FILED

JAN 05 2026

CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY _____ DEPUTY CLERK

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF TEXAS

ROBERTO ROSELL ARIAS,
[redacted]
Petitioner,

v.

SA26CA0050 FB

WARDEN, SOUTH TEXAS ICE PROCESSING CENTER;
FIELD OFFICE DIRECTOR, ICE ERO – SAN ANTONIO FIELD OFFICE;
SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY;
U.S. DEPARTMENT OF HOMELAND SECURITY;
ATTORNEY GENERAL OF THE UNITED STATES;
EXECUTIVE OFFICE FOR IMMIGRATION REVIEW,
Respondents.

Civil Action No. _____

PETITION FOR WRIT OF HABEAS CORPUS
(28 U.S.C. § 2241)

INTRODUCTION

1. Petitioner Roberto Rosell Arias ("Petitioner" or "Mr. Rosell") is a Cuban national who lawfully entered the United States on April 17, 2024 through the CBP One process and was paroled into the United States pursuant to the Immigration and Nationality Act ("INA"). He is currently being civilly detained by Immigration and Customs Enforcement ("ICE") at the South Texas ICE Processing Center in Pearsall, Texas.
2. Mr. Rosell has never received a bond hearing, custody redetermination, or any review by an Immigration Judge regarding the lawfulness or necessity of his continued detention. He has no final order of removal, has never waived appeal rights, and has viable immigration relief pending.
3. ICE arrested Mr. Rosell on November 9, 2025, without providing him any procedural safeguards required by statute or the Constitution. Since that date, ICE has maintained him in prolonged civil detention without affording the minimal due process protections mandated by law.
4. Mr. Rosell has a pending application for adjustment of status under the Cuban Adjustment Act, filed in May 2025, with biometrics already completed and no denial issued. His detention directly undermines Congress's intent in enacting the Cuban Adjustment Act and serves no legitimate governmental purpose.
5. This Petition challenges Mr. Rosell's unlawful detention and seeks immediate release or, in the alternative, an order requiring Respondents to provide a prompt bond hearing under INA § 236(a), 8 U.S.C. § 1226(a), at which the government bears the burden of proof.

JURISDICTION

6. This Court has jurisdiction under 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States and challenges the legality of that custody.
7. Jurisdiction is also proper under 28 U.S.C. § 1331, Article I, Section 9 of the United States Constitution, and the Due Process Clause of the Fifth Amendment.
8. This Court is authorized to grant declaratory and injunctive relief pursuant to 28 U.S.C. §§ 2201 and 1651.

VENUE

9. Venue is proper in the Western District of Texas because Petitioner is physically detained within this District at the South Texas ICE Processing Center in Pearsall, Texas.
10. Venue is further proper pursuant to 28 U.S.C. § 1391(e) because Respondents are officers and agencies of the United States and a substantial part of the events giving rise to this Petition occurred within this District.

STATUTORY AUTHORITY AND EXPEDITED REVIEW UNDER 28 U.S.C. § 2243

Congress has mandated that petitions for writs of habeas corpus receive expedited judicial review. Under 28 U.S.C. § 2243, upon receipt of a habeas petition, the Court must either grant the writ or issue an order directing the respondent to show cause forthwith why the writ should not be granted.

The statute further requires that any return to the writ be made within three (3) days, unless for good cause additional time is allowed, not exceeding twenty (20) days. 28 U.S.C. § 2243.

Habeas corpus is intended to be a "swift and imperative remedy" in cases of unlawful restraint or confinement. Fay v. Noia, 372 U.S. 391, 400 (1963).

Because Petitioner alleges ongoing unlawful civil detention without access to any custody redetermination or bond hearing, strict enforcement of § 2243's timing requirements is necessary to prevent continued irreparable harm.

PARTIES

11. Petitioner Roberto Rosell Arias is a Cuban national currently detained by ICE.
12. Respondent Warden of the South Texas ICE Processing Center has immediate physical custody of Petitioner and is a proper respondent in this habeas action.
13. Respondent Field Office Director, ICE Enforcement and Removal Operations, San Antonio Field Office, exercises legal control over Petitioner's detention.
14. Respondent Secretary of the Department of Homeland Security is responsible for the administration and enforcement of the immigration laws.
15. Respondent Attorney General of the United States oversees the Executive Office for Immigration Review and the immigration court system.
16. Respondent Executive Office for Immigration Review is the agency charged with adjudicating removal proceedings and custody determinations.

EXHAUSTION

17. No statutory exhaustion requirement applies to habeas petitions challenging immigration detention under 28 U.S.C. § 2241.
18. Immigration Judges and the Board of Immigration Appeals lack jurisdiction to adjudicate constitutional claims, rendering exhaustion futile.

FACTUAL BACKGROUND

19. Mr. Rosell is a Cuban national born on [redacted], 1995.
20. He entered the United States on April 17, 2024 through the CBP One process and was formally paroled into the United States. An I-94 was issued reflecting lawful parole.
21. On May 2025, Mr. Rosell filed an application for adjustment of status under the Cuban Adjustment Act. Biometrics have been completed and the application remains pending with no denial or adverse determination.

22. On November 9, 2025, ICE arrested Mr. Rosell in Houston, Texas and placed him in civil immigration detention.
23. ICE has never provided Mr. Rosell a bond hearing, custody redetermination, or appearance before an Immigration Judge.
24. ICE informed Mr. Rosell that he was not eligible for bond, without issuing any written determination or legal justification.
25. ICE offered Mr. Rosell voluntary departure and offered monetary inducements for departure, which he declined.
26. Mr. Rosell has no criminal convictions. He has one pending DWI charge that has not been adjudicated. ICE failed to transport him to state court, interfering with his ability to resolve that matter.

LEGAL FRAMEWORK

27. The Immigration and Nationality Act ("INA") establishes distinct detention authorities depending on the noncitizen's manner of entry, procedural posture, and custodial status.
28. INA § 235(b), 8 U.S.C. § 1225(b), governs the inspection and detention of individuals who are arriving at a port of entry or who are apprehended shortly after entry and are seeking admission to the United States.
29. INA § 236(a), 8 U.S.C. § 1226(a), by contrast, governs the discretionary detention of noncitizens who are already present in the United States and who are placed in removal proceedings under INA § 240, 8 U.S.C. § 1229a.
30. Individuals detained under § 236(a) are statutorily entitled to an individualized custody determination and may be released on bond or conditional parole following a bond hearing before an Immigration Judge. See 8 C.F.R. §§ 1003.19(a), 1236.1(d).
31. Mr. Rosell was lawfully paroled into the United States through the CBP One process. He is therefore not an "arriving alien," not subject to expedited removal, and not subject to mandatory detention under § 235(b).
32. Because Mr. Rosell was paroled into the United States and later arrested in the interior, ICE's detention authority arises exclusively under INA § 236(a).

DISTINGUISHING MATTER OF YAJURE HURTADO

33. Respondents may attempt to rely on Matter of Yajure Hurtado, 29 I. & N. Dec. 216 (BIA 2025), to justify the denial of a bond hearing. That reliance is legally misplaced.
34. Matter of Yajure Hurtado addressed noncitizens who entered the United States without inspection and were subsequently treated as applicants for admission.
35. Mr. Rosell did not enter without inspection. He entered through a lawful CBP One process and was affirmatively paroled into the United States.
36. Parole constitutes lawful presence for purposes of detention authority and removes Mr. Rosell from the statutory category of individuals "seeking admission." See 8 U.S.C. § 1182(d)(5)(A).
37. Applying Matter of Yajure Hurtado to a paroled Cuban national with pending adjustment relief would improperly expand § 235(b) beyond its statutory text, conflict with Supreme

Court precedent interpreting § 1226(a), and constitute arbitrary and capricious agency action.

CUBAN ADJUSTMENT ACT – CONGRESSIONAL INTENT

38. The Cuban Adjustment Act, Pub. L. No. 89-732, reflects Congress's deliberate policy choice to afford Cuban nationals paroled into the United States a unique and favored pathway to lawful permanent residence.
39. Mr. Rosell has satisfied the statutory prerequisites for adjustment under the Cuban Adjustment Act and has a pending I-485 application with biometrics completed.
40. Detaining a Cuban parolee with pending adjustment relief—without any custody review—frustrates congressional intent, undermines the statutory scheme, and converts civil detention into punitive confinement.

LIMITED PROLONGED DETENTION ANALYSIS (MALDONADO)

41. Even where detention is initially authorized under § 236(a), it becomes unconstitutional when it is prolonged without adequate procedural safeguards.
42. Mr. Rosell has received no bond hearing, no custody redetermination, and no Immigration Judge review whatsoever.
43. Under Fifth Amendment principles articulated in prolonged-detention cases, civil detention without meaningful process violates due process when it bears no reasonable relationship to its regulatory purposes.

ADMINISTRATIVE PROCEDURE ACT VIOLATIONS

42. ICE's refusal to provide a bond hearing constitutes agency action that is arbitrary, capricious, and contrary to law.
43. Respondents have acted in excess of statutory authority by denying Mr. Rosell access to § 236(a) procedures.

ALL WRITS ACT – PRESERVATION OF JURISDICTION

This Court has authority under the All Writs Act, 28 U.S.C. § 1651(a), to issue all orders necessary or appropriate to aid its jurisdiction and preserve the availability of meaningful judicial review.

Absent an order prohibiting transfer or removal, Respondents could moot this action by transferring Petitioner outside the Western District of Texas before the Court has an opportunity to adjudicate the legality of his detention.

To protect this Court's jurisdiction and Petitioner's right to effective habeas review, Respondents should be enjoined from transferring, relocating, or removing Petitioner while this Petition is pending.

CLAIMS FOR RELIEF

COUNT I – VIOLATION OF THE INA

44. Respondents' detention of Mr. Rosell without a bond hearing violates INA § 236(a).

COUNT II – VIOLATION OF PROCEDURAL DUE PROCESS

45. Respondents have deprived Petitioner of liberty without due process of law.

COUNT III – VIOLATION OF SUBSTANTIVE DUE PROCESS

46. Petitioner's detention bears no reasonable relationship to any legitimate governmental objective.

COUNT IV – VIOLATION OF THE ADMINISTRATIVE PROCEDURE ACT

47. Respondents' actions are arbitrary, capricious, and not in accordance with law.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

A. Assume jurisdiction over this matter;
B. Order Respondents not to transfer Petitioner outside the Western District of Texas while this Petition is pending;
C. Issue an Order to Show Cause pursuant to 28 U.S.C. § 2243, requiring Respondents to show cause within **three (3) days** why the writ should not be granted, unless for good cause additional time is allowed, **not exceeding twenty (20) days;**
D. Issue a Writ of Habeas Corpus requiring that Respondents **immediately release Petitioner,** or in the alternative, provide Petitioner with a **bond hearing under INA § 236(a), 8 U.S.C. § 1226(a), within seven (7) days,** at which the **government bears the burden of proof;**
E. Declare that Petitioner's continued detention is unlawful;
F. Grant any other and further relief this Court deems just and proper.

VERIFICATION

I, Roberto Rosell Arias, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I am the Petitioner in this action and that the foregoing Petition for Writ of Habeas Corpus is true and correct to the best of my knowledge and belief.

Executed on this 29th day of December, 2025.

/s/ Roberto Rosell Arias
Roberto Rosell Arias
[redacted]
South Texas ICE Processing Center
566 Veteran Drive
Pearsall, Texas 78061