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UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

RONAL HERNANDEZ GARCIA Petitioner, v. Warden, Glades County Detention Center; Todd BLANCHE, Acting U.S. Attorney General; and Todd LYONS, Acting Director of Immigration and Customs Enforcement; Respondents.	Case No. ----- **PETITION FOR** **WRIT OF HABEAS CORPUS**

PETITION FOR WRIT OF HABEAS CORPUS

INTRODUCTION

1. Petitioner Ronal Hernandez Garcia is a twenty-eight-year-old lawful permanent resident ("LPR") of the United States and a native and citizen of Cuba. He has been held in immigration detention continuously since October 23, 2025 — a period exceeding six months — without any individualized bond hearing or custody determination by a neutral adjudicator. DHS served Petitioner with a Notice to Appear ("NTA") on October 23, 2025, filed it with the Immigration Court on November 20, 2025, and initiated plenary § 240 removal proceedings. DHS did not invoke expedited removal. The Immigration Court ordered removal on April 11, 2026; Petitioner timely appealed to the Board of Immigration Appeals ("BIA") on April 21, 2026, and that appeal remains pending. No final order of removal has issued. Because Petitioner is in pre-final-order § 240 proceedings, his detention is governed by 8 U.S.C. § 1226(a), which requires that he be afforded a custody redetermination hearing. Respondents have not provided that hearing, have not served Petitioner with a Form I-286 custody determination, and have not informed him of his right to bond redetermination under 8 C.F.R. §§ 236.1(c)(8) and (d)(1). He brings this Petition for Writ of Habeas Corpus pursuant to 28 U.S.C. § 2241 to remedy that unlawful deprivation of liberty.

2. Petitioner adjusted his status to lawful permanent resident on December 28, 2013, and resided lawfully in the United States for over a decade. Upon returning from travel abroad, he was taken into immigration custody at Miami International Airport on October 23, 2025, and served with an NTA charging inadmissibility under INA § 212(a)(2)(A)(i)(I). The Department of Homeland Security ("DHS") did not invoke expedited removal under § 1225(b)(1). It elected instead to place Petitioner in plenary § 240 removal proceedings by serving and filing the NTA. That election is dispositive: because DHS initiated § 240 proceedings, § 1226(a) — not § 1225(b) — governs Petitioner's detention, and Petitioner is entitled to a custody redetermination hearing before an immigration judge.

3. The Immigration Court denied Petitioner's applications for relief on April 11, 2026, and ordered his removal. Petitioner timely appealed to the BIA on April 21, 2026. That appeal remains pending. No final order of removal has issued. Petitioner therefore remains in the pre-final-order period in which § 1226(a) is the exclusive governing detention authority.

4. Despite more than six months of continuous confinement — with an indeterminate additional period ahead while the BIA considers his appeal — no bond hearing has ever been held. No immigration judge has made any custody finding. The government has not invoked mandatory detention under any statutory provision, and no Form I-286 custody determination was ever

served on Petitioner. The result is open-ended detention without any adjudicatory check — a condition that violates 8 U.S.C. § 1226(a), the Due Process Clause of the Fifth Amendment, and the government's own binding regulations.

5. Petitioner respectfully requests that this Court order his immediate release under reasonable conditions of supervision. In the alternative, Petitioner requests an individualized custody redetermination hearing before an immigration judge within seven days at which the government bears the burden of demonstrating that continued detention is warranted. In either event, Petitioner requests that this Court enjoin Respondents from transferring him outside this District or executing any order of removal during the pendency of this action, so as to preserve the Court's jurisdiction and render any relief meaningful.

JURISDICTION

6. This Court has subject matter jurisdiction pursuant to 28 U.S.C. § 2241(a) and (c)(3), which authorize federal courts to grant writs of habeas corpus to persons in custody in violation of the Constitution or laws of the United States. Jurisdiction also rests on 28 U.S.C. § 1331 (federal question). The Supreme Court has confirmed that § 2241 remains available to test the legality of executive detention in the immigration context. *Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001) (recognizing continued availability of habeas

review of immigration detention); *Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018) (holding that habeas review of constitutional challenges to detention remains available).

7. This action is a pre-final-order detention challenge and is not subject to the jurisdiction-stripping provisions of INA § 242. Petitioner does not seek review of a final order of removal, does not seek review of any discretionary determination committed to agency discretion under 8 U.S.C. § 1252(a)(2)(B), and does not raise any claim that must be channeled through a petition for review under 8 U.S.C. § 1252(b)(9). Petitioner challenges exclusively the statutory and constitutional basis for his ongoing pre-final-order detention — a challenge cognizable under § 2241 and consistent with Eleventh Circuit practice.

8. Exhaustion of administrative remedies is excused. The Eleventh Circuit permits waiver of exhaustion where claims are constitutional in nature, where administrative remedies are inadequate, or where exhaustion would be futile. *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982) (per curiam) (exhaustion excused where remedies are inadequate or futile). Each *Linfors* factor is met on this record. First, Petitioner's claims are constitutional and exceed the adjudicatory competence of administrative officers. Second, administrative remedies are inadequate because Respondents never served a Form I-286 custody determination, never provided the bond advisal required

by 8 C.F.R. § 236.1(c)(8), and never convened any immigration-judge custody review — accordingly, there is no operative administrative process for Petitioner to pursue, and no agency mechanism exists to compel an immigration-judge bond hearing absent DHS action or a court order. Third, each day of continued detention causes irreparable injury to liberty that cannot be remedied retrospectively.

VENUE

9. Venue is proper in the Fort Myers Division of the Middle District of Florida because Petitioner is confined at the Glades County Detention Center, 1297 East State Road 78, Moore Haven, Florida — located in Glades County, which is within this District and Division. The writ must be directed to Petitioner's immediate custodian, who is located in this District. *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) (holding that the default rule for § 2241 petitions is that the proper respondent is the petitioner's immediate custodian — the warden of the facility where he is held — and that the court with jurisdiction is the district of confinement). Venue is also proper under 28 U.S.C. § 1391(e) because Respondents are officers of the United States and a substantial part of the events giving rise to Petitioner's claims occurred in this District.

REQUIREMENTS OF 28 U.S.C. § 2243

10. The Court must grant the petition for writ of habeas corpus or issue an order to show cause ("OSC") to Respondents "forthwith," unless Petitioner is not entitled to relief. 28 U.S.C. § 2243. If an OSC is issued, the Court must require Respondents to file a return within three days unless for good cause additional time, not exceeding twenty days, is allowed. *Id.* Petitioner respectfully requests expedited consideration consistent with § 2243, or on such schedule as the Court deems appropriate consistent with Middle District of Florida practice.

PARTIES

11. Petitioner Ronal Hernandez Garcia is a native and citizen of Cuba, born [redacted] in Pinar del Río, Cuba, and a lawful permanent resident of the United States since December 28, 2013. He is currently confined at the Glades County Detention Center, Moore Haven, Florida, under the custody and control of Respondents.

12. Respondent Warden of the Glades County Detention Center is Petitioner's immediate physical custodian pursuant to that facility's contract with ICE and is a proper respondent in this habeas action. *Padilla*, 542 U.S. at 435.

13. Respondent Todd M. Lyons is sued in his official capacity as Acting Director of U.S. Immigration and Customs Enforcement. He has supervisory authority over Petitioner's detention and the power to direct his release.

14. Respondent Todd Blanche is sued in his official capacity as Acting Attorney General of the United States. He is the senior official of the U.S. Department of Justice and exercises supervisory authority over the Executive Office for Immigration Review, which administers the immigration courts and the BIA. Respondent Blanche is a legal custodian of Petitioner.

STATEMENT OF FACTS

15. Petitioner Ronal Hernandez Garcia is a native and citizen of Cuba. See Exh. A (Passport). He was born on [redacted] in the city of Pinar del Río, Cuba. On December 28, 2013, he adjusted his status to that of an LPR of the United States. See Exh. B (Residency Card). On or about January 31, 2018, Petitioner was convicted in the Fourth Judicial Circuit in and for Clay County, Florida, for the offense of trafficking in counterfeit credit cards, in violation of section 817.611(2)(b) of the Florida Statutes. See Exh. C (NTA). On or about October 23, 2025, following travel abroad, Petitioner applied for admission into the United States as an LPR at Miami International Airport and was taken into immigration custody on that same date. He was served with an NTA charging him as inadmissible under INA § 212(a)(2)(A)(i)(I). *Id.*

16. On November 20, 2025, DHS filed the NTA with the Immigration Court, thereby initiating removal proceedings under INA § 240. See Exh. D (Immigration Court Records). DHS did not place Petitioner in expedited removal under § 1225(b)(1) and instead issued an NTA and filed it with the Immigration Court, initiating § 240 proceedings. See Exh. C. No Form I-286 custody determination was ever served on Petitioner, and Petitioner was never informed of his right to an individualized bond redetermination hearing before an immigration judge.

17. On December 19, 2025, Petitioner filed an Application to Register Permanent Residence or Adjust Status (Form I-485) and an Application for Waiver of Grounds of Inadmissibility (Form I-601) before the Immigration Court. See Exh. D. On February 3, 2026, Petitioner, through counsel, admitted the factual allegations contained in the NTA and conceded the charge of inadmissibility. On March 19, 2026, Petitioner testified before the Immigration Court in support of his applications for relief, and the Court reserved decision. *Id.* On April 11, 2026, the Immigration Court denied Petitioner's application for a waiver of inadmissibility pursuant to INA § 212(h), denied his application for readjustment of status under the Cuban Adjustment Act, and ordered that Petitioner be removed from the United States to Cuba. *Id.* Petitioner timely appealed to the BIA on April 21, 2026, and that appeal remains pending. See Exh. E (Automated Case Information). No final order of removal has issued.

18. Petitioner has remained continuously detained since on or about October 23, 2025, and is currently confined at the Glades County Detention Center, Moore Haven, Florida. See Exh. F (Detention Record). Despite the duration of his detention, Petitioner has not been provided with any individualized bond hearing or custody determination before a neutral decision-maker. *Id.* The government has not classified Petitioner's detention as mandatory under any provision of the INA, and no immigration judge has ever conducted a custody hearing. Removal is not imminent while Petitioner's BIA appeal remains pending and no final order of removal has issued. See Exh. E.

19. Petitioner has significant family ties in the United States, including his father, Rodobaldo Hernandez Fabelo, an LPR who suffers from documented medical conditions, as well as siblings who are United States citizens, all residing in Miami, Florida. See Exh. G (Supporting Documentation). Despite these substantial ties and the pendency of his appeal before the BIA, Petitioner remains detained without any opportunity to challenge the necessity of his continued detention.

LEGAL FRAMEWORK

20. Section 2241 of Title 28 authorizes federal courts to grant habeas corpus relief to persons in custody in violation of the Constitution or laws of

the United States. The Supreme Court has confirmed that § 2241 remains available to test the legality of executive detention in the immigration context, including both statutory and constitutional challenges to the basis of custody. *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001). *Jennings v. Rodriguez*, 583 U.S. 281 (2018), recognized that § 1226(a) authorizes discretionary release and that the regulations and Due Process Clause provide the procedural mechanism for that determination.

21. The Eleventh Circuit recognizes that exhaustion of administrative remedies may be excused where claims are constitutional in nature, where administrative remedies are inadequate, or where exhaustion would be futile. *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982). Because Petitioner raises constitutional claims that administrative officers lack authority to adjudicate, because Respondents have treated detention as categorically mandatory thereby foreclosing meaningful bond review, and because continued detention inflicts irreparable injury to liberty, exhaustion is excused.

22. The INA provides distinct detention frameworks. Section 1226(a) is the default detention authority for noncitizens who are subject to removal proceedings: it authorizes the arrest and detention of a noncitizen pending removal and expressly provides for release on bond or conditional parole. Section 1226(c) carves out a mandatory detention class — noncitizens

convicted of specified offenses who are detained upon release from criminal custody — but that provision does not apply here for the reasons set forth in Count One. Section 1225(b) governs inspection and detention of noncitizens at the border or port of entry at the moment of arrival. Because DHS elected § 240 proceedings, § 1226(a) governs the ongoing detention.

23. The Fifth Amendment prohibits the government from depriving any person of liberty without due process of law. Physical detention is the most severe form of liberty deprivation. *Zadvydas*, 533 U.S. at 690. The *Mathews v. Eldridge*, 424 U.S. 319 (1976), balancing framework governs procedural due process claims and considers: (1) the private interest affected; (2) the risk of erroneous deprivation through the procedures used and the probable value of additional safeguards; and (3) the government's interest, including administrative burden.

CLAIMS FOR RELIEF

COUNT ONE

Petitioner's Detention Is Governed by 8 U.S.C. § 1226(a), Which Requires a Custody Redetermination Hearing

24. Section 1226(a) is the controlling detention authority. It provides the default rule for noncitizens who are subject to removal proceedings and have not been convicted of the specific offenses triggering § 1226(c). Under § 1226(a), the Attorney General "may release" the noncitizen on bond or

conditional parole — language that reflects an individualized exercise of discretion administered through implementing regulations and the Due Process Clause. *Jennings*, 583 U.S. at 297–98 (recognizing that § 1226(a) creates discretionary release authority, the procedures for which are set by regulation and due process rather than the statutory text itself).

25. For Petitioner, detention is administered under § 1226(a), not § 1225(b). DHS elected § 240 proceedings by serving and filing an NTA and did not invoke expedited removal under § 1225(b)(1). See Exh. C. DHS's election to proceed by NTA and plenary § 240 proceedings reflects DHS's own procedural determination that § 1225(b)(1)'s abbreviated framework does not apply, and Petitioner's ongoing detention in § 240 proceedings is therefore administered under § 1226(a) and its implementing regulations.

26. Section 1226(c) mandatory detention likewise does not apply. That provision requires detention of noncitizens convicted of specified offenses "when the alien is released" from criminal custody. 8 U.S.C. § 1226(c)(1). Petitioner was released from the Clay County conviction in or about 2018 — approximately seven years before he was taken into immigration custody on October 23, 2025. See Exh. C. The government did not detain Petitioner upon his release from that criminal sentence, and Respondents have not asserted § 1226(c) as the basis for mandatory detention in this case. Persuasive authority from other circuits supports the view that § 1226(c)'s mandatory detention

authority does not attach in these circumstances. See, *e.g.*, *Saysana v. Gillen*, 590 F.3d 7, 16–17 (1st Cir. 2009) (persuasive authority holding that § 1226(c) is inapplicable where the government fails to detain the alien upon release from criminal custody).

27. Because § 1226(a) governs, Petitioner is entitled to a custody redetermination hearing before a neutral immigration judge under § 1226(a) and 8 C.F.R. § 236.1(d). No such hearing has been held in approximately six months of continuous detention. That omission is a direct statutory violation warranting habeas relief. The government should bear the burdens of proof at any such hearing, as set forth in Count Two.

COUNT TWO

Prolonged Detention Without Any Individualized Hearing Violates the Due Process Clause of the Fifth Amendment

28. Even setting aside the statutory question, Petitioner's confinement for approximately six months without any individualized custody hearing independently violates the Fifth Amendment's Due Process Clause. Physical liberty is the most elemental constitutionally protected interest. *Foucha*, 504 U.S. at 80. Civil detention — including immigration detention — is subject to substantive and procedural due process constraints. *Zadvydas*, 533 U.S. at 690.

29. The *Mathews* balancing framework compels the conclusion that due process requires, at minimum, an individualized custody hearing here. *Mathews*, 424 U.S. at 335. Each factor weighs decisively in Petitioner's favor when anchored to the record facts.

30. First, the private interest is at its zenith. Petitioner is a lawful permanent resident, see See Exh. B, who has been physically confined for approximately six months with no end in sight, See Exh. F. He has immediate family members in the United States — a father who is an LPR with documented medical conditions, and siblings who are United States citizens — all residing in Miami, Florida. See Exh. G. He has no criminal history other than the resolved 2018 conviction. See Exh. C. Removal is not imminent while Petitioner's BIA appeal remains pending and no final order of removal has issued. See Exh. E. The private interest in liberty is at its peak when detention is already prolonged and removal is not imminent. *Zadvydas*, 533 U.S. at 690.

31. Second, the risk of erroneous deprivation is as high as it can be. No individualized assessment has been conducted. See Exh. D. No immigration judge has ever weighed Petitioner's flight risk against his family ties, the absence of any prior record of flight or non-compliance, or the non-imminence of removal. No Form I-286 was served; no bond advisal was given; and no bond amount was ever set or considered. *Id.* A custody redetermination hearing — a minimal procedural safeguard — would substantially reduce the risk that

Petitioner is being erroneously detained. Its complete absence guarantees that the government's unilateral, unreviewable determination controls a person's liberty indefinitely.

32. Third, the government's interest does not justify the complete absence of process. The government's interest in ensuring appearance at removal proceedings and protecting community safety is served adequately by a custody redetermination hearing. If the government can demonstrate at such a hearing that Petitioner poses a genuine danger or flight risk, detention remains authorized. But the government may not decline to seek such a finding while continuing to confine Petitioner indefinitely. The administrative cost of a custody hearing is de minimis in relation to the constitutional interests at stake. *Mathews*, 424 U.S. at 335.

33. The duration of detention here — more than six months, with an indeterminate additional period pending BIA review — places this case squarely within the zone of constitutional concern that *Zadvydas* identified. While that decision addressed post-final-order detention, the Court's recognition that indefinite civil detention raises serious constitutional concerns applies with equal force in the pre-final-order context where, as here, no final order has issued and removal is not imminent while the BIA appeal remains pending. *Zadvydas*, 533 U.S. at 701The duration of detention here — approximately six months, with an indeterminate additional period pending

BIA review — raises the same constitutional concerns that *Zadvydas* identified with prolonged civil confinement. *Zadvydas*, 533 U.S. at 690, 701. While *Zadvydas* addressed post-final-order detention, the Supreme Court's recognition that indefinite civil detention raises serious constitutional concerns supports, by analogy, the conclusion that minimum procedural safeguards are required in the pre-final-order context where, as here, no final order has issued and removal is not imminent while the BIA appeal remains pending. See Exh. E.

34. Due process requires that Petitioner be brought before a neutral adjudicator for an individualized determination of whether continued detention is warranted. As an exercise of this Court's equitable authority consistent with due process, Petitioner requests that the government bear the burden of demonstrating by clear and convincing evidence that Petitioner poses a danger to the community, and by a preponderance of the evidence that he presents a serious risk of flight, and that the immigration judge be directed to consider less restrictive alternatives to detention. The complete absence of any such hearing after approximately six months of confinement is independently unconstitutional and warrants habeas relief.

COUNT THREE

The Government Has Violated the Accardi Doctrine by Failing to Observe Mandatory Regulatory Procedures

35. Under the *Accardi* doctrine, when an agency promulgates regulations governing its own procedures, it is bound to follow them; failure to do so renders the resulting agency action unlawful. *United States ex rel. Accardi v. Shaughnessy*, 347 U.S. 260, 265–68 (1954) (holding that an agency's failure to follow its own mandatory regulations invalidates the resulting decision and requires judicial correction). Where the government fails to follow mandatory procedural requirements in the immigration detention context, continued detention predicated on that defective process is unlawful.

36. DHS regulations applicable to arrests under § 1226 impose affirmative, mandatory procedural obligations. Specifically: (a) 8 C.F.R. § 236.1(c)(8) provides that upon arrest, the arresting officer shall advise the noncitizen of his right to request a bond redetermination hearing before an immigration judge — a mandatory advisal requirement; (b) 8 C.F.R. § 236.1(d)(1) provides that the noncitizen shall be given an opportunity to post bond as set by the DHS officer, subject to the noncitizen's right to request redetermination of that bond amount by an immigration judge — a mandatory opportunity-to-post and bond-setting requirement; and (c) the Form I-286 ("Notice of Custody Determination") is the prescribed instrument by which DHS conveys that custody determination and the associated advisal. These regulations impose mandatory procedures, not discretionary courtesies, and they attach as a matter of law upon exercise of § 1226 arrest authority.

37. None of these required procedures were followed on this record. Petitioner was arrested and detained on October 23, 2025. See Exh. C. No Form I-286 custody determination was ever served on Petitioner. See Exh. D. No notice of the right to bond redetermination under § 236.1(c)(8) was provided. *Id.* No bond amount was set or considered under § 236.1(d)(1). *Id.* And no immigration judge has ever made a custody determination. *Id.* The government's failure to observe these mandatory regulatory procedures renders Petitioner's detention procedurally defective. Post hoc rationalization cannot cure procedural defects of this nature. *Accardi*, 347 U.S. at 266–67.

38. The remedy for these violations is an order directing Respondents to release Petitioner immediately under reasonable conditions of supervision, or — in the alternative, if the Court determines that immediate release is not warranted — an order directing Respondents to cure the regulatory defects by serving a Form I-286 custody determination, providing the advisal required by 8 C.F.R. § 236.1(c)(8), and presenting Petitioner before an immigration judge for an individualized custody redetermination hearing within seven days. In either event, Respondents must be enjoined from removing Petitioner from the United States or transferring him outside this District during the pendency of this action.

PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

(1) Assume jurisdiction over this Petition;

(2) Issue an Order to Show Cause directing Respondents to show cause why this Petition should not be granted within three (3) days as contemplated by 28 U.S.C. § 2243, or on such schedule as the Court deems appropriate consistent with Middle District of Florida practice;

(3) Declare that Petitioner's detention violates 8 U.S.C. § 1226(a) and the Due Process Clause of the Fifth Amendment to the United States Constitution;

(4) Issue a Writ of Habeas Corpus ordering Petitioner's immediate release from custody under reasonable conditions of supervision; or, in the alternative, if the Court determines that immediate release is not warranted at this stage, order Respondents — as an exercise of this Court's equitable authority and by analogy to 28 U.S.C. § 2243's "forthwith" directive — to present Petitioner before an immigration judge for an individualized custody redetermination hearing within seven (7) days of this Court's order, at which: (a) Respondents shall bear the burden of proving by clear and convincing evidence that Petitioner poses a danger to the community, and by a preponderance of the evidence that he

presents a serious risk of flight; and (b) the immigration judge shall consider less restrictive alternatives to detention and impose the least restrictive conditions sufficient to address any demonstrated concern;

(5) Enjoin Respondents, pending the resolution of this action, from: (a) transferring Petitioner to any detention facility outside the jurisdiction of this Court without prior notice to counsel and leave of Court; and (b) executing any order of removal or otherwise removing Petitioner from the United States. This narrowly-tailored injunction is necessary to preserve this Court's jurisdiction over Petitioner's immediate custodian and to prevent mootness of any relief granted herein, particularly in light of the pendency of Petitioner's BIA appeal and the absence of any final order of removal; and

(6) Grant any further relief this Court deems just and proper.

Respectfully submitted,

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Dated: April 24, 2026
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VERIFICATION PURSUANT TO 28 U.S.C. § 2242

I represent Petitioner, Ronal Hernandez Garcia, 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 24th day of April, 2026.

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing PETITION FOR WRIT OF HABEAS CORPUS was filed via CM/ECF and served on all counsels of record on this 24th day of April, 2026.

Respectfully submitted,

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