributions to families in need.
17. Petitioner's immigration record prior to his current detention was negative. He had no prior orders of removal and no prior immigration detentions.

B. Petitioner's Arrest and Detention

18. On March 17, 2026, Petitioner was arrested by the Pinellas County Sheriff's Office at or near 14400 49th Street North, Clearwater, Florida, for driving without a valid driver's license, a minor, non-violent traffic misdemeanor.
19. On March 17, 2026, ICE Enforcement and Removal Operations encountered Petitioner at the Pinellas County Jail pursuant to his arrest. ICE formally processed Petitioner on March 20, 2026.
20. On March 20, 2026, ICE issued a Notice to Appear charging Petitioner under INA § 212(a)(6)(A)(i) as an alien present in the United States without admission or parole, and under INA § 212(a)(7)(A)(i)(I) as an immigrant not in possession of a valid immigrant visa. See 8 U.S.C. §§ 1182(a)(6)(A)(i), 1182(a)(7)(A)(i)(I).
21. The Notice to Appear directed Petitioner to appear before an Immigration Judge at Baker Correctional Institution, 20706 FL-10, Sanderson, Florida 32087, on April 17, 2026, at 8:30 a.m.
22. Upon ICE processing, the Department of Homeland Security retained Petitioner in custody without offering him release on bond or conditional supervision, citing pending court proceedings.

23. Petitioner has been continuously detained at the Florida Baker Correctional Institute since March 20, 2026—a period exceeding forty-five (45) days as of the filing of this Petition. He has remained in immigration custody throughout this period without an individualized bond hearing before a neutral adjudicator.

24. Petitioner's continued detention has caused him significant harm, including the disruption of his employment, the inability to provide financial support to his minor United States citizen daughter, and significant emotional and psychological distress.

C. Petitioner's Criminal History Does Not Trigger Mandatory Detention Under 8 U.S.C. § 1226(c)

25. The Government's own records reflect that Petitioner's criminal history consists of: (1) a 2006 misdemeanor conviction for driving without a license; (2) a 2017 charge of assault by family violence, with no conviction recorded—the Government's records reflect only that the case was referred to the arresting agency for disposition; and (3) a March 17, 2026 conviction for no valid driver's license, for which Petitioner served ten (10) days in county jail.

26. None of these offenses constitutes a qualifying conviction triggering mandatory detention under 8 U.S.C. § 1226(c). Section 1226(c) applies only to aliens who have been convicted of specified categories of offenses—including aggravated felonies, crimes of violence, certain drug offenses, and firearm offenses. Misdemeanor traffic violations do not fall within any of these categories.

27. With respect to the 2017 family violence charge, the Government's own record reflects that no conviction was entered. The I-213 states only that the case was "referred to arresting agency for disposition." In the absence of a conviction, § 1226(c) cannot be triggered.

28. Accordingly, Petitioner is subject to discretionary detention under 8 U.S.C. § 1226(a) and is entitled to an individualized bond hearing at which his circumstances are meaningfully assessed.

STATUTORY AND CONSTITUTIONAL FRAMEWORK GOVERNING DETENTION

29. The Immigration and Nationality Act authorizes the detention of noncitizens in removal proceedings primarily under two provisions: 8 U.S.C. § 1226(a), which provides for

discretionary detention pending removal proceedings; and 8 U.S.C. § 1226(c), which mandates detention of certain criminal aliens without the possibility of bond.

30. Under 8 U.S.C. § 1226(a), the Attorney General may arrest and detain an alien pending a decision on removability, and may release the alien on bond or conditional parole. This provision contemplates an individualized, discretionary determination as to the necessity of continued detention.

31. Section 1226(c) of the INA mandates detention of aliens who have committed specified categories of serious criminal offenses, including aggravated felonies, crimes of violence, and certain drug crimes. See 8 U.S.C. § 1226(c)(1)(A)–(D). Mandatory detention applies only where the Government can establish that the alien has been convicted of one of the enumerated categories of offense.

32. Civil immigration detention under § 1226(a) is regulatory, not punitive, and must bear a reasonable relation to its legitimate purposes, including ensuring appearance at proceedings and protecting the community. See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

33. The Due Process Clause of the Fifth Amendment applies to all persons within the United States, including noncitizens, and prohibits arbitrary deprivations of liberty. See *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001).

34. Although Congress has authorized immigration detention, that authority is subject to constitutional limitations, and federal courts retain jurisdiction to review the legality of such detention through habeas corpus. See *Jennings v. Rodriguez*, 138 S. Ct. 830, 839–40 (2018).

35. Even where detention is authorized by statute, courts retain authority to assess whether such detention comports with due process. See *Demore v. Kim*, 538 U.S. 510, 523 (2003).

36. Habeas corpus provides a critical mechanism for challenging unlawful immigration detention, including detention that lacks a valid statutory basis or is imposed without adequate procedural safeguards. See *Madu v. U.S. Att’y Gen.*, 470 F.3d 1362, 1366–67 (11th Cir. 2006).

37. At a minimum, due process requires that civil detention be supported by a lawful basis and implemented in a manner consistent with fundamental fairness. Where the Government

detains a noncitizen under § 1226(a) without an individualized determination of the necessity of continued custody, such detention violates the Due Process Clause.

**COUNT I: UNLAWFUL DETENTION—FAILURE TO PROVIDE AN
INDIVIDUALIZED BOND HEARING IN VIOLATION OF 8 U.S.C. § 1226(a) AND THE
FIFTH AMENDMENT**

38. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

39. Petitioner is subject to discretionary detention under 8 U.S.C. § 1226(a) because his criminal history does not include a qualifying conviction triggering mandatory detention under § 1226(c).

40. Under § 1226(a), the Government must conduct an individualized determination of whether Petitioner should be released on bond or supervision, taking into account whether he presents a danger to the community or a risk of flight.

41. Respondents have detained Petitioner since March 20, 2026—more than forty-five (45) days—without conducting a meaningful individualized bond hearing before a neutral adjudicator at which Petitioner had a genuine opportunity to demonstrate that his release would be appropriate.

42. Petitioner is not a danger to the community. His criminal history consists solely of minor, non-violent traffic misdemeanors and an unresolved charge. He has no history of serious criminal conduct.

43. Petitioner is not a flight risk. He has resided in the United States for twenty-six (26) years. He has a United States citizen daughter for whom he serves as primary financial provider and with whom he communicates daily. He has strong family and community ties providing powerful incentives to appear for immigration proceedings.

44. The absence of an individualized bond determination violates Petitioner's liberty interest protected by the Due Process Clause of the Fifth Amendment.

45. The Eleventh Circuit has recognized that habeas corpus relief is available where immigration detention violates statutory or constitutional requirements. See *Madu*, 470 F.3d at 1366–67.

46. Petitioner is entitled to habeas relief pursuant to 28 U.S.C. § 2241, including an order directing Respondents to promptly conduct an individualized bond hearing consistent with due process.

COUNT II: MANDATORY DETENTION UNDER 8 U.S.C. § 1226(c) DOES NOT APPLY—DETENTION IN EXCESS OF STATUTORY AUTHORITY

47. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

48. Section 1226(c) of the INA authorizes mandatory detention without bond only for aliens who have been convicted of specified categories of offenses. See 8 U.S.C. § 1226(c)(1)(A)–(D).

49. Petitioner has not been convicted of any offense within the categories enumerated in § 1226(c). His convictions for driving without a valid license—a non-violent traffic misdemeanor—do not constitute an aggravated felony, crime of violence, controlled substance offense, firearm offense, or any other § 1226(c) triggering offense.

50. The 2017 charge of assault by family violence was never reduced to a conviction. The Government's own records reflect only that the case was referred to the arresting agency for disposition. Absent a conviction, § 1226(c) cannot be triggered.

51. Detention under § 1226(c) in the absence of a qualifying conviction exceeds the Government's statutory authority under the INA.

52. The Supreme Court and Eleventh Circuit have made clear that immigration detention must be grounded in a valid statutory basis. See *Zadvydas*, 533 U.S. at 689; *Madu*, 470 F.3d at 1366–67.

53. Where the Government detains an individual under § 1226(c) without a qualifying conviction, that detention is ultra vires and unlawful, and the detainee is entitled to a bond hearing under § 1226(a).

54. Petitioner is entitled to habeas relief pursuant to 28 U.S.C. § 2241, including an order requiring the Government to promptly conduct an individualized bond hearing at which it must demonstrate by clear and convincing evidence that continued detention is justified.

**COUNT III: PROLONGED DETENTION WITHOUT ADEQUATE PROCESS
VIOLATES THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT**

55. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

56. Even assuming, arguendo, that the Government has some statutory authority to detain Petitioner, that authority is not unlimited and remains subject to constitutional constraints.

57. Petitioner has been detained for more than forty-five (45) days without any individualized judicial or administrative determination that his continued detention is necessary. As detention extends in duration, its constitutional justification must be more robustly supported.

58. The Due Process Clause requires that civil detention bear a reasonable relationship to a legitimate government purpose. Where detention is prolonged and no individualized determination has been made, that relationship breaks down and detention becomes punitive rather than regulatory.

59. Petitioner has substantial family ties—a United States citizen daughter who depends on him—strong community roots spanning twenty-six years, and a consistent history of employment. These factors demonstrate that he presents no meaningful danger to the community and no substantial risk of flight.

60. The harm to Petitioner from continued detention is ongoing: he cannot support his minor daughter, his employment has been disrupted, and he is suffering psychological distress from prolonged confinement.

61. Petitioner's continued detention without a meaningful individualized hearing violates the Due Process Clause, and habeas relief is warranted pursuant to 28 U.S.C. § 2241.

EXHAUSTION OF ADMINISTRATIVE REMEDIES

62. Petitioner has satisfied any applicable exhaustion requirements, or, in the alternative, exhaustion should be excused.

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

64. To the extent exhaustion is required, it is a judicially created, prudential doctrine rather than a jurisdictional prerequisite and may be excused where administrative remedies are inadequate or futile. See *Sundar v. INS*, 328 F.3d 1320, 1323 (11th Cir. 2003).
65. Federal courts have long recognized that exhaustion is not required where it would not provide a meaningful opportunity for relief or where irreparable injury would result. See *McCarthy v. Madigan*, 503 U.S. 140, 146–49 (1992).
66. Petitioner challenges the legality of his continued detention on constitutional and statutory grounds that the Immigration Court cannot fully remedy. Immigration Judges lack authority to grant habeas relief or to order release on the constitutional grounds raised herein.
67. Requiring Petitioner to exhaust additional administrative remedies would be futile and would result in continued, irreparable deprivation of his liberty.
68. Accordingly, exhaustion is either satisfied or should be excused, and this Court may properly exercise jurisdiction over this Petition.

REQUESTED RELIEF

WHEREFORE, Petitioner Jose Luis Basurto-Jimenez respectfully requests that this Court grant the following relief:

- a. Issue a writ of habeas corpus pursuant to 28 U.S.C. § 2241 declaring that Petitioner's continued detention violates the Constitution and laws of the United States;
- b. Order Petitioner's immediate release from custody under reasonable conditions of supervision;
- c. In the alternative, order Respondents to provide Petitioner with a prompt bond hearing before a neutral adjudicator consistent with due process, including an individualized determination of whether continued detention is necessary;
- d. Order that any such bond hearing be conducted within seven (7) days of this Court's order;
- e. Order that, at any such bond hearing, the Government bears the burden of justifying continued detention by clear and convincing evidence;

- f. Order that the Immigration Judge consider less restrictive alternatives to detention;
- g. Issue a temporary restraining order and/or preliminary injunction prohibiting Respondents from transferring Petitioner outside the territorial jurisdiction of this Court absent prior authorization from this Court, to preserve this Court's jurisdiction;
- h. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

Date: May 5, 2026

/s/ Anny Leon

Anny Leon

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Attorney for Petitioner

VERIFICATION

I, Anny Leon, am counsel for Petitioner Jose Luis Basurto-Jimenez in this habeas corpus proceeding. Petitioner is currently detained in immigration custody and is therefore unable to personally verify this Petition.

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

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

Executed on this 5th day of May, 2026, at Jacksonville, Florida.

/s/ Anny Leon

Attorney for Petitioner

CERTIFICATE OF SERVICE

I hereby certify that on this 5th day of May, 2026, a true and correct copy of the foregoing Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 was filed with the Clerk of the Court.

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

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

Date: May 5th, 2026

/s/ Anny Leon

Anny Leon, Esq.

Attorney for Petitioner