

UNITED STATES DISTRICT COURT
THE WESTERN DISTRICT OF TEXAS
AUSTIN DIVISION

Daniel Herrera Aldana

Petitioner,

V.

CHARLOTTE COLLINS, WARDEN,
T. DON HUTTO DETENTION CENTER

PAMELA BONDI, IN HER OFFICIAL
CAPACITY AS UNITED STATES
ATTORNEY GENERAL;

KRISTI NOEM, IN HER OFFICIAL
CAPACITY AS SECRETARY OF THE
UNITED STATES DEPARTMENT OF
HOMELAND SECURITY;

TODD M. LYONS, IN HIS OFFICIAL
CAPACITY AS DIRECTOR OF UNITED
STATES IMMIGRATION AND CUSTOMS
ENFORCEMENT;

MIGUEL EDUARDO VERGARA-LOPEZ,
IN HIS OFFICIAL CAPACITY AS FIELD
OFFICE DIRECTOR, U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT; AND,

SIRCE E. OWEN, IN HER OFFICIAL
CAPACITY AS ACTING DIRECTOR OF
THE EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW

Respondents.

Civ. No. 1:26-cv-335

**PETITION FOR WRIT OF HABEAS
AND COMPLAINT FOR
DECLARATORY AND INJUNCTIVE
RELIEF**

I. PRELIMINARY STATEMENT

1. This habeas action challenges the re-detention of Daniel Herrera Aldana, a Cuban national whom the Department of Homeland Security (“DHS”) affirmatively paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5), permitted to reside in the community for nearly two years, and who timely sought lawful permanent residence under the Cuban Adjustment Act.

2. On October 13, 2023, Mr. Herrera Aldana presented himself for inspection at the Calexico Port of Entry in California. After inspection, Customs and Border Protection exercised its discretionary authority to grant humanitarian parole and issued him a Form I-94 pursuant to 8 U.S.C. § 1182(d)(5), along with a Notice to Appear placing him in full removal proceedings under 8 U.S.C. § 1229a. He was not subjected to expedited removal under 8 U.S.C. § 1225(b)(1), nor was he detained at the time of entry. DHS made an express discretionary determination that detention was unnecessary.

3. Relying on that grant of parole, Mr. Herrera Aldana lawfully entered the interior of the United States and resided in the community pursuant to government authorization. On January 2, 2025, after satisfying the statutory presence requirement, he filed a Form I-485 application for adjustment of status under the Cuban Adjustment Act. USCIS accepted the application and issued a Form I-797C receipt notice confirming proper filing. That application remains pending.

4. In April 2025, DHS terminated Mr. Herrera Aldana’s parole without prior notice or individualized explanation. Several months later, on September 3, 2025, Immigration and Customs Enforcement apprehended and detained him following an interior arrest. He is now being held under the Government’s categorical interpretation of 8 U.S.C. § 1225(b) as subject to mandatory detention as an “arriving alien,” despite having lived in the community for nearly two years pursuant to DHS authorization.

5. Because he is classified as an arriving alien, Immigration Judges decline bond jurisdiction. Because USCIS retains exclusive jurisdiction over his pending adjustment application, the Immigration Court cannot adjudicate the very relief that would terminate removal proceedings. And because no statutory deadline governs USCIS adjudication, his confinement is tied to agency inaction rather than to any individualized finding of necessity.

6. This case presents a straightforward constitutional question: whether the Government may re-detain a previously paroled noncitizen who has established substantial ties in the United States and is actively pursuing congressionally authorized relief, without providing a meaningful individualized custody determination before a neutral decisionmaker.

7. The Due Process Clause does not permit executive detention to rest solely on categorical statutory labeling where no forum exists to test the necessity of confinement. Habeas corpus remains the traditional and indispensable remedy where liberty is restrained without constitutionally adequate process.

8. Mr. Herrera Aldana respectfully requests that this Court grant the writ and order his release, or at minimum, require a prompt individualized custody determination conducted under constitutionally sufficient procedures.

II. PARTIES

9. Petitioner Daniel Herrera Aldana is a native and citizen of Cuba and is currently detained by U.S. Immigration and Customs Enforcement (“ICE”) at the T. Don Hutto Detention Center in Taylor, Texas. Petitioner is detained without a final order of removal and challenges the legality of his continued detention pursuant to 28 U.S.C. § 2241.

10. Respondent Charlotte Collins is the Warden of the T. Don Hutto Detention Center in Taylor, Texas and is the immediate physical custodian of Daniel Herrera Aldana. She is sued in her official capacity.

11. Respondent Miguel Eduardo Vergara-Lopez is the Field Office Director of U.S. Immigration and Customs Enforcement for the San Antonio Field Office, which exercises supervisory authority over ICE detention operations affecting Daniel Herrera Aldana. Respondent Vergara-Lopez is sued in his official capacity.

12. Respondent Todd M. Lyons is the Director of the U.S. Immigration and Customs Enforcement and is responsible for the nationwide administration and oversight of ICE detention policies and practices. Todd M. Lyons is sued in an official capacity.

13. Respondent Kristi Noem is the Secretary of the U.S. Department of Homeland Security (“DHS”). DHS is the federal agency charged with enforcing the immigration laws and overseeing ICE and ERO. Respondent Noem is responsible for the policies, practices, and directives governing Petitioner’s detention and is sued in her official capacity. Respondent Pamela Bondi is the Attorney General of the United States and is responsible for the supervision of federal immigration enforcement litigation and the defense of detention decisions challenged in habeas proceedings. Pamela Bondi is sued in an official capacity.

14. Respondent Sirce E. Owen is the Acting Director of the Executive Office for Immigration Review (“EOIR”), the agency within the Department of Justice that administers the immigration courts and the Board of Immigration Appeals. Immigration Judges are bound by precedential decisions of the Board of Immigration Appeals, including *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), which Respondents rely upon to deny bond jurisdiction and which renders administrative relief unavailable to Petitioner. Respondent Owen is sued in her official capacity.

III. JURISDICTION

15. This action is brought pursuant to 28 U.S.C. § 2241, as Petitioner is in custody under color of federal authority and seeks relief from unlawful detention.

16. This Court has jurisdiction under 28 U.S.C. § 2241 and 28 U.S.C. § 1331, as Petitioner's claims arise under the Constitution, the INA, and the APA.

The Suspension Clause guarantees the availability of habeas review. U.S. Const. art. I, § 9, cl. 2.

17. This Court may grant relief pursuant to 28 U.S.C. § 2241, the Declaratory Judgment Act, 28 U.S.C. § 2201 *et seq.*, and the All Writs Act, 28 U.S.C. § 1651.

IV. VENUE

18. Venue is proper in the United States District Court for the Western District of Texas pursuant to 28 U.S.C. § 2241(a) and 28 U.S.C. § 1391(e) because Daniel Herrera Aldana is confined within this judicial district at T. Don Hutto Detention Center in Taylor, Texas.

V. REQUIREMENTS OF 28 U.S.C. § 2243

19. The Court must grant the petition for writ of habeas corpus or order Respondents to show cause "forthwith," unless the petitioner is not entitled to relief. 28 U.S.C. § 2243. If an order to show cause is issued, Respondents must file a return "within three days unless for good cause additional time, not exceeding twenty days, is allowed." *Id.*

20. Habeas corpus is "perhaps the most important writ known to the constitutional law . . . affording as it does a *swift* and imperative remedy in all cases of illegal restraint or confinement." *Fay v. Noia*, 372 U.S. 391, 400 (1963) (emphasis added). "The application for the writ usurps the attention and displaces the calendar of the judge or justice who entertains it and receives prompt action from him within the four corners of the application." *Yong v. I.N.S.*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

VI. STATEMENT OF FACTS

21. On October 13, 2023, Petitioner, a Cuban national, presented himself for inspection with Customs and Border Protection (“CBP”) at the Calexico Port of Entry (“POE”) in Calexico, California.

22. On that day, CBP issued Petitioner two documents: (1) a humanitarian parole document, Form I-94 (Exh. 1), pursuant to 8 U.S.C. § 1182(d)(5); and, (2) a Notice to Appear (“NTA”), Form I-862, Exh. 2. The Petitioner was not subjected to immigration detention at the time of his entry.

23. Petitioner was not placed into expedited removal proceedings under 8 U.S.C. § 1225(b)(1) and instead was issued a Notice to Appear and placed in full removal proceedings pursuant to 8 U.S.C. § 1229a.

24. CBP granted Petitioner humanitarian parole pursuant to 8 U.S.C. § 1182(d)(5) and issued Form I-94 reflecting that discretionary grant. The parole authorized Petitioner to enter and remain in the United States pending removal proceedings under 8 U.S.C. § 1229a.

25. On January 2, 2025, Petitioner filed Form I-485 with all required fees and supporting documents. USCIS issued a Notice of Action, Form I-797C, confirming receipt. Exh. 3.

26. On January 23, 2025, DHS issued the “Huffman Memorandum,” a policy directive ordering a nationwide review of parole grants just like the one CBP issued the Petitioner. Exh. 4.

27. Reports from news and journalism outlets confirm that by April 2025, DHS began sending termination notices regarding parole documents that were secured through the CBP One mobile phone application. Exh. 5.

28. On April 18, 2025, DHS terminated Petitioner’s I-94 (Exh. 6). Petitioner was never notified of the termination.

29. On or about September 3, 2025 the DHS Immigration and Customs Enforcement (“ICE”) apprehended Petitioner after a domestic dispute resulting in his arrest. Exh. 7

30. As of the filing of this action, the I-485 application has been pending for over twelve months. The USCIS website states that in 80% of cases, USCIS takes 8.5 months to adjudicate I-485 applications. Exh.8.

31. On September 3 2025, DHS filed Form I-830 with EOIR, informing the Immigration Court of the Petitioner’s apprehension. Exh. 9

32. Petitioner is presently scheduled for a Master Calendar Hearing on February 12, 2026 Exh. 10.

VII. ARGUMENT

33. Noncitizens are entitled to due process of law under the Fifth Amendment to the United States Constitution. *Demore v. Kim*, 538 U.S. 510, 523 (2003). While the Constitution applies to all persons within the United States, the breadth and scope of substantive and procedural due process afforded to noncitizens depends in part on the applicable statutory context in which the government acts.

34. The Supreme Court has long distinguished between the constitutional rights of noncitizens seeking initial admission and those who are already present in the United States. *See, Landon v. Plasencia*, 459 U.S. 21, 32 (1982). Noncitizens physically present in the United States, even without lawful status, are “persons” protected by the Due Process Clause. *Zadvydas*, 533 U.S. at 693; *Kwong Hai Chew v. Colding*, 344 U.S. 590, 596–98 (1953); *Yamataya v. Fisher*, 189 U.S. 86, 101 (1903).

35. This distinction is embedded in the structure of the Immigration and Nationality Act (“INA”) as amended by the Illegal Immigration Reform and Immigrant Responsibility Act

(“IRIRA”) of 1996¹ and, more recently, by the Laken Riley Act of 2025.² The INA authorizes civil immigration detention through separate statutory provisions that apply to different categories of noncitizens. Where detention is authorized—or even required—by statute, it must also comport with the Due Process Clause. Courts evaluate the constitutionality of civil detention procedures under the balancing framework set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). That analysis requires consideration of the private interests affected by the government’s action, the risk of erroneous deprivation of those interests under the procedures used and the probable value of additional safeguards, and the government’s interests, including fiscal and administrative burdens.

36. In the immigration context, courts recognize that detention implicates not only physical liberty, but also family integrity, employment, and the ability to meaningfully participate in removal proceedings, particularly for noncitizens who have established long-term residence in the United States. *See, Zadvydas v. Davis*, 533 U.S. 678, 690–93 (2001); *Landon v. Plasencia*, 459 U.S. 21, 32–34 (1982)

37. The Petitioner is presently being subjected to the mandatory detention provisions of the INA as an arriving alien who was paroled into the United States. The Immigration and Nationality Act (INA) § 235(b), codified at 8 U.S.C. § 1225(b), governs the inspection and removal of arriving aliens. Subsection (b)(1)(B) generally requires that if an alien seeking admission *is determined not to be clearly and beyond a doubt entitled to be admitted*, the alien shall be detained pending a removal hearing. This statute does *not* provide for release on bond by an immigration judge for arriving aliens. Because § 1225(b)(1)(B) applies to arriving aliens and requires their detention without providing immigration judge bond authority, arriving aliens

¹ Pub. L. No. 104–208, Div. C, §§ 302–03, 110 Stat. 3009–546, 3009–582 to 3009–583, 3009– 585. Section 1226(a).

² Pub. L. No. 119-1, 139 Stat. 3 (2025)

(including those paroled at the border and treated as arriving aliens) *cannot* seek a bond hearing before an IJ.

38. However, the Western District of Texas rejected similar arguments raised by Respondents in connection to certain mandatory detention provisions of the INA. *See, Chauhan v. Noem*, No. EP-25-CV-00574-DB, at 7 n.5 (W.D. Tex. Oct. 16, 2025) (“The Court finds the fact that Petitioner is detained under Section 1225(b)(1) versus 1225(b)(2) inconsequential for purposes of its [due process] analysis. . .”).

39. Moreover, the Western District of Texas has found that being paroled into the United States, rather than released on own recognizance, is “a distinction without a difference.” *Guerra-Miranda v. Bondi*, No. EP-26-CV-00028-KC (W.D. Tex. Jan. 21, 2026).

40. The Western District of Texas has held that noncitizens who have “established connections” in the United States by virtue of living here for a substantial period acquire a liberty interest in being free from government detention without due process of law. *Hassen v. Noem*, 3:26-cv-00048-DB (W.D. Tex. Feb. 9, 2026) (citing *Dep’t of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 107 (2020)). Because the Government released Petitioner and permitted him to live in the United States for close to two and a half years, it cannot revoke that liberty without an individualized determination of the need to do so.

41. Habeas corpus remains the fundamental instrument for safeguarding liberty against unlawful executive detention. Immigration detention, though civil in form, imposes a severe deprivation of physical liberty and must comport with the procedural protections required by the Due Process Clause.

42. As explained in further detail below, Respondents’ continued detention of Petitioner (A) fails the balancing framework set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976).

Respondents' binding policy and precedential decisions treating his detention as mandatory have (B) rendered administrative custody redetermination futile. Finally, Respondents' undue delay in adjudicating adjustment-of-status applications for arriving aliens has (C) created an effectively indefinite detention scheme that, as applied to Petitioner, violates his protected liberty interests.

43. This Court should therefore grant habeas relief and order his release pending adjudication of his adjustment application.

(A)

DUE PROCESS VIOLATIONS PURSUANT TO MATHEWS FACTORS

44. Respondents' actions implicate significant constitutional due process concerns. Noncitizens are entitled to due process of law under the Fifth Amendment. *Demore v. Kim*, 538 U.S. 510, 523 (2003). To determine whether a civil detention violates a detainee's due process rights, courts apply the three-part test set forth in *Mathews v. Eldridge*, 424 U.S. 319 (1976). *Martinez v. Noem*, No. 5:25-cv-1007-JKP, 2025 WL 2598379, at *2 (W.D. Tex. Sept. 8, 2025). Those factors are: (1) the private interest affected by the official action; (2) the risk of an erroneous deprivation of that interest through the procedures used, and the probable value of additional or substitute procedural safeguards; and (3) the Government's interest, including the function involved and the fiscal and administrative burdens that additional or substitute procedures would entail. *Mathews*, 424 U.S. at 335. Each is taken in turn.

(i)

Substantial Liberty Interest

45. The private interest at stake is profound. "The interest in being free from physical detention is the most elemental of liberty interests." *Martinez*, 2025 WL 2598379, at *2 (quoting *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004)). Petitioner is a paroled noncitizen who was affirmatively authorized by DHS to enter and reside in the interior of the United States pursuant

to 8 U.S.C. § 1182(d)(5). Courts have repeatedly recognized that noncitizens who have been released into the interior pursuant to government authorization possess a cognizable liberty interest in freedom from immigration detention. See *Lopez-Arevelo v. Ripa*, No. EP-25-CV-337-KC, 2025 WL 2691828, at *11 (W.D. Tex. Sept. 22, 2025).

46. Petitioner's interest is not limited to freedom from physical confinement. His detention disrupts employment, housing stability, and his ability to meaningfully pursue relief in his pending removal proceedings, including his Form I-485 application.

47. On October 13, 2023, Petitioner presented himself for inspection at the Calexico Port of Entry. DHS inspected him and affirmatively exercised its discretionary authority under 8 U.S.C. § 1182(d)(5) to grant humanitarian parole. Petitioner was issued a Form I-94 and permitted to lawfully enter the United States pending removal proceedings under 8 U.S.C. § 1229a. He was not detained at entry. He was not placed into expedited removal. Instead, DHS made a discretionary determination that he was suitable for release into the interior of the United States while his removal proceedings were pending.

48. Petitioner thereafter lived in the community pursuant to government authorization. On January 2, 2025, he filed a Form I-485 application with USCIS. USCIS accepted the application and issued a Form I-797C receipt notice, confirming that his application was properly filed and pending. His parole authorized his presence while both his removal proceedings and adjustment application were pending.

49. On April 18, 2025, DHS terminated Petitioner's Form I-94 parole document. Petitioner received no notice of that termination. No individualized explanation was provided. No violation of parole conditions was identified.

50. On or about September 3, 2025, ICE apprehended Petitioner and placed him into detention. At no time was an individualized custody determination made by a neutral decisionmaker regarding danger or flight risk.

51. The private interest at stake is therefore the deprivation of physical liberty of a previously paroled noncitizen whose freedom was expressly authorized by DHS and whose presence in the interior of the United States was lawful under a grant of parole. DHS's original discretionary decision to parole Petitioner created a reliance interest and a settled expectation of conditional liberty while his removal proceedings and adjustment application were pending.

52. Courts have repeatedly recognized that noncitizens who have been released into the interior and permitted to reside in the community pursuant to government authorization possess a weighty liberty interest in remaining free from detention absent individualized justification. See *Lopez-Arevelo*, 2025 WL 2691828, at *11; *Martinez*, 2025 WL 2598379, at *2. This case does not involve an individual continuously confined at the threshold of entry. It involves a lawfully paroled individual who was permitted to reside in the community for an extended period before being detained without an individualized custody determination.

53. Under these circumstances, the private interest is the concrete deprivation of physical liberty following the Government's prior discretionary determination that detention was unnecessary. The first *Mathews* factor weighs heavily and decisively in Petitioner's favor.

(ii)

High Risk of Erroneous Deprivation

54. The second *Mathews* factor strongly favors Petitioner. The procedures used here create a substantial risk of erroneous deprivation of liberty.

55. Petitioner has been detained for approximately four and a half months without any individualized custody determination. He has not received a hearing at which a neutral decision-maker evaluated whether he poses a flight risk or a danger to the community. Instead, detention has been treated as automatic based solely on DHS's classification of him as an arriving alien subject to mandatory detention under 8 U.S.C. § 1225(b).

56. Under existing precedent, Immigration Judges decline to exercise bond jurisdiction over arriving aliens. The Board of Immigration Appeals has held that Immigration Judges lack authority to redetermine custody for arriving aliens, including those previously granted parole. *Matter of Oseiwusu*, 22 I. & N. Dec. 19 (BIA 1998). That limitation is codified at 8 C.F.R. § 1236.1(c)(11), which removes bond jurisdiction for arriving aliens.

57. More recently, in *Matter of Yajure-Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), the Board interpreted § 1225(b)(2)(A) as mandating detention for individuals treated as applicants for admission who have not been admitted. Immigration Judges are bound by that precedent. As a result, once DHS classifies a noncitizen under § 1225(b), the Immigration Court does not conduct an individualized custody inquiry.

58. Petitioner was inspected and granted humanitarian parole at a port of entry pursuant to 8 U.S.C. § 1182(d)(5). He was affirmatively released into the interior of the United States pursuant to DHS's discretionary determination that detention was unnecessary. Following the later termination of his parole, DHS now treats him as subject to mandatory detention under § 1225(b), and under current administrative precedent there is no forum within the immigration court system for meaningful review of that classification or for an individualized bond hearing.

59. The risk of erroneous deprivation under this structure is substantial. Detention turns entirely on DHS's unilateral statutory classification. No neutral adjudicator evaluates whether

confinement is necessary in this particular case. Petitioner is not afforded an opportunity to present evidence regarding his prior release by DHS, his compliance with parole conditions, his pending adjustment application under the Cuban Adjustment Act, or his community ties. Those facts are legally irrelevant in a system that treats detention as mandatory once § 1225(b) is invoked.

60. When detention depends solely on categorical labeling and no decisionmaker is permitted to assess whether confinement is actually necessary, the probability of error is unacceptably high. The absence of any meaningful mechanism to test DHS's classification or to obtain individualized review creates a substantial risk that liberty will be erroneously deprived.

61. Absent habeas review, Petitioner faces continued detention based entirely on a disputed statutory interpretation, with no meaningful opportunity to obtain individualized consideration of his confinement. The second *Mathews* factor therefore weighs heavily in Petitioner's favor.

(iii)

The Government's Interests Do Not Justify Categorical Detention Without Process

62. The third *Mathews* factor considers the Government's interest, including the function involved and the fiscal and administrative burdens that additional procedural safeguards would entail.

63. Respondents assert a statutory interest grounded in 8 U.S.C. § 1225. They maintain that Petitioner, as an arriving alien whose parole has been terminated, is subject to mandatory detention and ineligible for bond. That interest is framed as uniform enforcement of Congress's detention scheme for applicants for admission.

64. Even accepting that Congress authorized detention in certain circumstances, that interest does not eliminate the Constitution's requirement of procedural safeguards where physical liberty is at stake. The relevant inquiry under *Mathews* is not whether detention may be

authorized in the abstract. It is whether the manner in which detention is being implemented in this case satisfies due process.

65. Providing Petitioner with an individualized custody determination would not meaningfully undermine the Government's statutory objectives. Immigration Judges routinely conduct bond hearings under 8 U.S.C. § 1226. The institutional framework already exists. The evidentiary standards already exist. The Government regularly presents evidence regarding flight risk and dangerousness in those proceedings. No new procedural mechanism would need to be created.

66. The only reason Petitioner has not received a custody determination is the categorical legal position that Immigration Judges lack jurisdiction over arriving aliens treated as subject to § 1225(b). The asserted burden is therefore not administrative or fiscal. It is purely a consequence of a legal classification that forecloses review. Under current precedent, any request for bond would be denied on jurisdictional grounds without individualized consideration.

67. The Government's interest, then, is not in avoiding administrative cost. It is in maintaining a detention framework that prevents neutral adjudication once § 1225(b) is invoked. That interest does not outweigh a person's fundamental liberty interest. Executive detention cannot rest solely on statutory labeling where no neutral decision-maker may assess whether confinement is necessary in the particular case.

68. Requiring Respondents to provide a meaningful custody determination would impose minimal burden while substantially reducing the risk of erroneous deprivation. It would require use of an existing adjudicatory process, not the creation of a new one.

69. Beyond § 1225, the Government's interests must also be evaluated in light of Congress's policy judgment in enacting the Cuban Adjustment Act ("CAA"). The CAA reflects a deliberate

legislative determination that Cuban nationals who are admitted or paroled into the United States and maintain physical presence for one year may apply to adjust status to lawful permanent residence. Congress created a humanitarian pathway specifically for Cuban parolees.

70. Petitioner falls within that statutory framework. He was paroled into the United States, maintained physical presence, and timely filed a Form I-485 pursuant to the CAA. His application remains pending before USCIS.

71. This case presents a structural tension within the executive branch. One component detains Petitioner under a categorical arriving alien classification. Another component processes his adjustment application under a statute designed to facilitate permanent residence for Cuban parolees. Congress expressed an interest in permitting such individuals to pursue adjustment. That congressional judgment informs the Government's overall interest under *Mathews*.

72. The Government's interest under the CAA is in orderly adjudication of adjustment applications filed by eligible Cuban nationals. Detaining a CAA applicant while adjudication remains pending does not meaningfully advance that purpose, particularly where no individualized custody determination has occurred.

73. When the *Mathews* factors are balanced, the Government's asserted interest in categorical detention under § 1225 does not justify continued detention without individualized process. That interest carries limited weight when compared to Petitioner's profound liberty interest and the substantial risk of error inherent in a detention regime that forecloses neutral review.

(B) ADMINISTRATIVE BOND HEARING FUTILE

74. Petitioner's continued detention rests entirely on the Government's recent assertion that 8 U.S.C. § 1225(b)(2)(A) mandates detention for all individuals who entered without inspection, regardless of when or where they were apprehended.

75. On July 8, 2025, ICE—“in coordination with” DOJ—issued the Interim Guidance Regarding Detention Authority for Applicants for Admission (the “Todd M. Lyons Memo”), declaring that every person who entered without admission or parole is subject to mandatory detention under § 1225(b)(2)(A), even if that person has resided in the United States for years.

76. On September 5, 2025, the Board of Immigration Appeals adopted that same interpretation in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), holding that such individuals are categorically ineligible for Immigration Judge bond hearings. Together, the Lyons Memo and *Matter of Yajure Hurtado* eliminate any possibility of administrative custody review for individuals placed into this detention category. In light of that binding agency position, exhaustion of administrative remedies is not merely impractical—it is legally futile. Immigration Judges lack jurisdiction to conduct bond hearings for individuals deemed subject to § 1225(b). The BIA has already resolved the statutory question in a published, precedential decision adopting the Government’s interpretation. ICE officers are bound by the Lyons Memo.

77. There exists no administrative mechanism through which Petitioner can obtain release. Requesting a bond hearing would be rejected for lack of jurisdiction. Appealing that rejection would be foreclosed by *Matter of Yajure Hurtado*. Seeking discretionary parole from ICE would place Petitioner at the mercy of the same agency whose policy mandates detention in the first place. The administrative system offers no relief because the agency has categorically withdrawn it.

78. The futility here is structural. The Executive Branch has made a definitive legal determination that individuals in Petitioner’s posture are subject to mandatory detention without bond eligibility. That determination is being uniformly applied. Administrative review cannot alter the controlling legal rule because the rule itself has been announced at the highest levels of

the agency and ratified by the Board in a precedential opinion. Where the agency has predetermined the outcome and foreclosed jurisdiction at every level of review, habeas corpus is not premature—it is the only available remedy.

79. The Fifth Circuit's recent approval of DHS's mandatory detention position underscores, rather than diminishes, the necessity of habeas review in this Court. If the agency's interpretation now governs all removal proceedings within this Circuit, then Immigration Judges are powerless to provide custody review and the BIA is bound by its own precedent. The detention decision is therefore insulated from any meaningful administrative reconsideration. Habeas exists precisely for circumstances in which executive detention is effectively unreviewable through ordinary channels. When the statutory interpretation underlying detention is settled within the agency and binding on its adjudicators, exhaustion serves no purpose other than delay.

80. Petitioner is presently confined under a regime that denies any individualized custody determination before a neutral decisionmaker. Because the agency has declared such review categorically unavailable, there is no procedural avenue to test the legality of detention except through this Court's habeas jurisdiction. The Constitution does not require a detainee to pursue remedies that do not exist.

81. Accordingly, this Court should exercise its habeas authority to review the legality of Petitioner's detention without requiring exhaustion of unavailable administrative remedies. Where detention rests on a categorical legal rule that eliminates bond eligibility and forecloses administrative review, the appropriate remedy is immediate release from custody, as no further administrative process can cure the defect.

(C)
AS-APPLIED PROCEDURAL DUE PROCESS
CHALLENGE TO PROLONGED DETENTION.

82. The INA delegates exclusive authority to adjudicate AOS applications filed by arriving aliens to USCIS regardless of whether they are in removal proceedings or their custodial status. As applied to detained individuals like Petitioner, this delegation permits continued confinement while adjudication of the AOS is suspended or delayed pursuant to agency policy³, without access to a forum capable of both reviewing custody⁴ and adjudicating the AOS application⁵. Any unlawful agency delay necessarily prolongs Petitioner's confinement, and because no statutory deadline governs adjudication of his AOS application, detention may continue for as long as the agency declines to act.

83. An as-applied challenge does not contest the facial validity of the statute or regulations. It asks whether their operation in the specific circumstances of this case results in a constitutional violation. When DHS files a Notice to Appear, removal proceedings commence before the Immigration Court. In most removal proceedings, adjustment of status functions as defensive relief. A grant of adjustment by the Immigration Judge confers lawful permanent resident status and terminates removal proceedings. If the applicant is detained, release follows upon final approval.

84. However, the regulations create an exception for individuals classified as "arriving aliens." Such individuals may not seek adjustment of status before the Immigration Judge. Instead, exclusive jurisdiction lies with USCIS. See 8 C.F.R. §§ 1245.2(a)(1)(ii), 245.2(a)(1);

³ See, U.S. Citizenship & Immigration Servs., Policy Memorandum PM-602-0192, *Hold and Review of All Pending Asylum Applications and All USCIS Benefit Applications Filed by Aliens from High-Risk Countries* (Dec. 2, 2025), Exh. 16.

⁴ See 8 C.F.R. § 1003.19(h)(2)(i)(B) (providing that an immigration judge "may not redetermine conditions of custody" for "[a]rriving aliens in removal proceedings, including aliens paroled after arrival pursuant to section 212(d)(5) of the Act").

⁵ See 8 C.F.R. §§ 1245.2(a)(1)(ii), 245.2(a)(1) (vesting exclusive jurisdiction over AOS applications filed by arriving aliens in USCIS, without distinguishing between detained and non-detained arriving aliens).

Matter of Yauri, 25 I. & N. Dec. 103 (BIA 2009). Adjustment is therefore unavailable as defensive relief in removal proceedings for arriving aliens. Petitioner is classified as an arriving alien. He cannot pursue adjustment before the Immigration Judge presiding over his removal proceedings. At the same time, USCIS retains exclusive authority to adjudicate his pending Form I-485 filed pursuant to the Cuban Adjustment Act.

85. This regulatory structure divides authority among separate administrative bodies. DHS controls custody. USCIS controls adjudication of the adjustment application. The Immigration Court controls neither. No single decisionmaker has authority to both review Petitioner's continued detention and adjudicate the relief that would eliminate the asserted basis for that detention.

86. Petitioner's Form I-485 has been pending for over twelve months. No statutory deadline governs adjudication of that application. While it remains pending, Petitioner remains detained without access to a procedural mechanism that would allow an adjudicator to both consider his eligibility for adjustment and determine whether continued confinement is necessary.

87. Because Petitioner is classified as an arriving alien, he cannot seek adjustment as defensive relief before the Immigration Court. Because detention is treated as mandatory under 8 U.S.C. § 1225(b), he is denied access to individualized bond review. At the same time, USCIS adjudication proceeds without a statutory timeline and outside the removal court's authority.

88. The combined operation of these rules leaves Petitioner confined while the adjudication that could resolve his removability proceeds independently and without temporal constraint. His detention therefore persists not as the result of an individualized determination of flight risk or danger, but as a consequence of jurisdictional compartmentalization and administrative delay.

89. Under the Due Process Clause, civil immigration detention must bear a reasonable relation to its purpose and must be accompanied by adequate procedural safeguards. As applied to Petitioner, the statutory and regulatory scheme permits prolonged detention while denying access to a forum capable of adjudicating the relief that would terminate removal proceedings and eliminate the asserted basis for custody.

90. Where detention continues while the agency with exclusive adjudicatory authority acts without a deadline and outside the supervision of the removal court, the risk of erroneous deprivation becomes constitutionally significant. The Constitution does not permit confinement to persist solely because no decisionmaker has authority to both review custody and adjudicate the underlying claim for relief.

91. As applied to Petitioner, continued detention without access to a meaningful adjudicatory mechanism violates procedural due process.

92. Accordingly, this Court should grant habeas relief and order Petitioner's release pending adjudication of his adjustment application.

VIII. CLAIMS FOR RELIEF

COUNT I: Violation of Due Process

93. Petitioner realleges and incorporates by reference all preceding paragraphs as if fully set forth herein.

94. The Fifth Amendment's Due Process Clause applies to all "persons" within the United States, including noncitizens physically present here. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001); *Demore v. Kim*, 538 U.S. 510, 523 (2003).

95. Civil immigration detention constitutes a severe restraint on physical liberty and therefore must be accompanied by constitutionally adequate procedural safeguards.

96. Whether detention procedures satisfy due process is assessed under the balancing framework of *Mathews v. Eldridge*, 424 U.S. 319 (1976), which weighs: (1) the private interest affected; (2) the risk of erroneous deprivation under current procedures and the probable value of additional safeguards; and (3) the Government's interests and the burdens of additional process. *Id.* at 335.
97. Here, Petitioner's private interest is profound: he was affirmatively paroled into the United States pursuant to 8 U.S.C. § 1182(d)(5), lived in the community for nearly two years, complied with all conditions, and has no alleged parole violation, criminal history, or changed circumstance justifying re-detention.
98. The risk of erroneous deprivation is substantial because Respondents treat detention as categorically mandatory and deny Petitioner any meaningful opportunity to obtain an individualized custody determination by a neutral decisionmaker—one that considers flight risk, danger, compliance, community ties, and other relevant factors.
99. Additional safeguards—at minimum, an individualized custody hearing at which the Government bears the burden to justify continued confinement—would materially reduce the risk of erroneous deprivation and impose minimal administrative burden, given that immigration custody hearings are routine in analogous contexts.
100. Under *Mathews*, Respondents' continued detention of Petitioner without meaningful individualized process violates the Fifth Amendment.
101. Petitioner is therefore entitled to habeas and equitable relief ordering his immediate release (or, at minimum, an individualized custody determination with constitutionally adequate procedures).

COUNT II:

Fifth Amendment As-Applied Procedural Due Process — Indefinite Detention Driven by Agency Delay in Adjudicating Adjustment of Status

102. Petitioner incorporates all preceding paragraphs.
103. As an “arriving alien,” Petitioner is barred by regulation from seeking AOS before the Immigration Judge, and exclusive jurisdiction over his Form I-485 rests with USCIS. *See*, 8 C.F.R. §§ 1245.2(a)(1)(ii), 245.2(a)(1).
104. There is no statutory deadline governing USCIS adjudication of adjustment-of-status applications.
105. Petitioner’s Cuban Adjustment Act–based I-485 has been pending for over twelve months.
106. Petitioner sought mandamus relief to compel adjudication; that action was dismissed for lack of jurisdiction. As applied to Petitioner, this framework creates a closed procedural loop: he cannot present his adjustment claim to the Immigration Court, cannot compel USCIS to adjudicate it, and remains detained while the agency with exclusive authority proceeds on an indefinite timeline.
107. The duration of his confinement is therefore tied directly to agency inaction rather than to any individualized finding of necessity.
108. Prolonged detention under this structure, without a meaningful mechanism to obtain adjudication of the application that would eliminate the basis for custody, violates procedural due process.

IX. CONCLUSION

109. For over two years, DHS exercised its discretionary authority to parole Petitioner into the United States and permitted him to reside in the community pursuant to 8 U.S.C. §

1182(d)(5). At the time of entry in October 2023, DHS affirmatively determined that detention was unnecessary. Petitioner thereafter lived in the interior of the United States pursuant to government authorization and timely pursued congressionally authorized relief by filing a Form I-485 under the Cuban Adjustment Act, which remains pending before USCIS.

110. Respondents later re-detained Petitioner through an interior arrest without providing a meaningful opportunity to contest the deprivation of liberty before a neutral decisionmaker. No individualized custody determination has occurred. Respondents justify continued confinement by invoking a categorical mandatory detention theory that, as applied to Petitioner, eliminates bond jurisdiction, forecloses administrative custody review, and ties the duration of detention to the pace of agency adjudication beyond the removal court's authority.
111. That regime cannot be reconciled with the Due Process Clause. Even assuming Respondents' statutory classification ultimately prevails, the Constitution independently requires meaningful procedures before the Government may re-detain a previously paroled noncitizen who has lived in the community for over two years pursuant to DHS authorization.
112. Moreover, because the regulatory framework bars Petitioner from seeking adjustment before the Immigration Judge, vests exclusive jurisdiction in USCIS, imposes no statutory adjudication deadline, and provides no mechanism for coordinated custody review, continued detention becomes prolonged and structurally insulated from meaningful process as applied to him.

113. Petitioner is being detained without adequate procedural safeguards and without access to a forum capable of providing individualized custody review or timely adjudication of the relief that could terminate removal proceedings. Under these circumstances, habeas relief is required.

114. Accordingly, this Court should grant the writ and order Petitioner's immediate release or, at minimum, order a prompt individualized custody determination conducted under constitutionally adequate procedures.

X. PRAYER FOR RELIEF

WHEREFORE, Petitioner prays that this Court grant the following relief:

1. Assume jurisdiction over this matter;
2. Order that Petitioner shall not be transferred outside the Western District of Texas while this habeas petition is pending;
3. Issue an Order to Show Cause ordering Respondents to show cause why this Petition should not be granted within three days;
4. Issue a Writ of Habeas Corpus requiring that Respondents release Petitioner or, in the alternative, provide Petitioner with a bond hearing pursuant to 8 U.S.C. § 1226(a) within three days;
5. Declare that Petitioner's detention is unlawful;
6. Grant the writ of habeas corpus ordering Respondents to release Petitioner again on his own recognizance, parole, or reasonable conditions of supervision, or order the Respondents to conduct a bond hearing under which it correctly applies the statutes and no longer mis-classifies him as subject to mandatory detention.

7. Award costs and, if permissible, attorneys' fees under the Equal Access to Justice Act, 28 U.S.C. § 2412, preserving Petitioner's position that EAJA may apply in habeas notwithstanding *Barco v. Witte*, 65 F.4th 782 (5th Cir. 2023), and noting contrary authority, including *Vacchio v. Ashcroft*, 404 F.3d 663, 670–72 (2d Cir. 2005); *In re Petition of Hill*, 775 F.2d 1037, 1040–41 (9th Cir. 1985); *Daley v. Ceja*, No. 24-1191, — F.4th —, 2025 WL 3058588 (10th Cir. Nov. 3, 2025) (holding that habeas actions challenging immigration detention are unambiguously “civil actions” within EAJA’s “any civil action” language and affirming an EAJA award where the habeas petition materially altered the parties’ legal relationship by securing a bond hearing and release); *Abioye v. Oddo*, 2024 U.S. Dist. LEXIS 174205 (W.D. Pa. 2024); and *Arias v. Choate*, 2023 U.S. Dist. LEXIS 119907 (D. Colo. 2023).
8. Grant any other and further relief that this Court deems just and proper.

RESPECTFULLY SUBMITTED,

/s/ Jesus Dario Elizondo

Jesus Dario Elizondo, Esq.

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Admission to the Western District of Texas: PENDING

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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Daniel Herrera Aldana, and submit this verification on his behalf. I hereby verify that the factual statements made in the foregoing Petition for Writ of Habeas Corpus are true and correct to the best of my knowledge.

Dated this 12th day of FEBRUARY, 2026.

RESPECTFULLY SUBMITTED,

/s/ Jesus Dario Elizondo

Jesus Dario Elizondo, Esq.

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