

AO 242 (12/11) Petition for a Writ of Habeas Corpus Under 28 U.S.C. § 2241

UNITED STATES DISTRICT COURT

for the
Middle District of Florida

OMAR ALBERTO HERNANDEZ MORENO

Petitioner

v.

TODD BLANCHE, Acting U.S. Attorney General;
DAREN K. MARGOLIN, Director, Executive Office for
Immigration Review; et al. (see Attachment)*Respondent**(name of warden or authorized person having custody of petitioner)*

Case No.

2:26-cv-1705-SPC-NAM
(Supplied by Clerk of Court)

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

Personal Information

1. (a) Your full name: OMAR ALBERTO HERNANDEZ MORENO
(b) Other names you have used: NOT APPLICABLE
2. Place of confinement:
(a) Name of institution: GLADES COUNTY DETENTION CENTER
(b) Address: 1279 EAST SR 78, MOORE HAVEN, FL 33471
- (c) Your identification number: 
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)☐ 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: U.S. Immigration and Customs Enforcement,
Broward Transitional Center Immigration Court, Pompano Beach, FL.(b) Docket number, case number, or opinion number: 

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

Request for release on parole, recognizance, bond, or ICE supervision was deniedMotions for custody redetermination and bond hearing were denied twice by the Immigration CourtOngoing and continuous detention.(d) Date of the decision or action: 02/09/2026**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: U.S. Immigration and Customs Enforcement(2) Date of filing: 10/22/2025(3) Docket number, case number, or opinion number: (4) Result: Denied(5) Date of result: 11/07/2025(6) Issues raised: Continued immigration detention despite Petitioner's lack of any criminal history, absence of flight risk, and no danger to the community or national security, while Petitioner has multiple forms of immigration relief. Eligibility for humanitarian parole under INA § 212(d)(5).

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(b) If you answered "No," explain why you did not appeal:

8. Second appeal

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

☒ Yes ☐ No

(a) If "Yes," provide:

(1) Name of the authority, agency, or court: Broward Transitional Center Immigration Court

(2) Date of filing: 12/08/2025

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

(4) Result: Denied pursuant to Matter of Yajure-Hurtado, 29 I. & N. Dec. 216 (BIA 2025)

(5) Date of result: 12/16/2025

(6) Issues raised: Continued immigration detention despite Petitioner's lack of any criminal history, absence of flight risk, and no danger to the community or national security, while Petitioner has multiple forms of immigration relief. Eligibility for humanitarian parole under INA § 212(d)(5).

(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: Broward Transitional Center Immigration Court

(2) Date of filing: 01/08/2026

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

(4) Result: Denied pursuant to Matter of Yajure-Hurtado, 29 I. & N. Dec. 216 (BIA 2025)

(5) Date of result: 02/09/2026

(6) Issues raised: Continued immigration detention despite Petitioner's lack of any criminal history, absence of flight risk, and no danger to the community or national security, while Petitioner has multiple forms of immigration relief. Eligibility for humanitarian parole under INA § 212(d)(5).

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(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

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 or a Section 2254 to petition 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:

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- (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: 09/23/2025
(b) Date of the removal or reinstatement order: 02/26/2026
(c) Did you file an appeal with the Board of Immigration Appeals?

☒ Yes ☐ No

If "Yes," provide:

- (1) Date of filing: 03/12/2026
(2) Case number: 
(3) Result: Pending
(4) Date of result: _____
(5) Issues raised: The Immigration Judge erred as a matter of law and violated Petitioner's due process rights by pretermittting Petitioner's application for adjustment of status and denying all applications for protection without affording Respondent a meaningful opportunity to develop the evidentiary record, present testimony, submit supporting documentation, or otherwise be heard regarding his claims for relief, including his fear of persecution and torture.

- (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: _____

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(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: Applications for relief under Forms I-589 and I-485
 (b) Name of the authority, agency, or court: Broward Transitional Center Immigration Court

(c) Date of filing: 12/08/2025

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

(e) Result: Applications for relief under Forms I-589 and I-485 were pretermitted

(f) Date of result: 09/11/2025

(g) Issues raised: _____

Eligibility for relief through an asylum application and eligibility for adjustment of status under the Cuban Adjustment Act.

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.

GROUND ONE: Unlawful and Indefinite Detention in Violation of the Fifth Amendment and the Immigration and Nationality Act

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

Petitioner's continued civil immigration detention violates the Due Process Clause of the Fifth Amendment because it has become excessive, prolonged, and no longer reasonably related to any legitimate regulatory purpose. Petitioner poses no danger to the community or risk of flight and remains detained despite substantial humanitarian equities and a pending appeal before the Boards of Immigration Appeal. See attached Legal Brief.

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

☒ Yes

☐ No

GROUND TWO: Unlawful and Indefinite Detention in Violation of the Fifth Amendment and the Immigration and Nationality Act.

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

Petitioner's continued detention exceeds the constitutional and statutory limitations governing civil immigration detention under the Immigration and Nationality Act. Because Petitioner's removal is not reasonably foreseeable while his appeal before the Boards of Immigration Appeal remains pending, continued detention has become arbitrary and unconstitutional. See attached Legal Brief.

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

☒ Yes

☐ No

GROUND THREE: Violation of the Administrative Procedure Act (Arbitrary and Capricious Detention)

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

Respondents' continued detention of Petitioner constitutes arbitrary and capricious agency action in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A). DHS has continued to detain Petitioner without providing any meaningful individualized justification demonstrating that continued confinement is necessary. See attached Memorandum of Law.

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

☒ Yes

☐ No

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GROUND FOUR: Unlawful Detention Resulting from DHS Mandatory Detention Policy and Improper Reliance on Matter of Yajure-Hurtado

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

Petitioner's continued detention is unlawful because DHS and the Immigration Court improperly treated his custody status as subject to mandatory detention without providing a meaningful individualized custody determination. The repeated denial of bond based principally upon Matter of Yajure-Hurtado resulted in the effective refusal to meaningfully review Petitioner's detention, in violation of due process and governing immigration law. See attached Legal Brief.

(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:

Request for Relief

15. State exactly what you want the court to do: Petitioner respectfully requests that this Court grant the writ of habeas corpus and order his immediate release from immigration custody, as his detention is unlawful and unconstitutional. In the alternative, Petitioner requests a prompt and meaningful custody hearing before a neutral adjudicator, with the burden on the government to justify continued detention. Petitioner also requests any other relief the Court deems just and proper.

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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:

Petition filed by Petitioner's friends at the District Court.

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:

05/15/2026



Signature of Petitioner

Signature of Attorney or other authorized person, if any

OMAR ALBERTO HERNANDEZ MORENO

Petitioner

A

Detained at Glades County Detention Center

1297 East SR 78

Moore Haven, FL 33471

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

OMAR ALBERTO HERNANDEZ MORENO)

Petitioner,)

v.)

TODD BLANCHE, Acting U.S. Attorney General;)

DAREN K. MARGOLIN, Director, Executive)

Office for Immigration Review;)

MARKWAYNE MULLIN, Secretary,)

Department of Homeland Security; TODD M.)

LYONS, Acting Director, United States)

Immigration and Customs Enforcement; KELEI)

WALKER, Acting ICE Miami Field Office Director,)

United States Immigration and Customs)

Enforcement; CHARLES PARRA Assistant Field)

Director, United States Immigration and Customs)

Enforcement, Krome North Service Processing)

Center; and WARDEN Glades County Detention)

Center)

Respondents.)

Case No. _____

**PETITION FOR WRIT OF
HABEAS CORPUS**

**Pursuant to 28 U.S.C. § 2241
and the U.S. Constitution**

**MEMORANDUM OF
LAW**

**EXPEDITED RELIEF
REQUESTED**

I. INTRODUCTION

1. Petitioner, Omar Alberto Hernandez Moreno ("Petitioner" or "Mr. Hernandez Moreno"), a native and citizen of Cuba, respectfully petitions this Honorable Court for a writ of habeas corpus under 28 U.S.C. § 2241 remedy his continued and unlawful detention by U.S. Immigration and Customs Enforcement ("ICE"), under the authority of the Department of

Homeland Security (“DHS”). Because this detention has been further sustained by the policies of the Department of Justice to interfere with bond adjudications despite Federal district courts issuing nationwide class certification for bond-eligible non-citizens such as Petitioner, the Department of Justice (“DOJ”) is also included in this suit.

2. Petitioner presently has a pending federal habeas corpus proceeding before the United States District Court for the Southern District of Florida, Miami Division, Case No. 1:26-cv-20994-KMW. This habeas corpus proceeding was filed on or about February 13, 2026, and is presently assigned to the Honorable Kathleen M. Williams. Petitioner is represented in that matter by Attorney David Rondon, Esq. During the pendency of those proceedings, Respondents filed a motion seeking dismissal or transfer based upon jurisdictional grounds arising from Petitioner’s detention at the Glades County Detention Center. Rather than dismissing the petition, the Southern District expressly recognized the continuing jurisdictional and custodial concerns implicated by Petitioner’s detention and entered an Order on February 27, 2026 directing Respondents to address multiple issues concerning the nature of the detention facility, the identity and authority of Petitioner’s immediate custodian, and the federal or non-federal character of the detention authority exercised over Petitioner. Significantly, the Court further ordered that, during the pendency of the habeas proceedings, Respondents “*SHALL NOT remove Petitioner from Glades County Detention Center without prior order from the Court.*” As of the filing of the instant Petition, the Southern District habeas proceeding remains pending and unresolved, and no further substantive response or adjudication has been issued.

3. Mr. Hernandez Moreno was taken into ICE custody on September 22, 2025 during a traffic stop for a minor seat belt issue. He was accompanied by his fiancée, Ms. Cynthia Massiel Rivera, when they were stopped by a local police officer of Polk County. Before his

detention, he had never received a Notice to Appear nor been required to appear before an Immigration Judge. The circumstances leading to his detention were minor and non-criminal in nature. He has remained detained for nearly eight (8) months and is currently confined at the Glades County Detention Center in Moore Haven, Florida.

4. Despite Petitioner's consistent compliance with DHS supervision requirements, his well-documented applications for asylum and adjustment of status under the Cuban Adjustment Act ("CAA"), and the absence of any evidence that he presents a danger to the community or a flight risk, ICE has failed to provide Petitioner with a meaningful custody determination consistent with due process and governing immigration law. *See* U.S. Const. amend. V; *Jennings v. Rodriguez*, 583 U.S. 281, 298–99 (2018) (recognizing the statutory detention framework applicable to applicants for admission under INA § 235).

At his merits hearing, Immigration Judge Stuart A. Siegel pretermitted and denied Petitioner's applications for relief, including Form I-589 and Form I-485 filed pursuant to the Cuban Adjustment Act, and ordered Petitioner removed to Ecuador pursuant to the Asylum Cooperative Agreement ("ACA") framework. Petitioner timely appealed those decisions to the Board of Immigration Appeals ("BIA") on or about March 12, 2026, where the matter presently remains pending.

Notwithstanding the pendency of those proceedings, Petitioner continues to remain detained without a constitutionally adequate custody determination, despite the absence of any individualized finding establishing that he poses a danger to the community or a risk of flight. Such prolonged detention without meaningful procedural safeguards violates the fundamental due process protections guaranteed under the Fifth Amendment.

5. Meanwhile, Petitioner has repeatedly sought custody review through the

immigration court process. Bond requests were filed on December 8, 2025, January 9, 2026, and February 25, 2026. In addition, a bond appeal was subsequently filed before the BIA on March 27, 2026. Petitioner's initial bond request was denied despite the lack of evidence establishing dangerousness or flight risk. Thereafter, based on intervening legal authority, including the analysis set forth in *Lazaro Maldonado Bautista et al. v. Ernesto Santacruz Jr., et al.*, Petitioner sought renewed custody review. Nevertheless, Petitioner remains detained without a constitutionally adequate custody determination, thereby prolonging his detention without meaningful procedural safeguards.

6. In addition, Mr. Hernandez Moreno used to be a high-performance tennis athlete when he was living in Cuba until 2021. He was targeted and harassed by Cuban authorities because of his political opinions and open opposition to the Communist Regime. He was labeled a "counterrevolutionary" for refusing to comply with government directives and was physically assaulted by Cuban police officers. His personal history demonstrates past persecution, credible fear of future harm, and deep psychological vulnerability—factors that strongly weigh in favor of release from custody.

7. Moreover, Mr. Hernandez Moreno has been in a committed domestic relationship with Ms. Cynthia Massiel Rivera since 2023, the same year they became engaged. They used to live at [REDACTED]. However, after Mr. Hernandez Moreno's detention, his fiancé had to change their residence due to their loss of income. Prior to his detention, the couple had been actively planning their marriage. Ms. Rivera is currently gathering the necessary documentation to file a Petition for Alien Relative (Form I-130) on behalf of Mr. Hernandez Moreno. Together, they have established a supportive and caring household. The I-130 Petition will provide Mr. Hernandez Moreno with a viable avenue toward

relief from removal and eventual lawful permanent residence.

8. Ms. Rivera is the mother of a 10-year-old child who identifies Petitioner as a stable and devoted father figure, relying on him for both emotional and daily support. Mr. Hernandez Moreno also serves as the primary financial provider for his family. Petitioner is a hardworking individual and a professional athlete who has dedicated himself to teaching tennis through his own academy, [REDACTED], established in 2022. His business has been successfully operating for nearly four years.

9. In addition, Petitioner's father, Mr. Omar Alberto Hernandez Farinas, has suffered severe and ongoing medical complications that require continuous care and support. In the past year, Mr. Hernandez Farinas experienced a hemorrhagic stroke involving the left frontal lobe, accompanied by a subarachnoid hemorrhage, as well as evidence of prior chronic infarcts and underlying microvascular ischemic disease. These findings confirm serious cerebrovascular conditions necessitating ongoing neurological supervision and complex medical management.

On January 7, 2026, Mr. Hernandez Farinas was transported to the Emergency Room at Baptist Hospital in Miami, Florida after presenting with left-sided weakness, extreme pallor, and significant instability. Given his advanced age and documented history of recurrent strokes, he remains at heightened risk for further neurological deterioration and functional impairment and is currently receiving hospital-based treatment. This further demonstrates how essential Petitioner's presence is to the well-being of his father, and underscores the humanitarian importance of granting his release so he can continue providing care and support to his family.

10. Mr. Hernandez Moreno has no criminal record, poses no flight risk or danger to the community, and has substantial family and community ties in the United States. His indefinite detention—without an individualized custody determination, bond hearing, or meaningful

parole review—violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. § 1231(a)(6) as interpreted by *Zadvydas v. Davis*, 533 U.S. 678 (2001), and exceeds the government’s statutory and constitutional authority.

II. JURISDICTION AND STATUTORY AUTHORITY

11. This Court has jurisdiction pursuant to 28 U.S.C. § 2241, which authorizes federal courts to grant writs of habeas corpus to individuals held in custody in violation of the Constitution or laws of the United States. Federal courts retain habeas jurisdiction over challenges to the legality of immigration detention. *Demore v. Kim*, 538 U.S. 510, 517 (2003). This Court also has jurisdiction under 28 U.S.C. § 1331, because this case arises under the Constitution and laws of the United States.

12. Petitioner is presently in the custody of ICE within the jurisdiction of this Court and therefore satisfies the “in custody” requirement of § 2241.

13. This Court has jurisdiction over this petition pursuant to 28 U.S.C. § 2241 because Petitioner is currently in federal immigration custody. Venue is proper in the Middle District of Florida, Fort Myers Division, pursuant to 28 U.S.C. § 1391(e), because Petitioner is detained within this District at the Glades County Detention Center in Moore Haven, Florida, and his immediate custodian—the Officer in Charge of that facility—exercises day-to-day control over Petitioner’s confinement.

14. Jurisdiction is further supported by Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause) and by the general federal-question statute, 28 U.S.C. § 1331, as this petition raises claims arising under the Immigration and Nationality Act (“INA”) and the Due Process Clause of the Fifth Amendment.

15. Petitioner’s continued detention is not authorized by statute or regulation. Because

Cuba routinely refuses repatriations and no removal is reasonably foreseeable, his ongoing confinement exceeds the limits recognized in *Zadvydas v. Davis*, 533 U.S. 678 (2001).

16. Petitioner presently has a pending appeal before the BIA concerning the denial of his applications for Asylum, Withholding of Removal, Protection under the Convention Against Torture, and adjustment of status under the Cuban Adjustment Act. The pendency of these claims and forms of relief underscores Petitioner's substantial incentive to appear in all future proceedings and to fully comply with all governmental and court-imposed requirements.

17. This Court has jurisdiction pursuant to 28 U.S.C. § 2241(c)(3) to review the legality of Petitioner's ongoing detention and to remedy violations of the Constitution and laws of the United States. Mr. Hernandez Moreno's continued detention raises serious due process concerns under the Fifth Amendment. Accordingly, this Court has authority to order his immediate release from custody, or, at minimum, to require the government to provide a prompt, individualized custody redetermination hearing that satisfies constitutional and statutory requirements.

III. STATEMENTS OF FACTS

18. Petitioner, Omar Alberto Hernandez Moreno, A [REDACTED] is a native and citizen of Cuba, born [REDACTED] in Havana, Cuba.

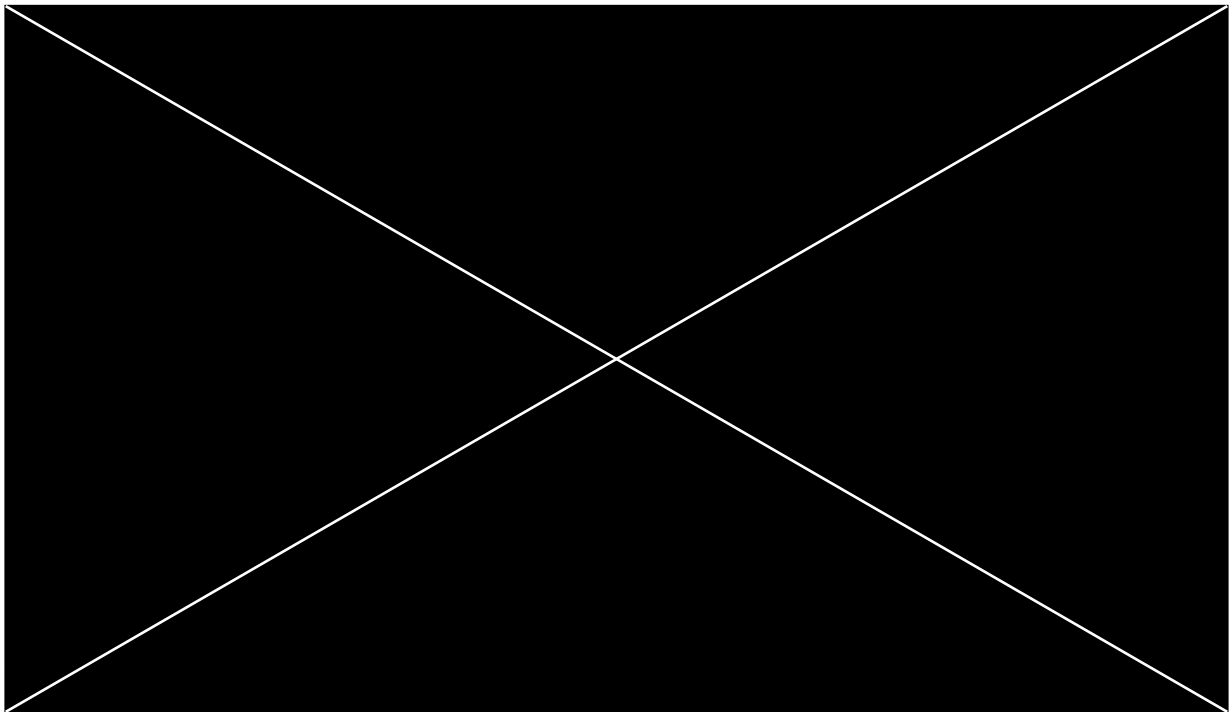
19. Petitioner entered the United States at or near the Del Rio, Texas Port of Entry on or about August 3, 2021, without inspection. Subsequently, he was apprehended by DHS and processed under section 236 (a) of the Immigration and Nationality Act. He was subsequently released on Form I-220A, Orden of Supervision.

20. Mr. Hernandez Moreno was detained on September 22, 2025 during a traffic stop for a minor seat belt issue. He was accompanied by his fiancée, Ms. Cynthia Massiel Rivera,

when they were stopped by a local police officer of Polk County. Despite not having criminal record, he was transferred to immigration custody.

21. Prior to his detention, Petitioner fully complied with all DHS reporting requirements and conditions of supervision. At no time did he fail to appear, violate the terms of his release, or otherwise demonstrate behavior indicative of flight risk or danger to the community.

22. As a professional tennis player, Mr. Hernandez Moreno was targeted and harassed by 



23. Moreover, Mr. Hernandez Moreno has been in a committed domestic relationship with Ms. Cynthia Massiel Rivera since 2023, the same year they became engaged. Petitioner is regarded as a stable and devoted father figure to Ms. Rivera's son, who relies upon him for emotional support and daily care.

24. Petitioner serves as the primary financial provider for his family. Petitioner is a

hardworking individual and a professional athlete who has dedicated himself to teaching tennis through his own academy, [REDACTED] established in 2022. His business has been successfully operating for nearly four years.

25. Petitioner presently has a pending appeal before the Board of Immigration Appeals concerning the denial of his applications for Asylum, Withholding of Removal, Protection under the Convention Against Torture, and adjustment of status under the Cuban Adjustment Act. In addition, Petitioner may become the beneficiary of a Form I-130, Petition for Alien Relative, upon his anticipated marriage to his fiancée, further demonstrating his potential avenues for lawful immigration relief. These pending applications further demonstrate Petitioner's ongoing lawful pursuit of immigration relief and substantial equities favoring release from detention.

26. Petitioner also has a pending federal habeas corpus proceeding before the United States District Court for the Southern District of Florida, Miami Division, Case No. 1:26-cv-20994-KMW. As of the filing of the instant Petition, no substantive response or adjudication has been issued in that proceeding.

27. Petitioner's continued detention, without a meaningful custody determination and while dispositive proceedings remain pending, has resulted in significant prejudice to his liberty interests and ability to pursue relief.

IV. LEGAL FRAMEWORK

28. Federal courts retain jurisdiction under 28 U.S.C. § 2241 to review the legality of immigration detention, even where the underlying removal order is subject to limited review. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Demore v. Kim*, 538 U.S. 510 (2003); *Jennings v. Rodriguez*, 138 S. Ct. 830 (2018).

29. Although 8 U.S.C. § 1225(b) (INA § 235(b)) authorizes the detention of certain “arriving aliens” pending removal, such detention is not unlimited. Prolonged or indefinite detention without individualized review raises serious Fifth Amendment due-process concerns and violates the canon of constitutional avoidance articulated in *Zadvydas* and *Jennings*.

30. The Supreme Court has made clear that the government may detain a noncitizen only for a period reasonably necessary to accomplish the purpose of detention—namely, to effectuate removal. See *Zadvydas v. Davis*, 533 U.S. 678, 699–701 (2001). Where removal is not reasonably foreseeable, or where legal impediments prevent its execution, continued detention becomes constitutionally suspect. Here, Petitioner’s removal proceedings remained pending at the time of his detention. Petitioner also had pending applications before USCIS, including Form I-589 and Form I-485. At that time, Petitioner was not under any order requiring his appearance before an Immigration Judge and remained in compliance with all immigration requirements.

Moreover, under INA § 212(d)(5)(A), the Department of Homeland Security retains broad discretionary authority to parole individuals “for urgent humanitarian reasons or significant public benefit.” ICE Directive 11002.1 further provides that parole is appropriate where an individual has established identity and does not pose a danger to the community or a risk of flight. Those factors are fully satisfied in Mr. Hernandez Moreno’s case. Petitioner presently has a pending appeal before the BIA, further underscoring that his continued detention is neither necessary nor justified.

31. In the alternative, INA § 236(a) authorizes DHS to release individuals on bond or recognizance while proceedings are pending or where continued detention is not required. The

government's refusal to exercise this authority, or to conduct any individualized custody review, constitutes arbitrary and unlawful detention.

32. Although the Immigration Judge ordered Petitioner removed to Ecuador pursuant to the Asylum Cooperative Agreement framework, removal remains uncertain and not reasonably foreseeable while Petitioner's appeal before the BIA remains pending. Moreover, the legality and procedural safeguards surrounding third-country removals continue to be the subject of ongoing federal litigation and judicial scrutiny. This uncertainty further undermines any justification for Petitioner's continued detention, particularly where removal is contingent upon unresolved legal and procedural issues beyond Petitioner's control.

33. Petitioner's prolonged and continued detention—particularly in light of his pending appeal, his substantial family and community ties within the United States, the deteriorating health condition of his father, and his potential eligibility for additional immigration relief through a future Form I-130 petition upon marriage to his U.S.-based fiancée—further demonstrates that continued detention is unnecessary, excessive, and inconsistent with fundamental principles of due process and fairness. In the absence of a final and legally operative removal order, his continued confinement has become punitive, excessive, and constitutionally impermissible.

34. Additionally, the Eleventh Circuit has long recognized that immigration detention, even where initially authorized by statute, becomes constitutionally suspect when it is prolonged and untethered to individualized findings of flight risk or dangerousness. See *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1217–18 (11th Cir. 2016), vacated as moot, 890 F.3d 952 (11th Cir. 2018) (recognizing that due process requires a bond hearing when detention becomes unreasonably prolonged); see also *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001) (civil detention

must bear a reasonable relation to its purpose and cannot be indefinite). Although *Sopo* was vacated on mootness grounds, its due-process analysis remains highly persuasive and has been repeatedly relied upon by district courts within the Eleventh Circuit assessing prolonged ICE detention under § 2241.

35. Applying these principles, Mr. Hernandez Moreno's continued detention—without any meaningful individualized custody determination or constitutionally adequate review of the necessity of his confinement—violates the Due Process Clause regardless of DHS's statutory characterization of his custody or prior agency interpretations such as *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). Petitioner has no criminal history, presents no danger to the community or risk of flight, and presently has a pending appeal before the BIA. He further possesses compelling humanitarian equities, including strong family and community ties within the United States, and serves as a principal source of support and care for his father. Under these circumstances, Petitioner's continued civil immigration detention has become excessive, punitive in effect, and constitutionally unjustified.

36. Under controlling Supreme Court precedent and persuasive Eleventh Circuit authority, civil detention under these circumstances is arbitrary, punitive in effect, and unlawful. Habeas relief is therefore warranted to remedy DHS's ongoing violation of Mr. Hernandez Moreno's Constitutional Rights under the Fifth and Fourth Amendments

V. ARGUMENTS

A. Petitioner's Continued Detention Violates the Fourth and Fifth Amendments

37. The Fourth Amendment guarantees the right of all persons within the United States to be free from unreasonable searches and seizures. U.S. Const. amend. IV. These constitutional protections apply to civil immigration enforcement actions conducted within the interior of the

United States and restrict the Government's authority to arrest and detain individuals absent a lawful basis and constitutionally adequate process.

38. Here, Petitioner's continued detention lacks sufficient constitutional and statutory justification. Mr. Hernandez Moreno was initially taken into custody following a traffic stop, despite having no criminal convictions, remaining compliant with immigration requirements, and maintaining substantial family and community ties within the United States, including a longstanding domestic relationship and a lawful permanent resident father suffering from health issues. Under these circumstances, Petitioner's continued civil immigration detention—without a meaningful individualized determination establishing that he poses a danger to the community or a risk of flight—has become unreasonable, excessive, and inconsistent with due process.

39. Furthermore, although Petitioner's applications for relief, including Form I-589 and Form I-485, were denied by the Immigration Judge Stuart A. Siegel on or about February 26, 2026, Petitioner presently has a pending appeal before the BIA. Accordingly, Petitioner is not subject to imminent removal, and his continued detention no longer serves a legitimate immigration purpose sufficient to justify his ongoing confinement.

40. Because Petitioner's continued detention violates the constitutional protections guaranteed by the Fourth and Fifth Amendments, such detention is unlawful. The writ of habeas corpus exists precisely to remedy unlawful executive restraint on liberty. As the Supreme Court has recognized, "[a]t its historical core, the writ of habeas corpus has served as a means of reviewing the legality of Executive detention." *INS v. St. Cyr*. Where continued detention becomes unreasonable, excessive, or constitutionally unjustified, federal courts possess both the authority and the obligation to grant habeas relief.

B. Continued Detention Violates the Due Process Clause

41. Even where immigration statutes authorize detention during removal proceedings, the Constitution imposes meaningful limitations on the Government's authority to deprive individuals of liberty without adequate procedural safeguards. The Supreme Court has consistently recognized that civil immigration detention must remain reasonably related to its regulatory purpose and may not become arbitrary, indefinite, or punitive in nature. *Zadvydas v. Davis*. Although the Government possesses authority to detain certain noncitizens in the immigration context, such authority remains subject to constitutional constraints and judicial review through the writ of habeas corpus. *Demore v. Kim*.

42. Federal courts therefore retain both the authority and the obligation to determine whether a particular detention comports with the requirements of due process. Here, Petitioner's continued detention raises substantial constitutional concerns. First, Petitioner has remained continuously detained since September 22, 2025—nearly eight months—despite the absence of any criminal convictions, any evidence that he poses a danger to the community, or any meaningful showing that he presents a risk of flight. Second, although Petitioner was denied relief and ordered removed to Ecuador pursuant to the Asylum Cooperative Agreement (“ACA”) framework, he timely appealed that decision to the Board of Immigration Appeals on or about March 12, 2026. Accordingly, the removal order is not yet final, rendering Petitioner's continued detention potentially prolonged and indefinite in duration. Third, Petitioner possesses substantial humanitarian and equitable factors strongly weighing in favor of release, including his longstanding domestic relationship, significant family and community ties within the United States, his ill lawful permanent resident father who depends on his support, and his lack of criminal history.

43. Taken together, these circumstances demonstrate that Petitioner's continued detention is no longer reasonably related to any legitimate regulatory purpose and instead has become excessive, arbitrary, and punitive in effect. The continued deprivation of Petitioner's liberty, absent a meaningful individualized custody determination sufficient to justify ongoing confinement, violates the fundamental guarantees of due process secured by the Fifth Amendment to the United States Constitution.

C. Conditions of Confinement Raise Additional Constitutional Concerns

44. Civil immigration detention is civil and regulatory in nature, not punitive. Accordingly, the Government may not subject immigration detainees to conditions that amount to punishment or are excessive in relation to any legitimate governmental objective. *See Bell v. Wolfish*, 441 U.S. 520 (1979); *Zadvydas v. Davis*, 533 U.S. 678 (2001).

45. Petitioner is presently detained at the Glades County Detention Center in Moore Haven, Florida, where the conditions of confinement further exacerbate the constitutional concerns surrounding his prolonged detention. Courts have recognized that the conditions under which civil immigration detainees are confined remain relevant in evaluating whether continued detention comports with due process and fundamental fairness.

46. Upon information and belief, detainees at Glades County Detention Center are subjected to restrictive custodial conditions comparable to criminal incarceration, including prolonged confinement, limited movement, lack of meaningful access to outdoor recreation, limited privacy, and substantial emotional and psychological hardship associated with prolonged civil detention. Such conditions are particularly concerning where, as here, Petitioner has no criminal history and remains detained solely pursuant to civil immigration authority.

47. Petitioner's continued detention under these conditions has caused significant hardship to both Petitioner and his family. His detention has deprived his household of emotional and financial stability and has further aggravated the emotional distress associated with his uncertain immigration status and prolonged confinement.

48. Given the prolonged nature of Petitioner's detention, the absence of any individualized finding that he poses a danger to the community or a risk of flight, the pendency of his appeal before the Board of Immigration Appeals, and the restrictive conditions of confinement at Glades County Detention Center, continued detention no longer bears a reasonable relationship to any legitimate governmental purpose. Accordingly, habeas relief and Petitioner's immediate release are warranted pursuant to 28 U.S.C. § 2241.

D. This Court Possesses Authority to Order Immediate Release

49. Federal courts possess broad authority under the habeas statute to remedy unlawful executive detention. The Supreme Court has repeatedly recognized that the writ of habeas corpus serves as a fundamental safeguard against unconstitutional restraints on individual liberty. *Boumediene v. Bush*. Where continued detention violates constitutional principles, federal courts possess the authority to order appropriate relief, including release from custody.

50. Here, Mr. Hernandez Moreno's continued detention violates the Due Process Clause of the Fifth Amendment because it has become excessive, prolonged, and no longer reasonably related to any legitimate regulatory purpose. Petitioner has no criminal convictions, presents no danger to the community, and poses no meaningful risk of flight.

51. Petitioner further possesses substantial humanitarian and equitable factors strongly weighing in favor of release, including his longstanding domestic relationship, significant

family and community ties within the United States, and his role as a principal source of emotional and financial support for his father. These circumstances render continued civil immigration detention constitutionally unjustified.

52. Accordingly, the appropriate remedy is Petitioner's immediate release from ICE custody. Alternatively, and at a minimum, this Court should order that Petitioner receive a prompt and constitutionally adequate individualized custody hearing before a neutral adjudicator at which the Government bears the burden of establishing, by clear and convincing evidence, that continued detention is necessary to prevent flight or danger to the community.

E. The Extraordinary Hardship to Petitioner's Family Further Supports Release

53. Petitioner's continued detention has imposed extraordinary emotional, financial, and humanitarian hardship upon his family and support network within the United States. Petitioner maintains a longstanding and committed domestic relationship with his fiancée, with whom he shares substantial emotional and familial bonds.

54. Petitioner also serves as a principal source of support for his lawful permanent resident father, who suffers from significant health issues and depends upon Petitioner for emotional, financial, and day-to-day assistance. Petitioner's prolonged detention has severely disrupted his family's stability and has placed substantial strain upon his loved ones.

55. In addition, Petitioner has established significant ties to the community and has consistently demonstrated compliance with immigration requirements throughout the pendency of his proceedings. Specifically, his mother-in-law remains prepared to provide housing and financial if released.

56. These compelling humanitarian equities further demonstrate that continued detention is unnecessary and excessive under the circumstances. Courts evaluating

immigration detention under 28 U.S.C. § 2241 routinely consider the hardship imposed upon detainees and their families in assessing whether continued confinement remains constitutionally reasonable. Here, the extraordinary hardship caused by Petitioner's continued detention strongly weighs in favor of immediate release.

F. Continued Detention Raises the Same Constitutional Concerns Recognized in *Maldonado Bautista*

57. Petitioner's continued detention raises the same constitutional concerns addressed by the federal district court in *Lazaro Maldonado Bautista et al. v. Santacruz* and the court's subsequent enforcement order issued on February 18, 2026. In that litigation, the court rejected detention practices that permit prolonged immigration custody without meaningful individualized constitutional safeguards, emphasizing that civil immigration detention remains subject to the Due Process Clause.

58. The court in *Maldonado Bautista* recognized that the Government may not rely solely on statutory classifications or agency interpretations—including frameworks reflected in *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025)—to justify continued detention where confinement becomes prolonged and excessive in relation to its regulatory purpose. Rather, due process requires a meaningful individualized assessment sufficient to justify continued detention.

59. The same constitutional principles apply here. Mr. Hernandez Moreno has remained continuously detained for nearly eight months despite having no criminal convictions, substantial humanitarian equities, and a pending appeal before the Board of Immigration Appeals. Moreover, because his appeal remains pending, no imminent removal appears reasonably foreseeable.

60. Under these circumstances, continued detention without constitutionally adequate safeguards becomes increasingly difficult to reconcile with the Due Process Clause. The reasoning articulated in *Maldonado Bautista* therefore further supports this Court's authority to conclude that Petitioner's continued detention has become unconstitutional and that habeas relief is warranted.

G. Eleventh Circuit Precedent Confirm the Availability of Habeas Relief

61. The Government may contend that this Court should defer to immigration authorities with respect to detention decisions. However, binding precedent within this Circuit makes clear that federal courts retain both the authority and the obligation to review the legality of immigration detention and to order relief where such detention violates the Constitution or exceeds statutory limits.

62. The Eleventh Circuit has consistently recognized that habeas corpus remains an appropriate vehicle to challenge unlawful immigration detention. In *Madu v. U.S. Attorney General*, the court held that district courts have jurisdiction to determine whether a noncitizen's detention is authorized by statute. Likewise, in *Sopo v. U.S. Attorney General*, the Eleventh Circuit acknowledged that prolonged immigration detention without meaningful review raises serious constitutional concerns under the Due Process Clause. Although *Sopo* was later vacated as moot following settlement, courts within this Circuit continue to treat its reasoning as persuasive authority regarding the constitutional limits of civil immigration detention.

63. District courts within the Middle District of Florida regularly exercise jurisdiction over habeas corpus petitions challenging immigration detention pursuant to 28 U.S.C. § 2241. Courts within this District have addressed claims involving prolonged detention, denial of

custody hearings, and alleged due process violations arising from immigration custody, confirming the federal courts' authority to review the statutory and constitutional validity of continued detention.

64. Moreover, recent nationwide litigation further highlights the importance of judicial oversight in this area. While the Fifth Circuit in *Buenrostro Mendez v. Bondi* adopted a restrictive interpretation of detention authority under INA § 235, that decision is not binding in this Circuit. In contrast, other courts—including the district court in *Maldonado Bautista v. Santacruz*—have rejected categorical detention frameworks and held that individuals arrested within the United States are entitled to individualized custody determinations consistent with INA § 1226 and the Due Process Clause. These divergent authorities underscore the continuing role of federal courts in safeguarding constitutional rights and ensuring that immigration detention remains lawful, individualized, and subject to meaningful judicial review.

H. The Totality of Circumstances Demonstrates That Continued Detention Is Unconstitutional

65. In assessing the constitutionality of immigration detention, courts must consider the totality of the circumstances. Multiple factors weigh heavily in favor of relief in this case:

- a. **Lack of Adequate Constitutional Justification for Continued Detention:**
Petitioner has no criminal convictions, poses no danger to the community, and presents no meaningful risk of flight sufficient to justify his continued detention.
- b. **Prolonged Civil Detention:** Petitioner has remained continuously detained since September 22, 2025 —nearly eight months— while his appeal remains pending

before the Board of Immigration Appeals, with no imminent resolution or reasonably foreseeable removal.

c. **Constitutionally Deficient Conditions of Confinement:** Petitioner remains detained at the Glades County Detention Center in Moore Haven, Florida, where the restrictive nature of confinement, prolonged detention, and conditions associated with civil immigration custody raise serious constitutional and due process concerns inconsistent with the non-punitive purpose of immigration detention.

d. **Extraordinary Humanitarian and Equitable Factors:** Petitioner has substantial family and community ties within the United States, including a longstanding domestic relationship, a lawful permanent resident father suffering from health issues who depends upon Petitioner's support, and significant humanitarian equities strongly weighing in favor of release. Continued detention has imposed significant emotional, psychological, and financial hardship upon both Petitioner and his domestic partner.

66. Considered together, these factors demonstrate that Petitioner's continued detention no longer serves any legitimate regulatory purpose and has instead become arbitrary, excessive, and punitive in nature, in violation of the Constitution.

VI. CLAIMS FOR RELIEF

Count I – Continued Detention Violates the Due Process Clause of the Fifth Amendment

67. Petitioner realleges and incorporates by reference all preceding paragraphs of this Petition as though fully set forth herein.

68. The Due Process Clause of the Fifth Amendment prohibits the federal government

from depriving any person of liberty without due process of law. Although immigration detention may, in certain circumstances, serve a permissible civil regulatory purpose, such detention must remain reasonably related to that purpose and may not become arbitrary, excessive, indefinite, or punitive in nature. *See Zadvydas v. Davis*.

69. Petitioner has remained continuously detained by ICE since September 22, 2025, despite the absence of any criminal convictions, despite substantial evidence demonstrating that he poses neither a danger to the community nor a meaningful risk of flight, and despite the existence of a pending appeal before the BIA.

70. Petitioner was denied all applications for relief and ordered removed to Ecuador. However, a timely appeal was filed before the Board of Immigration Appeals on or about March 12, 2026. Accordingly, Petitioner's removal is not imminent, and his continued detention no longer bears a reasonable relationship to any legitimate immigration purpose.

71. Petitioner further possesses substantial humanitarian and equitable factors strongly favoring release, including his longstanding domestic relationship, strong family and community ties within the United States, complete lack of criminal history, and his role as a principal source of emotional and financial support for his ill lawful permanent resident father.

72. Moreover, Petitioner remains confined at the Glades County Detention Center in Moore Haven, Florida, under restrictive and jail-like conditions that further exacerbate the constitutional concerns underlying his continued detention and are inconsistent with the civil, non-punitive purpose of immigration custody.

73. Taken together, the prolonged nature of Petitioner's detention, the absence of a meaningful individualized determination justifying continued confinement, the pendency of significant immigration relief, and the punitive conditions of confinement establish that

Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment.

74. As a direct and proximate result of Respondents' unconstitutional conduct, Petitioner has suffered and continues to suffer the unlawful deprivation of liberty, emotional distress, psychological harm, family separation, and other irreparable injuries.

75. Accordingly, Petitioner is entitled to relief under 28 U.S.C. § 2241, including immediate release from ICE custody or, alternatively, a prompt constitutionally adequate individualized custody determination before a neutral adjudicator at which the Government bears the burden of justifying continued detention.

Count II - Unlawful and Indefinite Detention in Violation of the Fifth Amendment and the Immigration and Nationality Act

76. Petitioner realleges and incorporates by reference all preceding paragraphs of this Petition as though fully set forth herein.

77. The Due Process Clause of the Fifth Amendment prohibits the federal government from depriving any person of liberty without due process of law. These constitutional protections apply to all persons physically present within the United States, including noncitizens subject to immigration detention.

78. Civil immigration detention is constitutionally permissible only insofar as it remains reasonably related to legitimate regulatory purposes, including ensuring a noncitizen's appearance at immigration proceedings and effectuating removal. Detention that becomes prolonged, excessive, arbitrary, or no longer meaningfully connected to those regulatory objectives violates due process. *See Zadvydas v. Davis; Jennings v. Rodriguez.*

79. The Immigration and Nationality Act likewise imposes limitations upon the Government's authority to detain noncitizens. Although detention may be authorized under

provisions such as 8 U.S.C. §§ 1226 or 1231, those statutory provisions remain subject to constitutional constraints and do not permit arbitrary, excessive, or indefinite detention absent constitutionally adequate procedural safeguards.

80. Here, Petitioner has remained continuously detained by ICE since September 22, 2025, without any meaningful individualized custody determination sufficient to justify his continued confinement. Petitioner has not been afforded constitutionally adequate procedural safeguards to challenge the necessity of his detention, notwithstanding the prolonged nature of his confinement and the substantial equities weighing in favor of release.

81. Petitioner's continued detention is further unlawful because it no longer bears a reasonable relationship to effectuating removal. Petitioner presently has a pending appeal before the Board of Immigration Appeals, and therefore his removal is neither imminent nor reasonably foreseeable at this time. Under these circumstances, Petitioner's removal is not imminent or reasonably foreseeable.

82. Petitioner poses no danger to the community and no meaningful risk of flight. He has no criminal convictions, maintains substantial family and community ties within the United States, and has demonstrated a clear intent to pursue his immigration proceedings and applications for relief.

83. Under the totality of these circumstances, Petitioner's continued detention has become arbitrary, excessive, and punitive in nature, in violation of the Due Process Clause of the Fifth Amendment and the limitations imposed by the Immigration and Nationality Act. The absence of a constitutionally adequate individualized custody determination further renders Petitioner's continued confinement unlawful.

84. The writ of habeas corpus provides the appropriate mechanism through which to

challenge unlawful and prolonged immigration detention. Because Petitioner's continued detention exceeds constitutional and statutory limitations, this Court should grant habeas relief.

85. Accordingly, Petitioner respectfully requests that this Court order his immediate release from ICE custody. Alternatively, Petitioner requests that this Court order Respondents to provide a prompt and constitutionally adequate individualized custody hearing before a neutral adjudicator at which the Government bears the burden of justifying continued detention.

Count III – Violation of the Administrative Procedure Act (Arbitrary and Capricious Detention)

86. The Administrative Procedure Act ("APA"), 5 U.S.C. § 706(2)(A), requires courts to hold unlawful and set aside agency action that is arbitrary, capricious, an abuse of discretion, or otherwise not in accordance with law.

87. Respondents' continued detention of Mr. Hernandez Moreno constitutes arbitrary and capricious agency action within the meaning of the APA. Despite the absence of any criminal convictions, the pendency of Petitioner's appeal before the BIA, and the substantial humanitarian and equitable considerations present in this case, Respondents have continued to detain Petitioner without providing any meaningful individualized justification demonstrating that continued confinement is necessary.

88. Such conduct is not the product of reasoned agency decision-making but instead reflects arbitrary, inconsistent, and unlawful action that is subject to judicial correction under the APA.

89. Petitioner is entitled to relief under the APA, including an order setting aside the unlawful detention and directing Respondents to provide a constitutionally and statutorily compliant custody determination, or, alternatively, ordering his immediate release.

Count IV – Unlawful Detention Resulting from DHS Mandatory Detention Policy and Improper Reliance on *Matter of Yajure-Hurtado*

90. Petitioner realleges and incorporates by reference the foregoing paragraphs as if fully set forth herein.

91. The Immigration and Nationality Act does not authorize the categorical or prolonged detention of noncitizens without an individualized custody determination. Rather, detention must be based on a case-specific assessment of whether the individual poses a danger to the community or a risk of flight.

92. In practice, however, Respondents have subjected Petitioner to continued detention pursuant to a de facto mandatory detention framework, improperly relying on agency interpretations such as *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (B.I.A. 2025), to deny him a meaningful opportunity for release.

93. This improper reliance is reflected in the Immigration Judge's handling of Petitioner's custody requests. Rather than conducting a meaningful individualized bond determination, Immigration Judge Stuart A. Siegel denied bond on three separate occasions based upon *Matter of Yajure-Hurtado*, effectively declining to exercise meaningful jurisdiction or provide substantive review of Petitioner's continued detention.

94. Federal courts have rejected such categorical detention practices. In *Lazaro Maldonado Bautista et al. v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), the court held that continued detention without a meaningful bond hearing violates due process, notwithstanding the government's reliance on statutory labels or agency precedent. The February 18, 2026 enforcement order further clarified that such detention frameworks cannot substitute for constitutionally required individualized determinations.

95. Although subsequent agency guidance and appellate developments have created uncertainty regarding the continued application of *Yajure-Hurtado*, such shifting interpretations cannot justify the deprivation of Petitioner's constitutional rights. The Constitution requires a meaningful, individualized custody determination, not a categorical denial of relief.

96. Petitioner's continued detention—based on an improper reliance on categorical detention practices and the denial of a meaningful custody hearing—is unlawful and violates both the Due Process Clause and the governing statutory framework.

97. Petitioner is therefore entitled to habeas relief, including immediate release or, at a minimum, a prompt and constitutionally adequate bond hearing before a neutral adjudicator.

VII. PRAYER FOR RELIEF

WHEREFORE, Petitioner Omar Alberto Hernandez Moreno respectfully requests that this Honorable Court grant the following:

1. Assume jurisdiction over this Petition pursuant to 28 U.S.C. § 2241, Article I, Section 9, Clause 2 of the U.S. Constitution (the Suspension Clause), and 28 U.S.C. § 1331;
2. Issue an Order to Show Cause directing Respondents to show cause within three (3) days why the writ should not be granted and Petitioner immediately released from custody;
3. Declare that Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment, 8 U.S.C. §§ 1225(b) and 212(d)(5)(A), and the implementing regulations at 8 C.F.R. §§ 212.5 and 241.4, because his prolonged confinement serves no legitimate governmental purpose, is not reasonably related to effectuating removal, and results from Respondents' failure to exercise discretionary parole authority;
4. Issue a Writ of Habeas Corpus ordering Respondents to:

- Immediately release Petitioner from ICE custody under supervision, parole, or recognizance pursuant to INA § 212(d)(5)(A) or, in the alternative, INA § 236(a); or
 - In the alternative, conduct an individualized custody redetermination hearing within seven (7) days of the Court's order before an appropriate adjudicator, with the burden on the government to demonstrate that continued detention is lawful and necessary;
5. Declare that Respondents' failure to provide a meaningful custody review and to consider release or parole is arbitrary and inconsistent in violation of the Administrative Procedure Act, 5 U.S.C. § 706(2)(A);
 6. Award attorneys' fees and costs pursuant to the Equal Access to Justice Act, 28 U.S.C. § 2412, or any other applicable authority; and
 7. Grant such other and further relief as this Court deems just, proper, and equitable, including any orders necessary to ensure Petitioner's prompt release and to prevent further unlawful detention.

VIII. VERIFICATION PURSUANT TO 28 U.S.C. § 2242 and 28 U.S.C. § 1746

I, Omar Alberto Hernandez Moreno, Petitioner in the above-captioned matter, hereby verify under penalty of perjury that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge and belief.

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Dated this 15 day of May 2026.

Respectfully submitted,


Omar Alberto Hernandez Moreno
Petitioner

A 
Detained at Glades County Detention Center
1297 East SR 78
Moore Haven, FL 33471

CERTIFICATE OF SERVICE

I, Omar Alberto Hernandez Moreno, Petitioner HEREBY CERTIFY that on this 19 day of May 2026, I served the foregoing document upon Respondents' counsel through friends, who filed the above petition with the District Court.

Respectfully submitted,


Omar Alberto Hernandez Moreno
Petitioner

A 
Detained at Glades County Detention Center
1297 East SR 78
Moore Haven, FL 33471