

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

JANDY ROMERO ROJAS

Petitioner,

Case No.: 3:26-cv-01170

v.

TODD M. LYONS as Acting Director Miami
Field Office, Enforcement and Removal
Operations (ERO), Department of Homeland
Security; and

MARKWAYNE MULLIN as Secretary for the
Department of Homeland Security (DHS);

ERIC HALL as Warden of Baker Correctional
Institute (North Florida Detention Center) in
Sanderson, Florida

Respondents.

**VERIFIED PETITION FOR A WRIT OF HABEAS CORPUS PURSUANT TO 28
U.S.C. § 2241 AND COMPLAINT FOR DECLARATORY AND INJUNCTIVE
RELIEF**

COMES NOW the Petitioner, **JANDY ROMERO ROJAS**, by and through undersigned counsel and hereby brings this Verified Petition for a Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 and Complaint for Declaratory and Injunctive Relief. **IN SUPPORT OF THIS PETITION**, Petitioner alleges the following:

INTRODUCTION

1. Petitioner respectfully petitions this Court for a writ of habeas corpus to remedy his unlawful detention by the U.S. Department of Homeland Security.
2. Petitioner is a citizen and national of Cuba who lawfully entered the United States on January 27, 2024, after being inspected and paroled at Miami International Airport pursuant to the Cuban Humanitarian Parole program. He was issued an I-94 reflecting his admission as a parolee through January 25, 2026. He has complied with all immigration requirements and timely filed Form I-485 to adjust status under the Cuban Adjustment Act ("CAA"). That application remains pending before U.S. Citizenship and Immigration Services ("USCIS"), which has exclusive jurisdiction over Cuban Adjustment applications filed by arriving aliens.
3. Despite his lawful entry, lack of any disqualifying criminal convictions, and his ongoing pursuit of permanent residence under the CAA, Petitioner is being detained without a meaningful opportunity for bond under 8 U.S.C. § 1226(a). He is held at Baker County Detention Center (North Florida Detention Center) in Sanderson, Florida, where he has been subjected to severe and ongoing medical neglect of his insulin-dependent diabetes and other serious conditions.
4. The government's refusal to provide an individualized custody redetermination hearing, combined with its deliberate indifference to his serious medical needs, renders his detention unlawful under the Immigration

and Nationality Act (“INA”), the Administrative Procedure Act (“APA”), and the Due Process Clause of the Fifth Amendment.

5. Petitioner respectfully requests *inter alia* that this Honorable Court grant him a writ of habeas corpus and order the Respondents to release him from custody, and order other relief as described herein.

JURISDICTION

6. This action arises under the United States Constitution and the INA. This Honorable Court has jurisdiction over this complaint pursuant to: 28 U.S.C. § 1651 (the All Writs Act); 28 U.S.C. § 2241 (power to grant Writ of Habeas Corpus); 28 U.S.C. § 1331 (federal question); 28 U.S.C. § 1346 (United States defendant/respondent); 28 U.S.C. § 1361 (jurisdiction to compel an officer to perform a duty owed to Petitioner, the Mandamus Act); 5 U.S.C. § 555(b), 5 U.S.C. § 702 (APA waiver of sovereign immunity), 5 U.S.C. § 704 (no other adequate remedy) and 5 U.S.C. § 706 (compel agency action unlawfully withheld or unreasonably delayed), APA. The Petitioner’s custody is in violation of the Constitution and laws of the United States.

VENUE

7. Venue is proper in this Middle District of Florida under 28 U.S.C. § 1391(b), 28 U.S.C. § 1391(e)(1) (United States defendant/respondent resides in this district), 28 U.S.C. § 1391(e)(2) (cause of action arose in this district), and 28 U.S.C. § 1391(e)(4) (Petitioner resides in this district and no real property is at issue).

CUSTODY

8. The Petitioner is in the Respondents' physical custody within this district at the Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida, a Florida immigration detention center under the direct control of the Respondents and their agents.

PARTIES

9. Petitioner, **JANDY ROMERO ROJAS**, is a citizen and national of Cuba in the Respondents' physical custody. The Respondents have assigned him File No. A 
10. The Petitioner brings a suit against **MARKWAYNE MULLIN** as Secretary for the Department of Homeland Security (DHS). In this official capacity, he is a legal custodian of the Petitioner.
11. The Petitioner brings a suit against **TODD M. LYONS** in his official capacity as Acting Director Miami Field Office, Enforcement and Removal Operations (ERO), Department of Homeland Security. In this official capacity, he is a legal custodian of the Petitioner.
12. The Petitioner brings a suit against **ERIC HALL** in his official capacity as Warden of Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida. In this official capacity, he is a legal custodian of the Petitioner.

CUSTODY

13. The Petitioner is in the Respondents' physical custody within this district at the Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida, an immigration detention center under the direct control of the Respondents and their agents.

STATEMENT OF THE FACTS

14. Petitioner is a citizen and national of Cuba. See **Exhibit No. 1**, Cuban Passport.
15. On or about November 1, 2023, United States and Immigration Services (USCIS) accepted a Form I-134A (Online Request to be a Supporter & Declaration of Financial Support) on behalf of Petitioner as an application for Cuban Humanitarian Parole. See **Exhibit No. 2**, I-134A Receipt. The application was approved and Petitioner was cleared to travel by air to the United States.
16. On or about January 27, 2024, Petitioner travelled by airplane to Miami and was admitted into the United States with an I-94 as a Cuban Humanitarian Parole (CHP) which authorized his parole status until January 25, 2026. See **Exhibit No. 3**, I-94.
17. On February 14, 2025, Petitioner filed Form I-485, Application to Adjust Status or Register Permanent Residence pursuant to the Cuban Adjustment Act. See **Exhibit No. 4**, **I-485 Receipt Notice**. That application remains pending with USCIS.

18. On or about March 11, 2025, the Petitioner completed biometrics for the underlying adjustment of status petition. See **Exhibit No. 5**, Stamped Biometrics Notice.
19. On or about March 17, 2026, Petitioner was detained by local law enforcement while present in the interior of the United States. He was not charged with any criminal, civil, or traffic offense at the time of his arrest. He was subsequently transferred to the custody of Immigration and Customs Enforcement (ICE). It is unclear the basis for his arrest as there is no police report from the arresting officer.
20. On March 17, 2026, DHS/ICE issued a Warrant for Arrest of Alien pursuant to INA § 236 and § 287. See **Exhibit No. 6**, DHS Form I-200.
21. On March 19, 2026, DHS/ICE prepared an I-213, Record of Deportable/Inadmissible Alien, noting that Petitioner was originally detained by Florida Highway Patrol during a traffic stop; that he entered the United States via a flight to Miami, FL; that he has pending applications with USCIS; and, that he was booked into Putnam County Jail without local charges. See **Exhibit No. 7**, I-213. Note that the same I-213 document also states erroneously that the “subject was not admitted or paroled after inspection by Officials from the Department of Homeland Security, US Customs and Border Protection (CBP),” and that the “subject does not have any application filed with USCIS.” Yet, in the immediate paragraph below, the same I-213 document states “On January 27, 2024, ROMERO ROJAS

Jandy flew into Miami International Airport and was paroled by CBP with an I-94 Cuban humanitarian parole.” The document contains other information that is erroneous, misleading, contrary to the record evidence and facts of this case.

22. On March 19, 2026, DHS/ICE issued Petitioner a Notice to Appear in Immigration Court and placed him in INA § 240 Removal Proceedings, charging him as an Arriving Alien removable pursuant to INA §212(a)(7)(A)(i)(I) (immigrant not in possession of a valid visa or entry document at the time of application for admission). See **Exhibit No. 8**, NTA.
23. At the time of the initial custody determination with immigration officials, Petitioner was not provided any opportunity for release on his own recognizance or bond. He is currently detained at Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida. See **Exhibit No. 9**, ICE Detainee Locator.
24. On March 19, 2026, DHS/ICE also issued Petitioner a Notice of Rights and Request for Disposition where Petitioner requested a hearing before an Immigration Court to determine whether he may remain in the United States. See **Exhibit No. 10**, DHS Form I-826.
25. On March 31, 2026, Petitioner’s immigration counsel requested a Custody Redetermination hearing before Immigration Judge, Pedro J. Espinal. See **Exhibit 11**, Motion for Custody Redetermination.

26. The Orlando Immigration Court set the custody redetermination hearing before Immigration Judge Pedro Espinal under the Orlando Detained Docket for April 2, 2026. See **Exhibit 12**, Notice of Custody Redetermination Hearing.
27. On April 2, 2026, Immigration Judge Pedro Espinal entered an order denying bond on the asserted ground that he lacked jurisdiction because

“An Immigration Judge has no authority over the custody and detention of arriving aliens and is therefore without authority to consider the bond request of this respondent. *Matter of Oseiwusu*, 22 I&N Dec. 19, 20 (BIA 1998) and *Matter of X-K*, 23 I&N Dec. 731, 732 (BIA 2005). Arriving aliens are generally subject to mandatory detention under INA § 235(b)(2)(A).”

See **Exhibit 13**, Order Denying Bond dated April 2, 2026. That rationale improperly treated Petitioner as subject to mandatory, no-bond detention under 8 U.S.C. § 1225(b)(2)(A) solely because DHS labeled him an ‘arriving alien,’ and assumed that this designation eliminated any possibility of custody redetermination under 8 C.F.R. § 1003.19 and 8 U.S.C. § 1226(a). But Petitioner was lawfully paroled at an international airport, and is now in § 240 removal proceedings, and is not subject to any statutory mandatory-detention provision. On these facts, neither *Matter of Oseiwusu*, 22 I&N Dec. 19 (BIA 1998), nor *Matter of X-K*, 23 I&N Dec. 731 (BIA 2005), justifies indefinite, no-bond detention, and the IJ’s refusal to consider bond left Petitioner with no meaningful opportunity to challenge his confinement.

28. On April 8, 2026, Petitioner's counsel submitted an appeal to the BIA which remains pending. See **Exhibit No. 14**, BIA Bond Appeal.
29. On April 8, 2026, Petitioner, through counsel, also submitted an I-589, Application for Asylum, Withholding of Removal and Protection under the Convention Against Torture with the Immigration Court. See **Exhibit No. 15**, Application for Asylum filed with EOIR.
30. Although Petitioner's initial parole period has now expired, that fact is irrelevant to his eligibility for adjustment of status under the Cuban Adjustment Act. The CAA requires that an applicant 'has been inspected and admitted or paroled into the United States' and has been physically present for at least one year; it does not impose any requirement that the parole remain valid or unexpired at the time of filing or adjudication. See 8 U.S.C. § 1255 note. USCIS, not the immigration court or this Court, has exclusive jurisdiction over CAA adjustment applications filed by arriving aliens. Any delay in adjudicating Petitioner's pending I-485 lies entirely with USCIS,¹ not Petitioner. The immigration court therefore cannot resolve his adjustment claim and has effectively forced him to file an application for relief in immigration court solely to preserve a form of protection and avoid removal to a country where he faces both persecution and the lack of

¹ Petitioner is actively considering pursuing a separate mandamus and Administrative Procedure Act action against USCIS and DHS to compel adjudication or reasonable expediting of his Cuban Adjustment Act application, which has now been pending for more than a year. He does not, however, seek such relief in this habeas petition, which challenges only the legality and constitutionality of his current detention.

life-sustaining medications. None of this justifies DHS's continued misclassification of his detention authority or his ongoing civil confinement under dangerous medical conditions.

31. In light of Petitioner's life-threatening medical conditions (discussed in more detail in ¶¶ 34-39 below) and the fact that he has already been lawfully paroled and physically present in the United States for more than one year, there is no legal or practical barrier preventing DHS from prioritizing or expediting adjudication of his pending Cuban Adjustment Act application. USCIS, a component of DHS, retains discretion to expedite adjudication of pending applications in cases involving urgent humanitarian circumstances or significant public-interest considerations. See, e.g., 8 C.F.R. § 103.2(b)(18) (authorizing expedited processing and priority handling in certain cases). Yet DHS has taken no apparent steps to advance or resolve Petitioner's I-485, even as it continues to detain him under medically dangerous conditions, ostensibly for the purpose of effectuating his removal. This disconnect between DHS's detention posture and its own control over the pace of Petitioner's adjustment adjudication underscores the arbitrary nature of his continued confinement.
32. Petitioner has never been accused, arrested or convicted of a crime involving moral turpitude, an aggravated felony, or any offense that would otherwise subject him to mandatory detention under 8 U.S.C. § 1226(c).

33. Removal proceedings against Petitioner remain pending before Immigration Judge Pedro Espinal in the Orlando Immigration Court. His next court date is set for June 12, 2026, at 10:30AM. See **Exhibit 16**, Notice of Hearing.

MEDICAL NEGLECT & DELIBERATE INDEFERENCE TO MEDICAL NEEDS

34. Petitioner is a Type 1 insulin-dependent diabetic with a recent history of ST-elevation myocardial infarction (STEMI) on February 19, 2024, abnormal EKG, essential hypertension, and hyperlipidemia. His treating physician, Dr. Miguel A. Vargas-Lagunas, has prescribed a specific, established regimen that includes Lantus insulin 15 units subcutaneously twice daily, Insulin Lispro 5 units subcutaneously three times daily, Metformin 1000 mg twice daily, Aspirin 81 mg daily, and Atorvastatin 10 mg daily, with ongoing endocrinology and cardiology follow-up. Dr. Vargas-Lagunas opines, within reasonable medical certainty, that interruption of this regimen, lack of access to insulin, or absence of appropriate follow-up places Petitioner at “significant and potentially life-threatening risk” of severe hyperglycemia, diabetic ketoacidosis, recurrent myocardial infarction, arrhythmias, hospitalization, and “rapid deterioration of overall health status,” and that any disruption in care “poses a serious risk to the patient’s health and safety.” See **Exhibit 17**, Medical Certification Letter. See *also* **Exhibit 18**, Medical Records.

35. Since his arrest and transfer to ICE custody on or about March 17, 2026, Petitioner's serious medical conditions have been grossly mismanaged by detention staff. Petitioner is an insulin-dependent diabetic with a long-standing treatment regimen that had kept his condition stable prior to detention. Upon arrival at Baker Correctional Institution, however, facility medical staff abruptly discontinued his established insulin and medication protocol, substituted different insulin and other medications without consultation with an endocrinologist, and repeatedly missed or delayed his doses multiple times per week.
36. On several occasions, Petitioner's blood sugar levels have become dangerously low or high, causing dizziness, weakness, blurred vision, and near-syncope. Despite these obvious signs of decompensation, staff have refused to restore his prior regimen or provide consistent insulin at the prescribed times. When Petitioner objected to being used as a "lab rat" for what he was told was as experimental medication changes, his concerns were ignored.
37. Compounding this neglect, Petitioner was removed from the medical unit and transferred to solitary confinement, where he is isolated and not continuously monitored. If he loses consciousness from hypoglycemia or hyperglycemia in this environment, no one would be present to summon help in time.

38. Counsel has repeatedly notified facility officials and ICE of these deficiencies and requested that Petitioner receive proper insulin management, specialist evaluation, and reasonable accommodations, yet there has been no meaningful improvement. Instead, there is no continuity of care, and his life-sustaining medications are still frequently missed or withheld. See **Exhibit No. 19**, Emails sent from counsel regarding medical attention needs.
39. As a result of the delay and mismanagement of his medical treatment, Petitioner is in an extremely dangerous medical situation. Failure to provide consistent insulin treatment places him at imminent risk of severe complications, including diabetic ketoacidosis (DKA), organ failure, and death.

LEGAL BACKGROUND

A. The Exhaustion of Administrative Remedies would be futile

40. The Petitioner is excused from exhausting administrative remedies because exhaustion would be futile and would cause irreparable harm.
41. On April 2, 2026, Immigration Judge Pedro Espinal denied Petitioner's request for bond on the ground that he lacked jurisdiction over the 'custody and detention of arriving aliens' and therefore could not consider Petitioner's bond request at all. See **Exhibit 13**, Order Denying Bond dated April 2, 2026 (citing *Matter of Oseiwusu*, 22 I&N Dec. 19 (BIA 1998), and *Matter of X-K-*,

23 I&N Dec. 731 (BIA 2005)). The IJ's order makes clear that, so long as DHS classifies Petitioner as an 'arriving alien,' neither the IJ nor the BIA will entertain a custody redetermination under 8 U.S.C. § 1226(a). Further pursuit of bond within the immigration courts would therefore be futile and could not prevent the ongoing deprivation of Petitioner's liberty and the continuing harm from his medically dangerous detention. Such continued detention without an individualized hearing constitutes irreparable harm involving the deprivation of fundamental liberty interests.

B. District Courts in the US continue to reject Respondents' policy

42. The government's sweeping reinterpretation—treating long-present noncitizens as mandatory detainees— has been widely condemned as unlawful under the INA and contrary to due process. Since the policy's introduction, “over 220 judges in hundreds of cases across the country have declared the government's new detention policy to be contrary to immigration law and the Constitution”.² The “vast majority of district court judges” to consider this issue have “rejected the government's position,” instead holding that individuals who were not apprehended at the time of entry are detained under 8 U.S.C. § 1226(a) (the general arrest-and-detention authority for those already in the country) and thus are eligible for

² Cf. American Civil Liberties Union, *Federal Court Affirms Nationwide Class Has Right to Bond Hearings*, December 22, 2025. Available at: <https://www.aclu.org/press-releases/federal-court-affirms-nationwide-class-has-right-to-bond-hearings>.

a bond hearing.³ In other words, numerous courts have ruled that DHS's attempt to collapse all EWI cases into the "applicant for admission" category of §1225 is inconsistent with the statutory text and framework. **See Exhibit 20**, list of cases finding detention for long-time residents in the United States unlawful under 8 U.S.C. § 1225 and applying 8 U.S.C. § 1226(a).

43. Although Petitioner did not enter without inspection—he was inspected and paroled at Miami International Airport—DHS and EOIR have effectively subjected him to a similar no-bond regime by misclassifying his detention as mandatory or as beyond the immigration court's bond jurisdiction. The same statutory principles that limit the government's ability to treat EWI noncitizens as 'applicants for admission' under § 1225(b)(2) apply with even greater force to a lawfully paroled arriving alien like Petitioner, who is now in § 240 removal proceedings and has a pending CAA adjustment application.
44. Recent authority confirms that DHS may not circumvent the statutory framework for civil immigration detention by characterizing non-mandatory detainees as categorically ineligible for bond. In *Cunha v. Freden*, No. 25-3141-pr, — F.4th —, 2026 WL 1146044 (2d Cir. Apr. 28, 2026), the Second Circuit held that where DHS cannot point to a statutory basis for

³ See American Civil Liberties Union and the Northwest Immigrant Rights Project, *Seeking Bond Hearings for Maldonado Bautista Class Members – Those Who Entered Without Inspection and Are Subject to Yajure-Hurtado*, December 3, 2025. Available at: <https://www.nwirp.org/uploads/2025/Maldonado%20Bautista%20Practice%20Advisory%2012%203%202025.pdf>

mandatory detention under 8 U.S.C. §§ 1225(b) or 1226(c), a noncitizen's detention is governed by 8 U.S.C. § 1226(a), which provides for discretionary release on bond and contemplates individualized custody determinations.

45. Petitioner is an arriving alien now in § 240 removal proceedings, with no convictions that trigger § 1226(c). Under *Jennings* and *Cunha*, his detention is governed by § 1226(a), and he is entitled to an individualized bond hearing. Nevertheless, the immigration judge denied bond on the ground that he lacked jurisdiction over an 'arriving alien,' effectively treating Petitioner as subject to mandatory detention or no-bond detention under § 1225(b)(2)(A) solely because of DHS's arriving-alien classification, without identifying any statutory mandatory-detention trigger or considering whether § 1226(a) applied. This misapplication of the detention statutes renders Petitioner's ongoing confinement ultra vires and unlawful.
46. Respondents may attempt to rely on *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. 2026), where the Fifth Circuit held that noncitizens who entered the United States without inspection are deemed 'applicants for admission' under 8 U.S.C. § 1225(a)(1) and may be detained without bond under § 1225(b)(2)(A) during removal proceedings. *Buenrostro-Mendez* is inapposite for at least three reasons. First, it involved individuals who had never been admitted or paroled to the United States. Here, by contrast, Petitioner was inspected and paroled at Miami International Airport pursuant

to the Cuban Humanitarian Parole program and issued an I-94. He therefore does not fall within § 1225(a)(1)'s definition of an 'applicant for admission.' Second, Petitioner is an arriving alien in § 240 removal proceedings with a pending Cuban Adjustment Act application, not an EWI respondent. Third, *Buenrostro-Mendez* is a Fifth Circuit decision and is not binding on this Court, whereas the Second Circuit's decision in *Cunha* (though not binding) squarely supports the conclusion that, where no mandatory-detention provision applies, detention during § 240 proceedings proceeds under § 1226(a), which contemplates individualized bond determinations. Given these stark factual differences, DHS should not be permitted to invoke Fifth Circuit case law addressing only EWI respondents to justify Petitioner's no-bond detention; the government's own records, including Petitioner's I-94 and parole documentation, conclusively demonstrate that he was inspected and paroled at a port of entry, not an EWI applicant at the border.

C. Due Process, Statutory, and Regulatory Rights

47. "Freedom from imprisonment lies at the heart of the liberty protected by the Due Process Clause." See *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).
48. Immigration detention must "bear a reasonable relation to the purpose for which the individual was committed." See *Demore v. Kim*, 538 U.S. 510, 527 (2003).

49. Moreover, under the Fifth Amendment of the United States Constitution, DHS and the EOIR may not deprive a noncitizen of notice and an opportunity to be heard. See *Mathews v. Elridge*, 424 U.S. 319 (1976).
50. Nothing in the INA strips this Court of jurisdiction under 28 U.S.C. § 2241 to review the legality of Petitioner's detention. The Supreme Court has long recognized that noncitizens may invoke habeas corpus to challenge the statutory and constitutional basis for immigration detention. See, e.g., *Zadvydas*, 533 U.S. at 687–88; *Demore*, 538 U.S. at 517–18; *Jennings*, 583 U.S. at 285–86. That Petitioner is classified by DHS as an 'arriving alien' for purposes of removal proceedings does not immunize his detention from judicial review. The immigration judge's conclusion that he lacked bond jurisdiction under *Matter of Oseiwusu* and *Matter of X-K-* goes only to the internal allocation of authority within the administrative system; it has no bearing on this Court's independent obligation to ensure that Petitioner's ongoing civil confinement comports with the INA and the Due Process Clause.

D. The APA

51. Federal Agencies must comply with the APA when crafting and enforcing decisions, regulations, and legislative rules. 5 U.S.C. § 553.
52. Courts have authority to review and invalidate final agency actions that are not in accordance with the law, exceed agency authority, lack substantial evidence, or are arbitrary and capricious. 5 U.S.C. § 706.

- 53. Under the APA, this Honorable Court has authorization to compel agency action that has been unreasonably delayed. 5 U.S.C. § 706(1).
- 54. An agency must “conclude a matter presented to it [...] within a reasonable time”. 5 U.S.C. § 555(b).
- 55. “A person suffering legal wrong because of agency action [...] is entitled to judicial review thereof.” 5 U.S.C. § 702.

CAUSES OF ACTION

COUNT I

RESPONDENTS HAVE VIOLATED THE INA, AND THE REGULATIONS

- 56. Petitioner incorporates paragraphs 1 through 55.
- 57. Petitioner, having resided in the United States for more than one year since his lawful parole and having developed substantial ties here, is not "seeking admission" in any temporal sense.
- 58. Under the plain text of the INA and Supreme Court precedent, Petitioner's detention is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2). Section 1225(b)(2) applies to ‘an alien seeking admission’ at a port of entry or immediately upon arrival. *Jennings v. Rodriguez*, 583 U.S. 281, 285–86 (2018).
- 59. Although the regulations treat certain noncitizens in removal proceedings as ‘arriving aliens’ for jurisdictional and procedural purposes, see 8 C.F.R. § 1001.1(q), neither the INA nor the regulations convert all such individuals into perpetual ‘applicants for admission’ subject to mandatory detention

under § 1225(b)(2)(A), particularly where, as here, they were lawfully admitted and paroled, have resided in the United States for over a year, and have a pending adjustment application.

60. Once a noncitizen has been paroled into the United States, placed in removal proceedings under 8 U.S.C. § 1229a, and is not subject to the specific mandatory-detention provisions of § 1226(c), his detention is governed by § 1226(a), which provides discretionary authority to arrest and detain and contemplates release on bond following an individualized custody determination. See *Jennings*, 583 U.S. at 285–88 (describing § 1226(a) as the general arrest-and-detention authority for those already in the country).
61. Petitioner was lawfully admitted and paroled into the United States under the Cuban Humanitarian Parole program, subsequently placed in § 240 removal proceedings, and has no criminal convictions that would trigger § 1226(c).
62. By classifying Petitioner as a mandatory detainee under § 1225(b)(2)(A) and by denying him access to an individualized bond hearing under § 1226(a), Respondents have misapplied the INA's detention framework and deprived him of his liberty without due process.
63. Respondents' treatment of him as a mandatory detainee under § 1225(b)(2), and the resulting denial of access to a meaningful bond hearing, is ultra vires to the INA and unlawful. See also *Cunha v. Freden*, No. 25-3141-pr, — F.4th

—, 2026 WL 1146044 (2d Cir. Apr. 28, 2026)(holding that noncitizens not subject to § 1226(c) or § 1225(b) must be detained, if at all, under § 1226(a) and are entitled to individualized custody determinations).

COUNT II

RESPONDENTS HAVE VIOLATED THE DUE PROCESS CLAUSE OF THE FIFTH AMENDMENT

64. Petitioner incorporates paragraphs 1 through 63.
65. The Fifth Amendment guarantees that no person shall be deprived of liberty without due process of law. Freedom from physical restraint is a fundamental liberty interest.
66. Due process requires that civil detention be accompanied by adequate procedural safeguards, including an individualized hearing before a neutral decisionmaker to determine if detention is necessary to prevent flight or danger. *Zadvydas v. Davis*, 533 U.S. 678 (2001).
67. By classifying Petitioner for mandatory detention without ability to seek bond, Respondents have deprived him of his liberty without due process.
68. The government cannot justify this deprivation. There is no compelling interest in detaining a noncitizen who has been lawfully admitted and paroled into the United States, has resided here for over a year, and has no serious criminal history.

COUNT III

RESPONDENTS HAVE VIOLATED THE APA

69. Petitioner incorporates paragraphs 1 through 68.
70. The APA prohibits agency action that is "arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law." 5 U.S.C. § 706(2)(A).
71. Respondents' continued application and reliance on a no-bond, § 1225(b)(2)-based detention theory for Petitioner—who was lawfully admitted and paroled, is now in § 240 proceedings, and is not subject to any statutory mandatory-detention provision—is arbitrary and capricious because it contradicts the plain language of the INA and binding Supreme Court precedent. See, e.g., *Jennings v. Rodriguez*, 583 U.S. 281, 284–86 (2018) (explaining distinction between detention under 8 U.S.C. §§ 1225 and 1226). It is also inconsistent with federal precedent in this Circuit recognizing that noncitizens not subject to 8 U.S.C. § 1226(c) are detained, if at all, under § 1226(a).

COUNT IV

DELIBERATE INDIFFERENCE TO PETITIONER'S SERIOUS MEDICAL NEEDS PROVIDES AN INDEPENDENT BASIS FOR HABEAS RELIEF

72. Petitioner incorporates paragraphs 1 through 71.
73. In addition to being unlawful as a matter of detention authority and duration, Petitioner's confinement violates the Constitution because Respondents are acting with deliberate indifference to his serious medical needs.
74. Petitioner is a Type 1 insulin-dependent diabetic with a recent history of ST-elevation myocardial infarction (STEMI) on February 19, 2024, abnormal

EKG, essential hypertension, and hyperlipidemia. His treating physician, Dr. Miguel A. Vargas-Lagunas, has prescribed a specific, established regimen that includes Lantus insulin 15 units subcutaneously twice daily, Insulin Lispro 5 units subcutaneously three times daily, Metformin 1000 mg twice daily, Aspirin 81 mg daily, and Atorvastatin 10 mg daily, with ongoing endocrinology and cardiology follow-up. Dr. Vargas-Lagunas opines, within reasonable medical certainty, that interruption of this regimen, lack of access to insulin, or absence of appropriate follow-up places Petitioner at “significant and potentially life-threatening risk” of severe hyperglycemia, diabetic ketoacidosis, recurrent myocardial infarction, arrhythmias, hospitalization, and “rapid deterioration of overall health status,” and that any disruption in care “poses a serious risk to the patient’s health and safety.” See **Exhibit 18**

75. Despite this, since his detention, the facility has repeatedly failed to provide Petitioner’s prescribed medications and basic diabetic management. He has been denied insulin doses, given the wrong insulin or wrong dose at the wrong time, and subjected to changes in his medication regimen without medical justification or specialist consultation. On multiple occasions, staff have administered “different medications” and altered his insulin regimen over his objection, to the point that Petitioner was forced to tell medical personnel that he is “not a lab rat” and that he has an established treatment plan that previously kept him stable. These are not isolated errors: his sister

and counsel have repeatedly contacted detention supervisors regarding missed doses, skipped insulin, and incorrect medications, yet there continues to be no continuity of care, and his medication is denied, missed, or not given multiple times per week.

76. Compounding this neglect, Petitioner has been moved from the infirmary to solitary confinement, where he is housed alone without regular observation. For an insulin-dependent diabetic with a recent heart attack, this placement creates a foreseeable, serious risk that he will decompensate—e.g., suffer hypoglycemia, hyperglycemia, or arrhythmia—and lose consciousness with no one present to notice or summon help. Petitioner already has a history of serious neurologic injury (diffuse axonal injury and skull-base fracture following a traumatic fall in Cuba at age 21, with documented ICU stay, diabetes insipidus, and ongoing cognitive sequelae). See **Exhibit 18**. His sister has observed that since that time he requires support and is prone to anxiety and panic. Detention-center practices that repeatedly deprive him of his medications including insulin and place him alone in isolation, given this history, are not merely negligent; they are recklessly indifferent to a high probability of catastrophic harm or death.

77. Under well-established Eleventh Circuit law, deliberate indifference to a detainee's serious medical needs violates due process. See *Goebert v. Lee Cnty.*, 510 F.3d 1312, 1326–27 (11th Cir. 2007); *McElligott v. Foley*, 182 F.3d 1248, 1255–59 (11th Cir. 1999). Deliberate indifference is shown where

officials know of and disregard an excessive risk to inmate health or safety, such as by “refusing to provide care,” failing to follow a prescribed treatment plan, or “delaying treatment for non-medical reasons.” *McElligott*, 182 F.3d at 1255–57. Civil immigration detainees are entitled to at least the same level of protection as convicted prisoners with respect to medical care. See *Hamm v. DeKalb Cnty.*, 774 F.2d 1567, 1573–75 (11th Cir. 1985).

78. Here, Respondent has been repeatedly informed—by Petitioner, his family, his treating physician, and even counsel—of his diagnoses, his precise prescription regimen, and the acute risks of any interruption. Yet the facility has continued to miss insulin doses, alter medications without justification, and place him alone in conditions where a foreseeable loss of consciousness could go undetected. That conduct clearly satisfies the Eleventh Circuit’s deliberate-indifference standard, and in light of Dr. Vargas-Lagunas’s opinion, approaches criminal medical neglect. See *Goebert*, 510 F.3d at 1327 (deliberate indifference found where jail officials ignored specialist recommendations and obvious risk of serious harm).
79. Each day of detention under these conditions exposes Petitioner to a non-speculative risk of irreversible injury or death. Habeas corpus is an appropriate vehicle to challenge detention that is unconstitutional not only in its duration and statutory basis, but in its conditions where, as here, those conditions themselves create an ongoing, serious threat to life and health.

At a minimum, this medical-neglect evidence strongly reinforces the necessity of prompt judicial intervention and immediate release.

COUNT V

**VIOLATION OF FIFTH AMENDMENT DUE PROCESS
DENIAL OF ADEQUATE MEDICAL CARE**

80. Petitioner incorporates paragraphs 1 through 79.
81. Petitioner is a civil immigration detainee held at Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida under the authority of U.S. Immigration and Customs Enforcement (ICE). As a civil detainee, Petitioner is protected by the Due Process Clause of the Fifth Amendment, which prohibits conditions of confinement that amount to punishment and guarantees access to adequate medical care.
82. Petitioner has been diagnosed with Type 1 Diabetes and is completely insulin-dependent and requires multiple daily insulin injections (approximately four per day) to survive and maintain safe blood glucose levels.
83. Prior to his detention, Petitioner was prescribed medication to be taken daily at specific times, as directed by his treating physician.
84. At the time of his intake into immigration detention, Petitioner informed facility staff and/or ICE medical personnel that he suffers from these conditions, provided information about his prescriptions, and requested that his medication regimen be continued without interruption.

85. Since his arrival at Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida, Petitioner has repeatedly reminded facility staff of his need for daily insulin medication and has submitted sick-call requests and/or grievances when his medication was missed or given at improper times. His counsel has also contacted Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida reiterating these requests.
86. Despite being on notice of Petitioner's serious medical condition and his prescribed treatment, Respondents, acting through the Warden, medical personnel, and staff at Baker Correctional Institute (North Florida Detention Center) in Sanderson, Florida, have failed to provide Petitioner's medication consistently and at medically appropriate times and temperatures.
87. On multiple occasions, Petitioner has not received appropriate medication for his condition. On other occasions, medication has been administered at incorrect temperatures and time, contrary to medical instructions and in a manner that undermines its effectiveness.
88. Petitioner has complained to guards, medical staff, and ICE officers about missed or mistimed doses and has requested that his medication schedule be corrected. Nonetheless, the pattern of missed and/or improperly timed medications has continued.

89. Petitioner's family has also complained to the detention center, nonetheless, the pattern of missed and improperly timed medication has continued to date.
90. As a result of Respondents' failures, Petitioner is at high risk for serious complication. He is at ongoing, unnecessary risk of ketosis, organ failure, and death.
91. Diabetes requiring prescription insulin constitutes a serious medical need because, if left untreated or improperly treated, it poses a substantial risk of serious harm. See, e.g., *Estelle v. Gamble*, 429 U.S. 97, 104–05 (1976); *Dang v. Sheriff, Seminole Cnty., Fla.*, 871 F.3d 1272, 1279 (11th Cir. 2017) (serious medical need exists where, if left unattended, condition poses substantial risk of serious harm); *Goebert v. Lee Cnty.*, 510 F.3d 1312, 1326–27 (11th Cir. 2007).
92. The Fifth Amendment's Due Process Clause requires the government to provide adequate medical care to persons in its custody and forbids conditions that amount to punishment of civil detainees. See *Bell v. Wolfish*, 441 U.S. 520, 535–37 (1979); *City of Revere v. Mass. Gen. Hosp.*, 463 U.S. 239, 244–45 (1983). Courts apply the "deliberate indifference to serious medical needs" standard developed in *Estelle* to claims by pretrial and civil detainees under the Due Process Clause. See *Hamm v. DeKalb Cnty.*, 774 F.2d 1567, 1573–74 (11th Cir. 1985).

93. Deliberate indifference to a serious medical need exists where officials (a) are subjectively aware of a serious medical need or risk of serious harm, and (b) disregard that risk by failing to take reasonable measures to address it. See *Goebert*, 510 F.3d at 1326–27.
94. Respondents are subjectively aware of Petitioner’s medical needs and his need for daily, properly timed insulin and cardiac medications. Petitioner disclosed his diagnosis and prescription regimen at intake, has repeatedly informed medical staff of his condition, and has complained when his medication was not properly or timely administered.
95. Despite this knowledge, Respondents have disregarded the risk to Petitioner’s health by persistently failing to provide his medication in a consistent and medically appropriate manner, and by failing to implement any effective system to ensure he receives his prescribed treatment.
96. Respondents’ conduct is not an isolated, inadvertent omission but reflects a pattern of neglect and disregard, amounting to deliberate indifference to Petitioner’s serious medical needs in violation of the Fifth Amendment.
97. As a direct and proximate result of Respondents’ deliberate indifference, Petitioner has suffered and continues to suffer unnecessary pain, elevated health risks, and the ongoing threat of serious, potentially life-threatening complications while held in civil immigration detention.
98. Respondent **ERIC HALL**—in his official capacity as Warden of Baker Correctional Institute (North Florida Detention Center) in Sanderson,

Florida—has ultimate responsibility for the care and treatment of detainees in his custody, including the provision of necessary medical care. In his official capacity, he has authority to ensure Petitioner receives timely and appropriate medical treatment and to implement any injunctive relief ordered by this Court.

99. Petitioner seeks prospective relief to remedy these ongoing constitutional violations. At a minimum, due process requires that Respondents ensure prompt and reliable administration of Petitioner's prescribed insulin and cardiac medication, timely evaluation by qualified medical professionals, and adherence to medically appropriate treatment plans going forward.

100. To the extent Respondents are unable or unwilling to provide constitutionally adequate medical care for Petitioner's serious medical needs, his continued civil detention under such conditions is unconstitutional, and he is entitled to release under reasonable conditions of supervision.

**REQUEST FOR EXPEDITED ORDER TO SHOW CAUSE
(RESPONSE WITHIN FIVE DAYS)**

101. Petitioner respectfully requests that the Court issue an expedited Order to Show Cause directing Respondents to file a return to the Petition within five (5) days of service, and to address specifically: (a) the statutory authority for Petitioner's ongoing detention in light of *Jennings* and *Cunha*; and (b) the medical care, medications (especially insulin),

housing placement, and specialist follow-up currently being provided to Petitioner in ICE custody.

102. This is a habeas corpus action under 28 U.S.C. § 2241. By statute and longstanding practice, habeas proceedings are intended to provide a swift and effective remedy where unlawful restraint of liberty is alleged. See 28 U.S.C. § 2243 (directing that the court “shall forthwith award the writ or issue an order directing the respondent to show cause why the writ should not be granted,” and that the writ “shall be returned within three days unless for good cause additional time, not exceeding twenty days, is allowed”). Petitioner’s detention has already exceeded the constitutionally permissible bounds for civil immigration detention, as explained above. Each additional day of confinement inflicts ongoing constitutional injury.

103. In addition, as set forth in Count IV and supported by Dr. Vargas-Lagunas’s letter and related medical records, Petitioner suffers from multiple serious, life-threatening conditions, including insulin-dependent Type 1 diabetes and recent STEMI, and is at high risk of diabetic ketoacidosis and recurrent cardiac events if his insulin and cardiac medications are not administered as prescribed. The detention facility has repeatedly missed, altered, or delayed his medications and has placed him in solitary confinement without regular monitoring,

creating a substantial and immediate risk of irreparable harm. See *Goebert*, 510 F.3d at 1326–27; *McElligott*, 182 F.3d at 1255–59 (deliberate indifference to serious medical needs violates constitutional rights).

104. Petitioner’s medical condition is not static. For an insulin-dependent diabetic with recent cardiac infarction, repeated lapses in insulin administration or improper dosing can rapidly precipitate DKA, arrhythmia, or sudden death. These are injuries that cannot be remedied retroactively and thus are irreparable.

105. An expedited order to show cause with a five-day return deadline is fully consistent with the text and purpose of § 2243. Although the statute sets a three-day return as the baseline, it expressly authorizes the Court to allow additional time “not exceeding twenty days” for good cause. Here, a five-day deadline balances the government’s logistical interests with the statutory command that habeas review proceed “forthwith” and that any extension beyond three days be narrowly tailored. The issues the Court must resolve at the outset are discrete and largely documentary: (1) the legal basis (if any) for treating Petitioner as a § 1225(b)(2)(A) mandatory detainee rather than a § 1226(a) detainee; and (2) what specific medical treatment, medications, housing arrangements, and specialist referrals are presently being provided to Petitioner.

106. Respondents are already in possession of the relevant immigration and medical records, and can assemble and present them within five days without undue burden. The balance of harms strongly favors expedited treatment. Petitioner faces ongoing unconstitutional detention and a significant risk of acute, life-threatening medical events with each passing day, while Respondents face only the modest administrative burden of responding within a shortened but statutorily contemplated timeframe. The public interest is served by prompt judicial review of potentially unlawful detention and alleged constitutional violations, especially where the petitioner has significant, documented health vulnerabilities.

107. Accordingly, Petitioner respectfully requests that the Court:

- a. Issue an Order to Show Cause forthwith, directing Respondents to file a return to the Petition and to show cause why the writ should not be granted within five (5) days of service of the Order; and
- b. Require that Respondents' return specifically address (i) the current statutory basis for Petitioner's detention in light of *Jennings* and *Cunha*, and (ii) the nature, extent, and adequacy of medical care, medications, housing placement, and specialist referrals currently being provided to Petitioner in ICE custody; and
- c. Grant such other and further expedited relief as the Court deems just and proper.

RELIEF REQUESTED

WHEREFORE, Petitioner prays that this Honorable Court grant the following relief:

- A. Exercise jurisdiction over this action;
- B. Issuance of an Order to Show Cause returnable within five (5) days;
- C. Declare that the Petitioner is detained under 8 U.S.C. § 1226(a) and is not subject to mandatory detention under 8 U.S.C. § 1225(b)(2);
- D. Issue a Writ of Habeas Corpus ordering Respondents either to (i) immediately release Petitioner under appropriate conditions of supervision, or (ii) provide him, within seven (7) days, an individualized custody redetermination hearing before an Immigration Judge under 8 U.S.C. § 1226(a), at which the government bears the burden of proving by clear and convincing evidence that Petitioner presents a flight risk or danger to the community that no condition of release can mitigate;
- E. Grant temporary and permanent injunctive relief requiring the Respondents to release the Petitioner from custody;
- F. Order the Petitioner's immediate release if the Respondents fail to provide a constitutionally adequate bond hearing within the time prescribed by the Court;
- G. Declare that the continued detention of the Petitioner without access to bond hearing violates Due Process Clause of the Fifth Amendment, the INA, the APA, and regulations;

- H. Award the Petitioner reasonable costs and attorney's fees pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412;
- I. Specifically as to Count IV, Petitioner respectfully requests that this Court:
 - a. Declare that Respondents' failure to provide consistent and properly timed administration of Petitioner's prescribed insulin and cardiac medication violates his rights under the Fifth Amendment's Due Process Clause;
 - b. Order Respondents, including Respondent Warden, to ensure that Petitioner receives all prescribed medications for insulin and cardiac medication in the correct dosages and at medically appropriate times, and to arrange for prompt evaluation and ongoing monitoring by qualified medical providers;
 - c. Require Respondents to file, within a time set by the Court, a written report detailing the steps taken to secure Petitioner's access to adequate medical care and to prevent further missed or mistimed doses of his prescribed insulin and related medications;
 - d. Alternatively, if Respondents are unable or unwilling to provide constitutionally adequate medical care, order Petitioner's release under appropriate conditions of supervision; *and*
- J. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted this 6th day of May, 2026.

/s/ Vilerka Solange Bilbao
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VERIFICATION

Pursuant to 28 U.S.C. § 2242 and 28 U.S.C. § 1746, the undersigned counsel certify under penalty of perjury that we represent the Petitioner in his removal proceedings and make this verification on his behalf; that we have discussed the facts and allegations within this Petition with the Petitioner; and that based upon these discussions and a review of the underlying records, the facts set forth in the foregoing Petition are true and accurate to the best of our knowledge, information, and belief, and the attachments thereto are true and correct copies of the originals.

Respectfully submitted this 6th day of May, 2026.

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