

AO 242 (Rev. 09/17) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Middle District of FloridaWILMER JUNIOR GOMEZ CORTEZ as Next Friend on
behalf of WILMER ONIRT SANCHEZ-TAPIAS*Petitioner*

v.

MARKWAYNE MULLIN, Secretary of Homeland
Security; and THE WARDEN OF GLADES COUNTY
DETENTION CENTER,*Respondent**(name of warden or authorized person having custody of petitioner)*

Case No.

To be assigned by Clerk
(Supplied by Clerk of Court)MAY 20 2026 18:47
FILED - USDC - FLD - HTM

2:26-CV-1720-SPC-NPM

PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Personal Information

1. (a) Your full name: WILMER ONIRT SANCHEZ-TAPIAS
- (b) Other names you have used: None
2. Place of confinement:
 - (a) Name of institution: Glades County Detention Center
 - (b) Address: 1297 E State Rd 78, Moore Haven, FL 33471
 - (c) Your identification number: [REDACTED]
3. Are you currently being held on orders by:

☒ Federal authorities ☐ State authorities ☐ Other - explain: _____
4. Are you currently:

☐ A pretrial detainee (waiting for trial on criminal charges)

☐ Serving a sentence (incarceration, parole, probation, etc.) after having been convicted of a crime

If you are currently serving a sentence, provide:

 - (a) Name and location of court that sentenced you: _____
 - (b) Docket number of criminal case: _____
 - (c) Date of sentencing: _____

☒ Being held on an immigration charge

☐ Other (explain): _____

Decision or Action You Are Challenging

5. What are you challenging in this petition:

☐ How your sentence is being carried out, calculated, or credited by prison or parole authorities (for example, revocation or calculation of good time credits)

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- ☐ Pretrial detention
☒ Immigration detention
☐ Detainer
☐ The validity of your conviction or sentence as imposed (for example, sentence beyond the statutory maximum or improperly calculated under the sentencing guidelines)
☐ Disciplinary proceedings
☐ Other (explain): _____

6. Provide more information about the decision or action you are challenging:

(a) Name and location of the agency or court: Executive Office for immigration Review (EOIR)Miami Krome Immigration Court - Miami, Florida(b) Docket number, case number, or opinion number: [REDACTED]

(c) Decision or action you are challenging (for disciplinary proceedings, specify the penalties imposed):

Continued immigration detention following denial of bond and denial of motions for reconsideration despite substantial supporting evidence.(d) Date of the decision or action: 05/14/2026**Your Earlier Challenges of the Decision or Action**7. **First appeal**

Did you appeal the decision, file a grievance, or seek an administrative remedy?

☐ Yes ☒ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not appeal: Respondent filed motions before the Immigration Court, including a motion based on ineffective assistance of counsel, but no appeal to the Board of Immigration Appeals (BIA) was filed following the May 14, 2026 denial.

8. **Second appeal**

After the first appeal, did you file a second appeal to a higher authority, agency, or court?

☐ Yes ☐ No

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(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a second appeal: _____

9. **Third appeal**

After the second appeal, did you file a third appeal to a higher authority, agency, or court?

☐ Yes

☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: _____

(2) Date of filing: _____

(3) Docket number, case number, or opinion number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

(b) If you answered "No," explain why you did not file a third appeal: _____

10. **Motion under 28 U.S.C. § 2255**

In this petition, are you challenging the validity of your conviction or sentence as imposed?

☐ Yes

☒ No

If "Yes," answer the following:

(a) Have you already filed a motion under 28 U.S.C. § 2255 that challenged this conviction or sentence?

☐ Yes

☐ No

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If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (b) Have you ever filed a motion in a United States Court of Appeals under 28 U.S.C. § 2244(b)(3)(A), seeking permission to file a second or successive Section 2255 motion to challenge this conviction or sentence?

☐ Yes

☐ No

If "Yes," provide:

(1) Name of court: _____

(2) Case number: _____

(3) Date of filing: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

- (c) Explain why the remedy under 28 U.S.C. § 2255 is inadequate or ineffective to challenge your conviction or sentence: _____

11. **Appeals of immigration proceedings**

Does this case concern immigration proceedings?

☒ Yes

☐ No

If "Yes," provide:

(a) Date you were taken into immigration custody: 12/06/2025

(b) Date of the removal or reinstatement order: _____

(c) Did you file an appeal with the Board of Immigration Appeals? _____

☐ Yes

☒ No

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If "Yes," provide:

(1) Date of filing: _____

(2) Case number: _____

(3) Result: _____

(4) Date of result: _____

(5) Issues raised: _____

(d) Did you appeal the decision to the United States Court of Appeals?

☐ Yes☒ No

If "Yes," provide:

(1) Name of court: _____

(2) Date of filing: _____

(3) Case number: _____

(4) Result: _____

(5) Date of result: _____

(6) Issues raised: _____

12. Other appeals

Other than the appeals you listed above, have you filed any other petition, application, or motion about the issues raised in this petition?

☒ Yes☐ No

If "Yes," provide:

(a) Kind of petition, motion, or application:

Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241

(b) Name of the authority, agency, or court:

United States District Court, Middle District of Florida,Fort Myers Division(c) Date of filing: 02/10/2026

(d) Docket number, case number, or opinion number:

2:26-cv-00309-SPC-DNF(e) Result: Granted(f) Date of result: 02/26/2026(g) Issues raised: Challenge to continued immigration detention and request for individualized hearing under 8 U.S.C. § 1226 (a)

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Grounds for Your Challenge in This Petition

13. State every ground (reason) that supports your claim that you are being held in violation of the Constitution, laws, or treaties of the United States. Attach additional pages if you have more than four grounds. State the facts supporting each ground. Any legal arguments must be submitted in a separate memorandum.

GROUND ONE: Continued immigration detention following denial of bond and denial of motions for reconsideration despite substantial supporting evidence.

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

Bond was denied on March 5, 2026, primarily because financial evidence, proof of community ties, identification documents, and evidence relating to petitioner's applications for relief were not submitted at the hearing.

After the hearing, petitioner submitted substantial supporting evidence, including financial records, tax returns, proof of residence, employment-related evidence, identification documents, and additional supporting documentation.

Despite these submissions and subsequent motions for reconsideration, petitioner remains detained.

(b) Did you present Ground One in all appeals that were available to you?

☐ Yes

☒ No

GROUND TWO: Denial of a meaningful and fair bond determination due to prior counsel's failure to submit available supporting evidence.

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

Prior counsel failed to submit important supporting evidence that had already been gathered and made available before the March 5, 2026 bond hearing, including sponsor financial documents, tax returns, proof of residence, identification documents, and documentation relating to petitioner's applications for relief. The Immigration

Judge specifically cited the absence of this evidence when denying bond. Petitioner later raised ineffective assistance of counsel in subsequent motions, but detention continues despite the later submission of the omitted evidence.

(b) Did you present Ground Two in all appeals that were available to you?

☐ Yes

☒ No

GROUND THREE:

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Three in all appeals that were available to you?

☐ Yes

☐ No

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GROUND FOUR:

(a) Supporting facts (*Be brief. Do not cite cases or law.*):

(b) Did you present Ground Four in all appeals that were available to you?

☐ Yes

☐ No

14. If there are any grounds that you did not present in all appeals that were available to you, explain why you did not:

Petitioner raised his claims before the Immigration Court through motions for reconsideration, but did not pursue an appeal before the Board of Immigration Appeals following the May 14, 2026 denial.

Request for Relief

15. State exactly what you want the court to do:

Petitioner respectfully requests that this Court grant the petition for writ of habeas corpus and order an individualized and meaningful bond determination, or alternatively order petitioner's release from custody under appropriate conditions of supervision.

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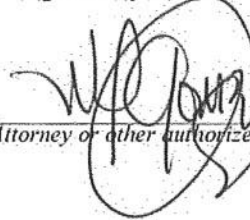
Declaration Under Penalty Of Perjury

If you are incarcerated, on what date did you place this petition in the prison mail system:

I declare under penalty of perjury that I am the petitioner, I have read this petition or had it read to me, and the information in this petition is true and correct. I understand that a false statement of a material fact may serve as the basis for prosecution for perjury.

Date: 05/19/2026

Signature of Petitioner



Signature of Attorney or other authorized person, if any

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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA

WILMER JUNIOR GOMEZ CORTEZ, as Next Friend on behalf of **WILMER ONIRT SANCHEZ-TAPIAS**,

Petitioner,

v.

MARKWAYNE MULLIN, Secretary of Homeland Security; and **THE WARDEN OF GLADES COUNTY DETENTION CENTER**,

Respondent.

MAY 20 2026 PM 3:48
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DECLARATION IN SUPPORT OF NEXT FRIEND STATUS (28 U.S.C. § 2242)

I, **WILMER JUNIOR GOMEZ CORTEZ**, hereby declare under penalty of perjury under the laws of the United States of America, pursuant to 28 U.S.C. § 1746, that the following is true and correct:

1. I am filing this Petition for Writ of Habeas Corpus as "Next Friend" on behalf of the detainee, **WILMER ONIRT SANCHEZ-TAPIAS**, because he is currently unable to sign or file this petition on his own behalf.
2. The detainee is currently incarcerated and under ICE custody at the **Glades County Detention Center** and faces severe communication and physical restrictions regarding the signing of legal documents.
3. Due to strict institutional protocols, detention facility security measures, and mailing delays inside the facility, it is physically impossible to obtain the detainee's wet ink signature in a timely manner without causing irreversible delays to his legal remedy.
4. I am deeply concerned for the detainee's well-being and freedom. I maintain a close relationship with him and I am acting in his best interests to protect his constitutional rights.

Executed on this **19th** day of **May**, 2026..



WILMER JUNIOR GOMEZ CORTEZ

Next Friend Petitioner

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

WILMER ONIRT SANCHEZ-
TAPIAS,

Petitioner,

v.

Case No.: 2:26-cv-00309-SPC-DNF

KRISTI NOEM *et al.*,

Respondents,

OPINION AND ORDER

Before the Court are Wilmer Onirt Sanchez-Tapias's Petition for Writ of Habeas Corpus (Doc. 1), the government's response (Doc. 4), and Sanchez-Tapias's reply (Doc. 5). For the below reasons, the Court grants the petition.

Sanchez-Tapias is a native and citizen of Venezuela who entered the United States on November 14, 2021. He promptly encountered Department of Homeland Security ("DHS") officials, who issued a notice to appear ("NTA") and released him on an order of recognizance. The NTA was not filed with an immigration court until January 1, 2026. Sanchez-Tapias has no criminal history and a pending asylum application. He was arrested on December 6, 2025, when he reported to an Immigration and Customs Enforcement ("ICE") office for a scheduled check-in. He is currently detained at Glades County Detention Center without an opportunity to seek release on bond. Sanchez-

Topias argues his detention violates the Fifth Amendment, the Immigration and Nationality Act (“INA”), and the Administrative Procedures Act.¹

The core of the dispute before this Court is whether 8 U.S.C. § 1225(b)(2) or § 1226(a) of the Immigration and Nationality Act (“INA”) applies to Sanchez-Tapias. The distinction matters because § 1225(b)(2) mandates detention, while aliens detained under § 1226(a) have the right to a bond hearing before an immigration judge. Sanchez-Tapias asks the Court to order the respondents to either release him or provide a prompt individualized bond hearing.

The respondents argue (1) 8 U.S.C. § 1252(g) and (b)(9) strip the Court of jurisdiction over the petitioner’s claims, (2) the petitioner failed to exhaust available administrative remedies, and (3) the petitioner is properly detained under § 1225 and is not eligible for a bond hearing. As the respondents acknowledge, the Court rejected their arguments in cases that presented the same issues, like *Hinojosa Garcia v. Noem*, No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025) and *Vasquez Carcamo v. Noem*, 2:25-cv-922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 2025). The Court’s reasons for granting habeas relief in those cases apply equally here.

¹ Sanchez-Topias raises a new basis for relief in his reply—that he has temporary protected status (“TPS”) and cannot be detained. A habeas petitioner generally cannot raise a new claim in a reply brief. What is more, the exhibits to his reply show that he applied for renewal of TPS on January 28, 2025, not that the application was granted. He has not established that he currently has TPS.

As the Court explained in *Hinojosa Garcia* and *Vasquez Carcamo*, it has jurisdiction because this action falls outside the scope of § 1252(g) and (b)(9), and exhaustion is excused because it would be futile. And like the petitioners in those cases, Sanchez-Tapias's detention is governed by § 1226(a), not § 1225(b)(2). As a noncitizen detained under § 1226(a), Sanchez-Tapias has a right to a bond hearing. *See Jennings v. Rodriguez*, 583 U.S. 281, 306 (2018) ("Federal regulations provide that aliens detained under § 1226(a) receive bond hearings at the outset of detention.") (citing 8 C.F.R. §§ 236.1(d)(1), 1236.1(d)(1)).²

The Court will thus order the respondents to either bring Sanchez-Tapias before an immigration judge for an individualized bond hearing or release him within ten days. The Court is aware that the Executive Office for Immigration Review is the agency that schedules bond hearings. To be clear, subjecting Sanchez-Tapias to mandatory detention under § 1225(b)(2) is unlawful. If the respondents are unable to ensure Sanchez-Tapias receives the

² The Court acknowledges the Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. 2026), which agreed with the government's interpretation of the INA. The decision is not binding here, and it contradicts the vast majority of district court opinions addressing the issue. The Court respectfully disagrees with the majority's reasoning and finds Judge Douglas's dissent more persuasive. And a circuit split is likely. In a preliminary decision, the Seventh Circuit considered the government's position on the scope of § 1225(b)(2) and found it unlikely to succeed on the merits. *See Castanon-Nava v. U.S. Dep't of Homeland Sec.*, 161 F.4th 1048, 1060-63 (7th Cir. 2025).

bond hearing he is entitled to under § 1226(a) within ten days, they must release him.

Accordingly, it is hereby

ORDERED:

Wilmer Onirt Sanchez-Tapias's Verified Petition for Writ of Habeas Corpus (Doc. 1) is **GRANTED**.

(1) Within ten days of this Opinion and Order, the respondents shall either (1) bring Sanchez-Tapias for an individualized bond hearing before an immigration judge or (2) release Sanchez-Tapias under reasonable conditions of supervision. If the respondents release Sanchez-Tapias, they shall facilitate his transportation from the detention facility by notifying his counsel when and where he may be collected.

(2) The Clerk is **DIRECTED** to terminate any pending motions and deadlines, enter judgment, and close the case.

DONE AND ORDERED in Fort Myers, Florida on February 26, 2026.


SHERI POLSTER CHAPPELL
UNITED STATES DISTRICT JUDGE

SA: FTMP-1

Copies: All Parties of Record



UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
MIAMI KROME IMMIGRATION COURT

Respondent Name:

SANCHEZ-TAPIAS, WILMER ONIRT

To:

Tosta, Andrea Franca
6565 Taft Street Suite 401
Hollywood, FL 33024

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

03/05/2026

ORDER OF THE IMMIGRATION JUDGE

The respondent requested a custody redetermination pursuant to 8 C.F.R. § 1236. After full consideration of the evidence presented, the respondent's request for a change in custody status is hereby ordered:

- ☒ Denied, because
Respondent has not met his burden in establishing he is a suitable bail risk - sponsor has not submitted any financials; no proof of ownership of any property, no savings, and has not submitted an application for relief to be able to determine strength or weakness of his claim. see Matter of Guerra. Also, no original ID document submitted to DHS.
- ☐ Granted. It is ordered that Respondent be:
- ☐ released from custody on his own recognizance.
 - ☐ released from custody under bond of \$
 - ☐ other:
- ☒ Other:
Habeas granted

Stuart A Siegel

Immigration Judge: Stuart A. Siegel 03/05/2026

Appeal: Department of Homeland Security: ☒ waived ☐ reserved
Respondent: ☐ waived ☒ reserved

Appeal Due: 04/06/2026

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Respondent Name : SANCHEZ-TAPIAS, WILMER ONIRT | A-Number : 

Riders:

Date: 03/05/2026 By: SCOTT, MARILYN, Court Staff

7:37

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UNITED STATES DEPARTMENT OF JUSTICE
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW
MIAMI KROME IMMIGRATION COURT

Respondent Name:

SANCHEZ-TAPIAS, WILMER ONIRT

To:

Ronald D. Richey, Esq.
19785 Crystal Rock Dr.
307
Germantown, MD 20874

A-Number:



Riders:

In Custody Redetermination Proceedings

Date:

05/14/2026

ORDER OF THE IMMIGRATION JUDGE

☒ Respondent ☐ the Department of Homeland Security has filed a motion to reconsider.

Upon consideration of the motion, and any opposition from the non-moving party, the motion is
☐ granted ☒ denied for the following reason(s):

- ☐ The motion is numerically barred. See INA § 240(c)(6)(A); 8 C.F.R. § 1003.23(b)(1).
- ☐ The motion is untimely. See INA § 240(c)(6)(B); 8 C.F.R. § 1003.23(b)(1).
- ☒ The motion does not specify errors of law or fact in the previous order or is not supported by pertinent authority. See INA § 240(c)(6)(C); 8 C.F.R. § 1003.23(b)(2).
- ☒ Other:

While the Court is sympathetic to Respondent's claim that he feels his prior counsel provided ineffective assistance of counsel during his March 5, 2026 bond hearing, after reviewing the additional information provided by new counsel, the Court finds that no material change has been submitted sufficient for this Court to set a bond in this case. see 8 CFR section 1003.19(c).

Immigration Judge: Stuart A. Siegel 05/14/2026

Appeal: Department of Homeland Security: ☐ waived ☒ reserved

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CONTACT INFORMATION FOR CORRESPONDENCE

Petitioner:

Wilmer Onirt Sanchez-Tapias

A-Number: A



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Please send all correspondence regarding this matter to:

Wilmer Gomez



Phone:



Email:



Clerk of Court
United States District Court
Middle District of Florida – Fort Myers Division
2110 First Street
Fort Myers, FL 33901

Re: Pro Se Petition for Writ of Habeas Corpus under 28 U.S.C. §2241

Petitioner:
Wilmer Onirt Sanchez-Tapias

A-Number:



Please find enclosed a pro se petition for writ of habeas corpus and supporting exhibits concerning ongoing immigration detention at Glades County Detention Center.

Submitted by:
Wilmer Gomez

Thank you.