

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Fort Myers Division

CASE NO: _____

ROBERTO ARLEY RUIZ RIVERO,
(A. )

Petitioner,

**PETITION FOR
WRIT OF HABEAS CORPUS**

v.

WARDEN, *Collier County Sheriff*; GARRETT J. RIPA, *Field Office Director of U.S. Immigration and Customs Enforcement Miami Office*; TODD LYONS, *Acting Director of Immigration and Customs Enforcement*; MARKWAYNE MULLIN, *Secretary of the United States Department of Homeland Security*; and TODD BLANCHE, *Attorney General of the United States, in their official capacities*,

Respondents.

_____)

INTRODUCTION

1. Petitioner, Roberto Arley Ruiz Rivero, brings this Petition for Writ of Habeas Corpus to seek enforcement of their rights under 28 U.S.C. § 2241.

2. Petitioner is a Cuban citizen. Petitioner entered the United States on or about the year 2024, after crossing the United States-Mexico border.

3. On or about April 20, 2026, Petitioner was detained by local law enforcement following an alleged domestic dispute involving his partner. The Office of the State Attorney for the Twentieth Judicial Circuit in and for Lee County, Florida formally declined prosecution of

the criminal charge against Petitioner due to “Insufficient Evidence to Prove Beyond Reasonable Doubt.” A true and correct copy of the Disposition is attached hereto as **Exhibit “A.”**

4. Petitioner has remained in custody since April 20, 2026, despite the absence of any ongoing criminal basis justifying continued detention. To date, Petitioner has not been provided with charging documents or a custody determination, nor has a Deportation Officer been identified in connection with his case. Furthermore, no neutral decisionmaker has conducted a hearing to determine whether Petitioner’s continued detention is justified on the basis of danger to the community or risk of flight.

5. Petitioner’s prolonged detention also violates the Due Process Clause of the Fifth Amendment as his detention has become both prolonged and unreasonable.

6. Petitioner hereby petitions this Court for a writ of habeas corpus to remedy his unlawful continued detention pursuant solely to an immigration detainer following the termination of all criminal grounds for custody. Although Petitioner was formally released from state criminal custody, he remains incarcerated solely because of an immigration hold lodged by Respondents. To date, Respondents have failed to provide Petitioner with any meaningful custody review, charging document, Notice to Appear, identified statutory basis for detention, or access to any process through which Petitioner may challenge his continued confinement.

7. Petitioner further seeks immediate judicial intervention because Respondents have continued to deprive Petitioner of his liberty despite the absence of any remaining criminal basis for detention and despite repeated requests by counsel for clarification regarding the legal authority supporting Petitioner’s continued incarceration.

8. Additionally, Petitioner requests that the Court issue a writ of habeas corpus and order Petitioner’s immediate release from custody.

9. Petitioner additionally requests that this Court enjoin Respondents from transferring or removing Petitioner during the pendency of this action absent further order of this Court.

10. Alternatively, should Respondents contend that Petitioner is lawfully subject to immigration detention, Petitioner respectfully requests that Respondents schedule a hearing before an immigration judge within ten (10) days where: (1) to continue detention, the government must establish by clear and convincing evidence that Petitioner presents a risk of flight or danger, even after consideration of alternatives to detention that could mitigate any risk that Petitioner's release would present; and (2) if the government cannot meet its burden, the immigration judge shall order Petitioner's release on appropriate conditions of supervision, taking into account Petitioner's ability to pay a bond.

CUSTODY

10. Petitioner is presently detained at Collier County Sheriff, located in Naples, Florida under direct control and custody of Respondents and Respondents' agents, who are responsible for all decisions and actions regarding the Petitioner's detention at this facility. A true and correct copy of the Ice Detainee Locator result is attached hereto as **Exhibit "B."**

JURISDICTION

11. This action arises under the United States Constitution and the Immigration and Nationality Act of 1952, 8 U.S.C. § 1101 et seq. ("INA").

12. This Court has subject matter jurisdiction under 28 U.S.C. § 2241 (habeas corpus), 28 U.S.C. § 1331 (federal question), and Article I § 9, cl. 2 of the United States Constitution (Suspension Clause). This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 165.1.

VENUE

13. Venue in this District is proper under 28 U.S.C. § 1391(e)(2) because the Officer in Charge who makes custody decisions in Petitioner's case is located within this judicial district and Petitioner is detained within this judicial district; and venue is proper under § 1391(b)(2) because a substantial part of the events giving rise to these claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

14. The Court must grant the petition for writ of habeas corpus or issue an order to show cause (OSC) to the respondents “forthwith,” unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, the Court must require respondents to file a return “within *three days* unless for good cause additional time, not exceeding twenty days, is allowed.” *Id.* (emphasis added).

15. Courts have long recognized the significance of the habeas statute in protecting individuals from unlawful detention. The Great Writ has been referred to as “perhaps the most important writ known to the constitutional law of England, affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement.” *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added).

PARTIES

16. Petitioner, a citizen of Cuba, is in the custody, and under the direct control, of Respondents and their agents at Collier County Sheriff.

17. Respondent Warden/Sheriff of Collier County Sheriff is the acting Warden of Collier County Sheriff, and he has immediate physical custody of Petitioner pursuant to the facility's contract with U.S. Immigration and Customs Enforcement to detain noncitizens and is a legal custodian of Petitioner.

18. Respondent Garret J. Ripa, in his official capacity as Field Office Director of U.S. Immigration and Customs Enforcement, Miami Office, is responsible for the Miami Field Office of ICE with administrative jurisdiction over Petitioner's case. They are legal custodian of Petitioner and are named in their official capacity.

19. Respondent Todd Lyons, in his official capacity as Acting Director of Immigration and Customs Enforcement, has administrative jurisdiction over Petitioner's case and oversees U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent Lyons is a legal custodian of Petitioner.

20. Respondent Markwayne Mullin is sued in his official capacity as the Secretary of the U.S. Department of Homeland Security (DHS). In this capacity, Respondent Mullin is responsible for the implementation and enforcement of the Immigration and Nationality Act and oversees the U.S. Immigration and Customs Enforcement, the component agency responsible for Petitioner's detention and custody. Respondent Mullin is a legal custodian of Petitioner.

21. Respondent Todd Blanche is sued in his official capacity as the Attorney General of the United States and the senior official of the U.S. Department of Justice (DOJ). In that capacity he has the authority to adjudicate removal cases and to oversee the Executive Office for Immigration Review (EOIR), which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

STATEMENT OF FACTS

22. Petitioner is a native and citizen of Cuba, and has resided in the United States since approximately 2024. Since his arrival, Petitioner has continuously resided in the United States, primarily in the Florida area, where he established deep and longstanding ties to the community.

23. Petitioner has resided continuously in the United States for approximately two years. At the time of entry, Petitioner was granted parole by immigration authorities and released into the interior of the country pending immigration proceedings.

24. Following his entry into the United States, Petitioner complied with immigration requirements, appeared for immigration proceedings, submitted fingerprints and biographical information as requested by immigration authorities, and updated his address with immigration officials after relocating from Las Vegas, Nevada to the State of Florida.

25. Petitioner has no prior criminal history neither in the United States nor in Cuba.

26. Petitioner was previously placed into immigration proceedings before the Immigration Court in Las Vegas, Nevada. Those proceedings were ultimately dismissed by the Immigration Judge on or about March 1, 2024.

27. Following the dismissal of those proceedings, Petitioner remained in the United States pursuant to his parole and continued residing in the community without issue. Petitioner subsequently applied for lawful permanent resident status through the Cuban Adjustment Act.

28. Petitioner currently resides in Florida with his United States citizen partner. On or about April 15, 2026, Petitioner and his partner moved together into a new residence located in Lehigh Acres, Florida, and both parties are listed on the residential lease.

29. On or about April 20, 2026, Petitioner was arrested in Lee County, Florida following an alleged domestic dispute involving his partner. The incident arose out of a misunderstanding between the parties. Petitioner's partner later communicated directly with the State Attorney's Office and provided information consistent with an affidavit explaining the misunderstanding and clarifying the events underlying the arrest.

30. Following review of the allegations, the Office of the State Attorney for the Twentieth Judicial Circuit in and for Lee County, Florida formally declined prosecution of the criminal charge against Petitioner due to “Insufficient Evidence to Prove Beyond Reasonable Doubt.”

31. The charge against Petitioner was therefore not prosecuted, and no criminal conviction resulted from the incident.

32. Records from the Lee County Sheriff’s Office further reflect that Petitioner was formally released from criminal custody on May 14, 2026 at approximately 7:24 a.m. A true and correct copy of the Lee County Clerk of Court release records are attached hereto as **Exhibit “C.”**

33. Despite the absence of any remaining criminal basis for detention, Petitioner has continued to remain incarcerated solely due to an immigration detainer lodged by United States Immigration and Customs Enforcement (“ICE”).

34. Counsel for Petitioner has repeatedly contacted ICE Enforcement and Removal Operations (“ERO”) seeking clarification regarding Petitioner’s custody status, detention authority, assigned Deportation Officer, custody determination, and charging documents. Counsel additionally submitted formal written requests for custody review and release on May 14, 2026 and May 15, 2026. A true and correct copy of the email correspondence is attached hereto as Composite **Exhibit “D.”**

35. Despite repeated requests by counsel, no deportation officer has been identified, no Notice to Appear has been produced, no custody determination has been provided, no meaningful custody review has occurred, and no clear statutory basis for Petitioner’s continued detention has been communicated.

36. Counsel further confirmed directly with the Collier County Sheriff's Office that Petitioner is presently being held solely because of the immigration detainer and not due to any remaining criminal charges, warrants, or state-law basis for detention.

37. As of the filing of this Petition, Petitioner remains detained without meaningful process, without access to any identified custody review mechanism, and without any disclosed immigration charging document or pending immigration proceeding.

38. There is no statutory or regulatory pathway for Petitioner to seek a bond hearing before a neutral decision maker.

39. Absent intervention by this Court, Petitioner cannot and will not be provided with a bond hearing by a neutral decision maker to assess the propriety of Petitioner's continued detention.

LEGAL GROUNDS FOR PETITIONER'S RELEASE FROM CUSTODY

“It is well established that the Fifth Amendment entitles [noncitizens] to due process of law in deportation proceedings.” *Demore v. Kim*, 538 U.S. 510, 523 (2003) (quoting *Reno v. Flores*, 507 U.S. 292, 306 (1993)). “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 v. Davis*, 533 U.S. 678, 690 (2001); *see also id.* at 718 (Kennedy, J., dissenting) (“Liberty under the Due Process Clause includes protection against unlawful or arbitrary personal restraint or detention.”). This fundamental due process protection applies to all noncitizens, including both removable and inadmissible noncitizens. *See id.* at 721 (Kennedy, J., dissenting) (“[B]oth removable and inadmissible [noncitizens] are entitled to be free from detention that is arbitrary or capricious”).

Due process requires “adequate procedural protections” to ensure that the government’s asserted justification for physical confinement “outweighs the individual’s constitutionally protected interest in avoiding physical restraint.” *Zadvydas*, 533 U.S. at 690 (internal quotation marks omitted). In the immigration context, the Supreme Court has recognized only two valid purposes for civil detention—to mitigate the risks of danger to the community and to prevent flight. *Id.*; *Demore*, 538 U.S. at 528.

Due process requires that the government provide bond hearings to noncitizens facing prolonged detention. “The Due Process Clause foresees eligibility for bail as part of due process” because “[b]ail is basic to our system of law.” *Jennings*, 138 S. Ct. at 862 (Breyer, J., dissenting) (internal quotation marks omitted). While the Supreme Court upheld the mandatory detention of a noncitizen under Section 1226(c) in *Demore*, it did so based on the petitioner’s concession of deportability and the Court’s understanding at the time that such detentions are typically “brief.” *Demore*, 538 U.S. at 522 n.6, 528. Where a noncitizen has been detained for a prolonged period or is pursuing a substantial defense to removal or claim to relief, due process requires an individualized determination that such a significant deprivation of liberty is warranted. *Id.* at 532 (Kennedy, J., concurring) (“[I]ndividualized determination as to his risk of flight and dangerousness” may be warranted “if the continued detention became unreasonable or unjustified”); see also *Jackson v. Indiana*, 406 U.S. 715, 733 (1972) (holding that detention beyond the “initial commitment” requires additional safeguards); *McNeil v. Dir., Patuxent Inst.*, 407 U.S. 245, 249-50 (1972) (holding that “lesser safeguards may be appropriate” for “shortterm confinement”); *Hutto v. Finney*, 437 U.S. 678, 685-86 (1978) (holding that, in the Eighth Amendment context, “the length of confinement cannot be ignored in deciding whether [a] confinement meets constitutional standards”); *Reid v. Donelan*, 17 F.4th 1, 7 (1st Cir. 2021)

(holding that “the Due Process Clause imposes some form of reasonableness limitation upon the duration of detention” under section 1226(c)) (internal quotation marks omitted).

CLAIMS FOR RELIEF

COUNT I: PROLONGED DETENTION VIOLATES DUE PROCESS

40. Petitioner realleges and incorporates by reference all preceding paragraphs.

41. The Fifth Amendment does not permit the government to incarcerate a civil detainee for months on end without requiring the government to demonstrate, by clear and convincing evidence, that continued detention is necessary to serve its legitimate purposes. Where liberty is at stake, heightened procedural safeguards are required.

42. Immigration detention must bear a reasonable relationship to its regulatory purpose. Petitioner’s continued detention no longer serves its regulatory purpose.

43. Petitioner has been detained since April of 2026 following his arrest, which led to his detention. Although immigration detention is civil in nature, civil detention cannot be indefinite and must comport with the requirements of the Fifth Amendment’s Due Process Clause.

44. Petitioner remains incarcerated despite the absence of any remaining criminal basis for detention. Records from the Lee County Sheriff’s Office further establish that Petitioner was formally released from criminal custody on May 14, 2026 at approximately 7:24 a.m.

45. Following the termination of criminal custody, Petitioner nevertheless remained incarcerated solely pursuant to an immigration detainer lodged by Respondents. Counsel for Petitioner confirmed directly with the Collier County Sheriff’s Office that there exists no remaining state-law basis for detention and that Petitioner continues to be held solely because of immigration authorities.

46. Despite Petitioner's continued deprivation of liberty, Respondents have failed to provide Petitioner with notice of the statutory authority under which he is allegedly being detained, failed to provide charging documents initiating immigration proceedings, failed to identify any assigned Deportation Officer responsible for his custody, failed to provide any custody determination, and failed to provide any hearing or meaningful opportunity through which Petitioner may contest his detention before a neutral decisionmaker.

47. Petitioner's inability to access any meaningful custody review process is particularly significant where the underlying criminal allegations giving rise to the immigration hold were formally declined for prosecution due to insufficient evidence.

48. Petitioner's continued detention absent criminal custody, meaningful review, disclosed detention authority, or access to any identified custody process violates the Constitution and laws of the United States and constitutes unlawful restraint on Petitioner's liberty.

49. Accordingly, Petitioner respectfully requests that this Court issue a writ of habeas corpus directing Respondents to immediately release Petitioner from custody.

**COUNT II: DETENTION WITHOUT IDENTIFIED STATUTORY AUTHORITY
UNDER THE IMMIGRATION AND NATIONALITY ACT**

50. Petitioner realleges and incorporates by reference all preceding paragraphs.

51. Respondents continue to restrain Petitioner's liberty pursuant to federal immigration authority while simultaneously failing to identify the statutory basis authorizing Petitioner's continued detention.

52. To date, Respondents have failed to produce any Notice to Appear, custody determination, parole revocation documentation, administrative warrant, or other charging document sufficient to establish the legal authority under which Petitioner continues to be detained.

53. Petitioner previously entered the United States pursuant to parole granted by immigration authorities following his entry through the United States-Mexico border in 2024. Petitioner thereafter complied with immigration requirements, appeared for immigration proceedings, updated his address with immigration authorities after relocating to Florida, and ultimately had prior immigration proceedings dismissed by the Immigration Court in Las Vegas, Nevada.

54. Despite Petitioner's compliance history and the absence of any criminal conviction or pending criminal prosecution, Respondents continue to maintain Petitioner's detention while failing to identify the statutory basis permitting such detention.

55. Respondents' continued detention of Petitioner absent identified statutory authority violates the Immigration and Nationality Act and exceeds Respondents' lawful detention authority.

56. Accordingly, Petitioner respectfully requests that this Court issue a writ of habeas corpus ordering Petitioner's immediate release from custody.

EXHAUSTION

57. Based on the above, the Court should find administrative exhaustion would be futile. *See Vasquez- Rodriguez v. Garland*, 7 F.4th 888, 896 (9th Cir. 2021) ("where the agency's position appears already set and recourse to administrative remedies is very likely futile, exhaustion is not required.").

RELIEF REQUESTED

WHEREFORE, Petitioner respectfully requests this Court to grant the following:

- a. Assume jurisdiction over this matter;

- b. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
- c. Declare that Petitioner's detention violates the Immigration and Nationality Act, and the Due Process Clause of the Fifth Amendment;
- d. Issue a Writ of Habeas Corpus ordering Petitioner's immediate release by Respondents;
- e. Alternatively, order Respondents to immediately provide Petitioner with a constitutionally adequate custody determination before a neutral decisionmaker at which Respondents bear the burden of establishing the legal and factual basis for Petitioner's continued detention;
- f. Order Respondents to identify and disclose the statutory authority pursuant to which Petitioner is currently being detained, including any charging documents, administrative warrants, detainers, custody determinations, parole termination documentation, or Notices to Appear relied upon to justify Petitioner's continued incarceration;
- g. Enjoin Petitioner's removal from the United States pending a final decision on this Habeas action;
- h. Award Petitioner attorney's fees and costs under the Equal Access to Justice Act, 28 U.S.C. § 2412 and on any other basis justified under law.
- i. Grant such other relief as this Court may deem just and proper.

Dated: May 19, 2026

Respectfully submitted,

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By: /s/ Mariela E. Cano
Mariela E. Cano, Esq.
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CERTIFICATE OF SERVICE

I hereby certify that on May 19, 2026, a true and correct copy of the foregoing was electronically filed with the Clerk of Court and served via the CM/ECF system on all counsel or parties of record on the Service List below.

By: /s/ Mariela E. Cano

Mariela E. Cano, Esq.

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