

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

**IGNACIO MENDEZ
BAUTISTA,**

Petitioner,

v.

KRISTI NOEM, in her official capacity as Secretary of the United States Department of Homeland Security; **PAMELA BONDI**, in her official capacity as Attorney General of the United States; **KEVIN GUTHRIE**, Executive Director of the Florida Division of Emergency Management, in his official capacity; **FLORIDA DIVISION OF EMERGENCY MANAGEMENT; GARRETT RIPA**, in his Official capacity as, Director of Miami Field Office, U.S. Immigration and Customs Enforcement; **TODD LYONS**, in his official capacity as Acting Director of Immigration and Customs Enforcement; **U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE); SIRCE OWEN**, Acting director of EOIR, in her official capacity; **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW.**

Respondents-Defendants.

Case NO.

PETITION FOR WRIT OF HABEAS CORPUS

The Petitioner, Ignacio Mendez Bautista, submits this Petition for Writ of Habeas Corpus and for Related Relief, by and through undersigned counsel and alleges as follows:

INTRODUCTION

1. Petitioner respectfully petitions this Court for a writ of habeas corpus pursuant to 28 U.S.C. § 2241, challenging his continued and unlawful detention by United States Immigration and Customs Enforcement (“ICE”). Petitioner seeks immediate release, or in the alternative, a constitutionally adequate bond hearing.

2. Petitioner was detained on September 18th, 2025, in Marion County, and has remained in civil detention in the custody of the Department of Homeland Security’s (“DHS”) Immigration and Customs Enforcement (“ICE”) at Florida Soft Side South 54575 Tamiami Trail East, Ochopee, FL 34141, also known colloquially as Alligator Alcatraz.

3. Petitioner has resided in the United States for approximately thirty-one years and is the father of three United States citizen children with his wife, Yolanda Mancilla Romero **Exhibits A–B**. Prior to his detention, Petitioner lived with and provided financial and emotional support for his family in Ocala, Florida. His ongoing detention imposes a severe hardship on his family, depriving them of both his financial support and his parental presence.

4. Petitioner has two dated misdemeanor-level arrests that occurred more than seventeen years ago. On January 19, 2004, Petitioner was arrested in Citrus County, Florida, for failure to appear on a charge of resisting without violence. On September 27, 2007, he was arrested in Sumter County, Florida, for failure to appear related to an attaching tag unassigned offense. Both matters involved minor, non-violent conduct. Petitioner successfully completed the probation associated with the 2004 matter, and both cases have been fully resolved for well over a decade. **Exhibit C.** Petitioner has maintained a clean record since that time. **Exhibit D.** These dated and non-violent offenses do not justify his continued detention, particularly in light of his decades of residence, family responsibilities, and strong community ties in Florida.

5. Petitioner is a survivor of domestic abuse by his U.S. citizen son. As a result, he has been found prima facie eligible for relief under the Violence Against Women Act (“VAWA”), valid through December 2, 2025. **Exhibit E.** Despite his eligibility for humanitarian protection and lawful immigration status, ICE continues to detain him at Florida Soft Side South in Collier County.

6. While in ICE custody, Petitioner has suffered severe medical complications, including two eye surgeries due to internal bleeding. His ongoing detention violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, and governing Supreme Court precedent. His medical condition continues to deteriorate in custody, and ICE’s failure to release him

despite his serious health needs transforms what should be civil detention into unconstitutional punishment.

7. This petition challenges the government's ongoing violation of Petitioner's statutory and constitutional rights. ICE's continued detention of Petitioner despite his pending VAWA petition, serious medical condition, and absence of any public safety threat violates the Immigration and Nationality Act ("INA"), which limits civil detention to reasonable periods and lawful purposes, as well as the Due Process Clause of the Fifth Amendment, which prohibits punitive or arbitrary detention.

8. Petitioner's continued detention has become punitive in nature, violating the Due Process Clause of the Fifth Amendment. Civil detention is permissible only so long as it serves a legitimate immigration purpose, such as ensuring appearance or protecting the public. Petitioner's prolonged detention, despite his pending VAWA petition, strong family ties, and serious medical condition, bears no reasonable relation to those purposes and instead operates as punishment. Such punitive confinement is unconstitutional in the civil immigration context.

9. Petitioner's continued detention is unlawful because it (1) exceeds the scope of detention authority permitted under the INA, (2) violates the Fifth Amendment's Due Process Clause by subjecting him to punitive and indefinite confinement, and (3) contradicts the humanitarian protections afforded to

survivors of domestic violence under VAWA, thereby rendering his detention unlawful and unconstitutional.

10. Petitioner therefore respectfully requests that this Court issue a writ of habeas corpus and order Petitioner's release from custody, with appropriate conditions of supervision if necessary. In the alternative, Petitioner requests that this Court conduct or order an immigration judge to conduct a bond hearing at which (1) the government bears the burden of proving flight risk and dangerousness by clear and convincing evidence and (2) the reviewing court considers alternatives to detention that could mitigate risk of flight. Continued detention under these circumstances serves no legitimate governmental purpose and violates the humanitarian and constitutional principles that govern civil immigration custody.

JURISDICTION AND VENUE

11. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in federal custody and seeks a writ of habeas corpus challenging the legality of his continued civil detention by U.S. Immigration and Customs Enforcement ("ICE") in violation of the Constitution and laws of the United States.

12. Venue is proper in this Court under 28 U.S.C. § 2241(a) because Petitioner is detained within the geographic boundaries of the Middle District of Florida, at Florida Soft Side South in Collier County, Florida, which lies within the Fort Myers Division of this District.

PARTIES

13. **IGNACIO MENDEZ BAUTISTA** is a citizen and national of **Mexico**, born on  **Exhibit F-G**. He entered the United States on or about August 1, 1994, and has continuously resided in this country for more than thirty years. Petitioner filed a petition under the Violence Against Women Act (VAWA) and has been issued a Prima Facie Determination, valid through December 2, 2025. Petitioner is currently detained at Florida Soft Side South since September 18, 2025. He is in the custody, and under the direct control, of Respondents and their agents.

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

15. Respondent **PAMELA BONDI** is sued in her 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, she 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 **BONDI** is a legal custodian of Petitioner.

16. Respondent **KEVIN GUTHRIE**, is Executive Director of Florida Division of Emergency Management, in his official capacity. Respondent **GUTHRIE** therefore is a legal custodian of Petitioner.

17. Respondent **FLORIDA DIVISION OF EMERGENCY MANAGEMENT** (FEDM) is a state agency that is overseeing operations at Alligator Alcatraz. It has entered into an arrangement with DHS and ICE to transform the site into an immigration detention facility. Respondent FEDM is a legal custodian of petitioner.

18. Respondent **GARRETT RIPA** is sued in his official capacity as the Acting Director of the Miami Field Office of U.S. Immigration and Customs Enforcement. Respondent Ripa exercises authority over Petitioner's detention, transfer, and potential release.

19. Respondent **Todd LYONS** is Acting Director and Senior Official performing the Duties of the Director U.S. Immigration and Customs Enforcement ("ICE"). Respondent Lyons is responsible for ICE's policies, practices, and procedures, including those relating to the detention of immigrants during their removal procedures. Respondent is a legal custodian of Petitioner.

20. Respondent **U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT (ICE)** is the agency directly responsible for Petitioner's detention and custody.

21. Respondent **Sirce Owen** is Acting Director of the Executive Office for Immigration Review (“**EOIR**”). Respondent Owen is sued in her official capacity.

22. Respondent **EXECUTIVE OFFICE FOR IMMIGRATION REVIEW (“EOIR”)** is the federal agency responsible for implementing and enforcing the INA in removal proceedings, including for custody redeterminations in bond hearings.

LEGAL FRAMEWORK

23. Federal courts possess jurisdiction to review immigration detention claims through the writ of habeas corpus under **28 U.S.C. § 2241**. The statute explicitly allows challenges by individuals who are “in custody in violation of the Constitution or laws or treaties of the United States” Habeas review is particularly appropriate where detention is arbitrary, prolonged, or otherwise unlawful.

24. Numerous courts have affirmed that immigration detainees may invoke § 2241 to test the legality of their confinement. See *INS v. St. Cyr*, **533 U.S. 289** (2001) (recognizing habeas jurisdiction for legal and constitutional claims of noncitizens); *Zadvydas v. Davis*, **533 U.S. 678** (2001) (permitting habeas relief where detention exceeds statutory or constitutional limits). Because Petitioner is detained in this District, jurisdiction properly lies with this Court.

25. The **Fifth Amendment's Due Process Clause** applies broadly to "all persons" within the United States, including noncitizens regardless of their immigration status. See *Mathews v. Diaz*, 426 U.S. 67, 77 (1976). The protection of due process encompasses both liberty and bodily integrity, and includes freedom from arbitrary civil detention.

26. Petitioner's current detention offends both aspects of due process. Substantively, he has a protected liberty interest in remaining at liberty while his VAWA is pending. Procedurally, although Petitioner has been detained for over forty days, he has not yet received any individualized custody determination or meaningful review of whether continued detention is warranted. His confinement without such process constitutes an arbitrary deprivation of liberty in violation of the Fifth Amendment's guarantee that no person shall be deprived of liberty without due process of law.

27. On September 5, 2025, the Board of Immigration Appeals ("BIA") issued a binding precedent decision holding that an immigration judge lacks authority to consider bond requests for individuals who entered the United States without admission. *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025). The Board concluded that such individuals are subject to detention under 8 U.S.C. § 1225(b)(2)(A) and therefore ineligible for release on bond. As a result, Petitioner has been categorically barred from seeking custody redetermination before an immigration judge, leaving habeas corpus as his sole available remedy to challenge continued detention.

28. Even if Petitioner fell under § 1225(b), agency precedent cannot negate the Fifth Amendment's prohibition on arbitrary and punitive detention. See *Hamdi v. Rumsfeld*, 542 U.S. 507, 536 (2004). Courts retain habeas jurisdiction to prevent unconstitutional confinement irrespective of BIA interpretation. Accordingly, *Yajure Hurtado* does not control this case and cannot justify Petitioner's ongoing detention. Petitioner is not an applicant for admission but a long-term resident seeking humanitarian relief under VAWA. Continued detention without individualized custody review violates the Due Process Clause, the INA, and controlling Supreme Court precedent.

29. The Fifth Amendment prohibits the federal government from imposing punishment without due process of law. This principle extends to immigration detention, which is civil, not criminal, in nature. See *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). Conditions of confinement for civil detainees are unconstitutional when they rise to the level of punishment rather than regulation. One such unconstitutional condition includes subjecting detainees with serious medical conditions to confinement that exacerbates their illness or places their health at substantial risk.

30. The Supreme Court has long recognized that the government bears an affirmative duty to provide adequate medical care to individuals it detains. See *Estelle v. Gamble*, 429 U.S. 97 (1976). While deliberate indifference to medical needs constitutes a clear constitutional violation, the Due Process Clause also forbids detaining individuals under conditions that are objectively unreasonable

in light of their known medical vulnerabilities. See *Kingsley v. Hendrickson*, 576 U.S. 389, 396–97 (2015)..

31. Since being taken into ICE custody, Petitioner has experienced severe and ongoing vision problems. He reported that his eye felt abnormally cold and that his vision was deteriorating. After eventually being evaluated by medical staff, he was diagnosed with internal bleeding in his eye and required two separate surgeries while detained at the Florida Soft Side South Facility. Although Petitioner has been permitted to receive limited medical intervention, his ongoing confinement continues to pose a serious risk to his health and recovery. Maintaining Petitioner in civil detention despite his medical fragility and humanitarian eligibility for release renders his custody excessive and punitive in violation of the Fifth Amendment.

COUNT 1

Violation of Fifth Amendment Right to Due Process (against all Respondents)

32. Petitioner incorporates by reference all preceding paragraphs as if fully set forth herein.

33. “[T]he Due Process Clause applies to all “persons” within the United States, including aliens, whether their presence here is lawful, unlawful, temporary, or permanent.” *Zadvydas*, 533 U.S. at 693. While certain constitutional protections do not extend outside the “geographic borders” of the

United States, “legal circumstances change” as soon as a noncitizen “enters the country.” *Id.*

34. To determine whether civil detention violates a detainee’s due process rights, courts apply the three-part test in *Mathews v. Eldridge*, 424 U.S. 319 (1976). Under *Mathews*, courts consider (1) the private interest that will be affected by the official action; (2) the risk of an erroneous deprivation of such interest through the procedures used, and the probable value, if any, of additional or substitute procedural safeguards; and (3) the Government’s interest, including the function involved and the fiscal administrative burdens that the additional or substitute procedural requirement would entail. *See id.* At 335.

35. Here, all three factors favor Petitioner. He has a significant private interest at stake. *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004) (freedom from physical detention is “the most elemental of liberty interests”); *see also Zadvydas*, 533 U.S. at 690 (“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.”). The petitioner is experiencing all the deprivations that come with physical detention, including separation from his family and the inability to work to support his family. Next, there is a large risk of the erroneous deprivation of Petitioner’s liberty interest through the procedures used in the immigration court proceedings particularly with Petitioner’s credible VAWA application and his medical condition. There are also alternative procedures, such as a cash bond, turn over of his passport, and other measures that

might mitigate risk of flight. Finally, to the extent there is any government interest in detention, it is minimal compared with Petitioner's liberty interest.

36. Here, Respondents have chosen to detain Petitioner despite his established family ties, dated and non-violent criminal history, prima-facie determination for VAWA relief, and serious medical vulnerabilities violates the substantive and procedural due process. His detention is excessive in relation to any legitimate governmental purpose and therefore constitutes unconstitutional punishment.

COUNT 2

VIOLATION OF THE IMMIGRATION AND NATIONALITY ACT

8 U.S.C. §§ 1226

(against all Respondents)

37. Petitioner incorporates by reference all preceding paragraphs as it fully set herein.

38. The Immigration and Nationality Act authorizes immigration detention only for narrow, lawful purposes: to ensure attendance at removal proceedings and to protect the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Detention beyond those limited purposes violates both the statute and the Constitution.

39. Petitioner's detention exceeds the statutory limits Congress intended. He is not subject to a final order of removal and therefore falls under § 1226, which does not authorize indefinite or punitive custody. Petitioner has resided in the

United States for over thirty years, his last criminal case dates back more than seventeen years, and he is the father of three U.S.-citizen children. He has been found *prima facie* eligible for VAWA protection through December 2, 2025, confirming that his removal is neither imminent nor reasonably foreseeable.

40. The government has not shown that Petitioner's continued detention is necessary to secure his appearance or to protect the public. Reasonable alternatives to detention—such as bond, supervision, or release on recognizance—could achieve the same ends.

41. Accordingly, Petitioner's ongoing detention violates 8 U.S.C. § 1226 and the Due Process Clause of the Fifth Amendment. He respectfully requests that this Court order his immediate release or, in the alternative, direct that he receive a prompt bond hearing at which the Government bears the burden of establishing flight risk or dangerousness by clear and convincing evidence. Continued detention under these circumstances transforms what Congress intended to be temporary custody into indefinite civil confinement.

PRAYER FOR RELIEF

WHEREFORE , Petitioner respectfully requests that the Court assume jurisdiction over this Petition and Complaint and grant the following relief:

- I. Issue a writ of habeas corpus under 28 U.S.C. § 2241 ordering Petitioner's immediate release from immigration custody at the Florida Soft Side South Facility;

- II. In the alternative, if the Court determines that immediate release is not warranted, order Respondents to provide Petitioner with a prompt and constitutionally adequate bond hearing before an immigration judge within fourteen (14) days of this Court's order;
- III. Issue an Order prohibiting the Respondents from transferring Petitioner from the district without the Court's approval;
- IV. Declare that Petitioner's continued detention without an individualized custody determination violates the Due Process Clause of the Fifth Amendment and exceeds the scope of authority permitted under the Immigration and Nationality Act, 8 U.S.C. § 1226;
- V. Award such other and further relief as the Court deems just and proper, including, if necessary, temporary or preliminary injunctive relief to ensure Petitioner's health and safety pending adjudication of this matter.

Dated: 31st, October ,2025

Respectfully submitted,
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VERIFICATION

Pursuant to 28 U.S.C. § 2242 and 28 U.S.C. § 1746, I declare under penalty of perjury that the facts set forth in the foregoing Petition for a Writ of Habeas

Corpus are true and correct.

Executed this 31st day of October, 2025.

/s/ David Estrella