

**UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

BELMAN ONELIO SOTO GUZMAN,

Case No:1:26cv22898

Petitioner,

v.

MARCOS CHARLES, Immigration and Customs

Enforcement (ICE) Enforcement and Removal

Operations (ERO) Acting Executive Associate

Director;

JUAN AGUDELO, Interim Miami Field Office Director;

CHARLES WALL, Principal Legal Advisor for ICE's

Office of the Principal Legal Advisor;

TODD BLANCHE, U.S. Attorney General;

TODD M. LYONS, Senior Official Performing the

Duties of the Director of US Immigration and

Customs Enforcement;

MARKWAYNE MULLIN, U.S. Secretary of the Department

of Homeland Security;

E.K CARLTON, the warden of the Federal Detention Center, Miami; and

JOHN DOE, Custodian.

Respondents.

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

INTRODUCTION

1. Petitioner Belman Onelio Soto Guzman (“Petitioner” or “ Mr. Soto Guzman”) brings this Petition for a Writ of *Habeas Corpus* pursuant to 28 U.S.C. § 2241 to challenge his ongoing unlawful detention and to seek enforcement of his rights as a member of the Bond Eligible Class certified in *Lazaro Maldonado Bautista et al. v. Noem et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Nov. 25, 2025).

2. Petitioner is currently in the physical custody of Respondents at the Federal Detention Center, Miami (hereinafter, “FDC Miami”).

3. Mr. Soto Guzman now faces unlawful detention because the Department of Homeland Security (“DHS”) and the Executive Office of Immigration Review (“EOIR”) are misapplying the law related to his detention and have declined to apply the declaratory judgment issued on behalf of the certified class in *Maldonado Bautista v. Santacruz*. See *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025) (order granting partial summary judgment); *id.* at *9 (order certifying the proposed nationwide Bond Eligible Class and extending declaratory relief). On December 18, 2025, the court entered final judgment granting classwide declaratory relief consistent with its prior orders. See **Exhibit 1**.

4. Petitioner has remained detained without being provided an individualized bond hearing, based on Respondents’ continued misapplication of detention standards that the Courts, including the Southern District of Florida, have already determined to be inconsistent with the governing statutory framework. See e.g., *Aguilar Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *3, 8 (S.D. Fla. Oct. 15, 2025)(“section 1226(a), not section 1225(b)(2), governs Petitioner’s detention”); *Gil Paulino v. Sec’y of the U.S. Dep’t of Homeland Sec.*, 25-24292-CIV-WILLIAMS, ECF No. 41 (S.D. Fla. Oct, 2025)(“Section 1226 governs Petitioner’s detention”); *Hernandez Alvarez v. Acting Warden Roger Morris, et al.*, Case No. 25-24806-CIV-WILLIAMS, ECF No. 6 (S.D. Fla. Oct. 27, 2025)(agreeing with petitioner that “detention is governed by 8 U.S.C. section 1226(a), which allows for the release of noncitizens on bond ... not section 1225(b)(2), applicable to noncitizen “applicant[s] for admission” to the United States.).

5. Courts in the Southern District of Florida have recently reaffirmed that district courts retain *habeas* jurisdiction to review the statutory basis of immigration detention, even where the government invokes expedited removal provisions. In *Giron v. Noem*, 2026 U.S. Dist. LEXIS 2912 (M.D. Fla. Jan. 7, 2026), the court rejected the government's reliance on 8 U.S.C. §§ 1252(a)(2)(A), 1252(g), and 1252(b)(9), holding that these jurisdiction-stripping provisions do not bar *habeas* review of whether a noncitizen is lawfully detained under INA § 1225(b) or § 1226(a). The court emphasized that while it may lack jurisdiction to review the execution of an expedited removal order, it retains authority to determine whether the government has a lawful statutory basis to detain a noncitizen. This Court; therefore, has jurisdiction to adjudicate Petitioner's challenge to the legality of his continued detention.

6. *Habeas corpus* is fundamentally "a remedy for unlawful executive detention." *Munaf v. Geren*, 553 U.S. 674, 693 (2008). A writ may be issued to a petitioner who demonstrates that he is being held in custody in violation of the constitution or federal law. See 28 U.S.C. section 2241(c)(3). The Court's jurisdiction extends to challenges involving immigration-related detention. See *Zadvydas v. Davis*, 533 U.S. 678, 687 (2001).

7. Accordingly, this Court should grant Mr. Soto Guzman's petition for a writ of *habeas corpus* and order Respondents to release him from their custody immediately.

JURISDICTION

8. The petitioner is in the physical custody of Respondents. He is detained at the Federal Detention Center, Miami (hereinafter, "FDC Miami". in Florida, where he has remained continuously confined since **February 15, 2026**.

9. This Court has jurisdiction under 28 U.S.C. § 2241(c)(3) (*habeas corpus*), 28 U.S.C. § 1331 (federal question), and Article I, Section 9, Clause 2 of the United States Constitution (the Suspension Clause).

10. 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.

11. Jurisdiction is proper under 28 U.S.C. § 2241 because Petitioner is in custody under the authority of the United States and challenges the lawfulness of his detention. Congress has preserved judicial review of challenges to civil immigration detention. See *Jennings v.*

Rodriguez, 138 S. Ct. 830, 841 (2018). Respondents do not assert any jurisdictional arguments. Moreover, courts in the Southern District of Florida have consistently rejected jurisdictional challenges in similar civil immigration detention cases. In *Giron v. Noem*, 2026 U.S. Dist. LEXIS 2912 (M.D. Fla. Jan. 7, 2026), this Court rejected the government's reliance on 8 U.S.C. §§ 1252(a)(2)(A), 1252(g), and 1252(b)(9), holding that these jurisdiction-stripping provisions do not bar *habeas* review of whether a noncitizen is lawfully detained under INA § 1225(b) or § 1226(a).

12. Petitioner has now been detained for two (2) months. During his detention, Petitioner filed a motion for bond, which was denied by the Immigration Court pursuant to *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that Immigration Judges lack jurisdiction under INA § 235(b)(2)(A) to adjudicate bond requests for certain noncitizens who are present without admission. See **Exhibit 2**. Because this is binding BIA precedent, any appeal to the BIA would be futile. See *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982).

13. Petitioner's continued confinement constitutes prolonged civil detention and raises serious constitutional concerns. Judicial review is therefore required to safeguard Petitioner's fundamental rights under the Due Process Clause and 8 U.S.C. § 1226(a)

VENUE

14. Venue is proper in the Southern District of Florida pursuant to 28 U.S.C. § 1391 because Petitioner is physically detained at FDC Miami, Florida, and has remained in continuous immigration custody since **February 15, 2026**.

15. Pursuant to *Braden v. 30th Judicial Circuit Court of Kentucky*, 410 U.S. 484, 493-500 (1973), venue lies in the United States District Court for the Southern District of Florida, the judicial district in which Petitioner currently is detained.

16. Venue is also properly in this Court pursuant to 28 U.S.C. § 1391(e) because Respondents are employees, officers, and agencies of the United States, and because a substantial part of the events or omissions giving rise to the claims occurred in the Southern District of Florida.

REQUIREMENTS OF 28 U.S.C. § 2243

17. *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). “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. INS*, 208 F.3d 1116, 1120 (9th Cir. 2000) (citation omitted).

18. Petitioner’s detention has already been adjudicated as unlawful for class members under *Maldonado Bautista v. Santacruz*. On **December 18, 2025**, the district court entered final judgment extending classwide declaratory relief, expressly holding that “the Bond Eligible Class members are detained under 8 U.S.C. § 1226(a) and are not subject to mandatory detention under § 1225(b)(2),” and that class members “are entitled to consideration for release on bond, and a custody redetermination hearing before an immigration judge.” See *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal. Dec. 18, 2025) (Final Judgment). See **Exhibit 1**.

19. The Court should grant the petition for writ of *habeas corpus* “forthwith,” as the legal issues have already been resolved for class members in *Maldonado Bautista*.

PARTIES

20. Petitioner, Mr. Soto Guzman, is a citizen of Guatemala who has been in immigration detention since **February 15, 2026**. After Petitioner was arrested, ICE did not set bond, and Petitioner requested review of his custody by an Immigration Judge. On **April 14, 2026**, Petitioner was denied bond by an Immigration Judge at the Miami Krome Immigration Court because he was deemed an “applicant for admission.” Petitioner has resided in the United States since 2005, for more than twenty (20) years.

21. Respondents are detaining Mr. Soto Guzman at FDC Miami in Miami-Dade County Florida, pending removal proceedings. While in Respondents’ custody, Mr. Soto Guzman is subject to the authority, control, and detention policies implemented and enforced by Respondents.

22. Respondent, **E.K. Carlton** is the warden of the FDC Miami and has administrative responsibility for Petitioner's custody at that facility.

23. Respondent **Markwayne Mullin** is the Secretary of the United States DHS and is responsible for the administration of immigration laws, 8 U.S.C. § 1103(a). Secretary Mullin is a legal custodian of Petitioner and is named in his official capacity.

24. Respondent **Todd M. Lyons** is the ICE Director, responsible for the overall administration of all ICE detention facilities, including Baker Correctional Institution.

25. Respondent **Juan Agudelo** is the Field Office Director for the Miami ICE Field Office and has administrative jurisdiction over Petitioner's case.

26. Respondent **Todd Blanche** is the Acting Attorney General of the United States and the senior official in the DOJ. He delegates authority over removal cases to the Executive Office for Immigration Review (hereinafter, "EOIR"), which administers the Immigration Courts and the Board of Immigration Appeals (hereinafter, "BIA"). He is named in his official capacity.

27. Respondent **Marcos Charles** is the Acting Executive Associate Director of ICE ERO. In this capacity, he leads the division responsible for the identification, arrest, detention, and removal of noncitizens. He has direct authority over the ERO policies that govern Petitioner's detention and is a legal custodian of the Petitioner.

28. Respondent **Charles Wall** is the Principal Legal Advisor for ICE. In this capacity, he leads the Office of the Principal Legal Advisor (hereinafter, "OPLA"), which serves as the exclusive representative of DHS in immigration court proceedings. He has final authority over the legal positions taken by ICE attorneys regarding Petitioner's custody and removal. He is a legal custodian of the Petitioner and is named in his official capacity.

29. Respondent **John Doe** is Petitioner's immediate custodian, who exercises day-to-day control over Petitioner's physical custody and is therefore a proper respondent in this habeas action.

30. Each of these Respondents is a legal custodian of Petitioner and is named in his official capacities.

FACTUAL AND PROCEDURAL HISTORY

31. Mr. Soto Guzman is a forty-five (45) year-old native and citizen of Guatemala, born on [REDACTED] in San Marcos, Guatemala, as reflected in his passport issued on [REDACTED], 2023, and valid through [REDACTED] 2028. *See Exhibit 3.*

32. Mr. Soto Guzman entered the United States in or about 2005 through the Arizona border without inspection. Since that time, he has continuously resided in the United States for approximately twenty-one (21) years, during which he has established significant family, community, and social ties.

33. Petitioner is married to Dora Luz Lopez Luis. He has stepchildren, as well as siblings and extended family residing throughout Florida, including family members who are United States citizens.

34. On **February 15, 2026**, Petitioner was arrested by U.S. Immigration and Customs Enforcement (ICE) in Hillsborough County, Florida, in connection with a non-violent traffic stop for driving without a driver's license. This minor traffic infraction constitutes Petitioner's only arrest in the United States. Petitioner has no history of violent criminal conduct, no significant criminal record, and no prior failures to appear in any court or immigration proceedings.

35. Following his arrest, Petitioner was initially processed at the Tampa ICE Holding Room. On **February 16, 2026**, Petitioner was formally taken into ICE custody. On **February 17, 2026**, a Notice to Appear (NTA) was issued and personally served upon Petitioner by Deportation Officer Scott Bowling, charging him as removable under INA § 212(a)(6)(A)(i) as an alien present in the United States without having been admitted or paroled. *See Exhibit 4.*

36. On **February 18, 2026**, ICE transferred Petitioner to the Florida Soft-Sided Facility – South, located at 54575 Tamiami Trail E, Ochopee, Florida 34141, as documented in the ICE Form I-830E. Petitioner's removal proceedings were initially docketed before the Orlando Immigration Court. *See Exhibit 5.*

37. On **February 26, 2026**, Petitioner's counsel, filed a Motion for Bond before the Orlando Immigration Court, arguing that Petitioner was not subject to mandatory detention under INA § 1225(b)(2), posed no danger to the community, and presented no flight risk. In support of the motion, counsel submitted extensive documentary evidence. *See Exhibit 6.*

38. A custody redetermination hearing was scheduled before Immigration Judge Pedro J. Espinal of the Orlando Immigration Court on **March 2, 2026**, at 1:00 p.m., conducted via internet-based videoconference. On that same date, Immigration Judge Espinal issued a Bond

Order reflecting that Petitioner's request for custody redetermination was "withdrawn." No substantive determination on the merits of Petitioner's bond request was ever rendered by the Orlando Immigration Court. *See Exhibit 7.*

39. On **March 7, 2026**, ICE transferred Petitioner from the Florida Soft-Sided Facility – South to the Miami Federal Detention Center (FDC Miami), as documented in the ICE Form I-830E filed by Deportation Officer Janeth Hidalgo of the Krome Docket Control Office on **March 10, 2026**. Petitioner has remained at FDC Miami continuously since that date. *See Exhibit 8.*

40. Following the Petitioner's transfer to FDC Miami, venue for his removal proceedings was transferred to the Miami Immigration Court.

41. Petitioner is currently pursuing immigration relief before U.S. Citizenship and Immigration Services (USCIS) through a derivative T visa application. A T visa receipt has been issued, and his application remains pending adjudication. *See Exhibit 9.*

42. On **April 8, 2026**, Petitioner filed a request for a bond hearing before the Miami Krome Immigration Court. *See Exhibit 10.* On **April 14, 2026**, an Immigration Judge at the Miami Krome Immigration Court denied Petitioner's request, concluding that the court lacked jurisdiction to redetermine custody pursuant to *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), which held that Immigration Judges lack jurisdiction under INA § 235(b)(2)(A) to adjudicate bond requests for noncitizens present without admission. No individualized assessment of Petitioner's flight risk or danger to the community was conducted. *See Exhibit 2*

43. Because *Matter of Yajure-Hurtado* constitutes binding BIA precedent, any appeal to the BIA would be futile. As the Southern District of Florida has recognized in virtually identical circumstances, the outcome of any bond appeal under *Yajure-Hurtado* "is nearly a foregone conclusion." *Puga v. Assistant Field Dir.*, No. 25-24535, 2025 WL 2938369, at *3-6 (S.D. Fla. Oct. 15, 2025). Accordingly, exhaustion of administrative remedies is excused as futile.

44. As of the date of filing this Petition, Petitioner has been in ICE custody for more than two (2) months without having received any individualized bond determination from a neutral decision-maker evaluating his flight risk or dangerousness. Despite his twenty-one (21) years of continuous residence in the United States, his marriage to a Florida resident, his role as a pastor and community leader, his pending T visa application, his designated financial sponsor,

his stable housing history, and his complete absence of any criminal history beyond the minor traffic infraction that occasioned his arrest, Petitioner remains detained without any opportunity for individualized consideration of his custody status.

45. Petitioner does not challenge the merits of his underlying removal proceedings in this action. Rather, he challenges only the legality of his continued detention and the denial of a constitutionally adequate, individualized custody determination.

LEGAL ARGUMENTS: PETITIONER IS BEING UNLAWFULLY DETAINED

A. Exhaustion of Remedies: Petitioner has exhausted his remedies before the Immigration Courts and the lack of appeal to the BIA should be excused as futile.

The exhaustion requirement under 8 USC §1252(d)(1) "is not jurisdiction," but rather prudential. *Kemokai v. U.S. Att'y Gen.*, 83 F.4th 886, 891 (11th Cir. 2023)(acknowledging the abrogation of prior Eleventh Circuit precedent interpreting section 1252(d)(1) as a jurisdictional bar by *Santos-Zavaria v. Garland*, 598 US 411, 413 (2023). Thus, administrative "exhaustion is not required where no genuine opportunity for adequate relief exists ... or an administrative appeal would be futile[.]" *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982.)

Here, the Petitioner requested a bond hearing, which was denied for lack of jurisdiction by the IJ given the recent decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025). In *Yajure Hurtado*, the BIA rejected the precise argument Petitioner raises here, concluding that "aliens who are present in the United States without admission are applicable for admission under ... 8 U.S.C. section 1225(b)(2)(A), and must be detained for the duration of their removal proceedings." 29 I&N Dec. at 220. Because this is BIA precedent, any appeal to the BIA would serve no purpose. See e.g., *Puga v. Assistant Field Dir., Krome N. Serv., Processing Ctr.*, No. 25-24535, 2025 WL 2938369, at *3-6 (S.D. Fla. Oct 15, 2025)("Since the result of Petitioner's custody redetermination and any subsequent bond appeal to the BIA is nearly a foregone conclusion under *Matter of Yajure Hurtado*, any prudential exhaustion requirements are excused for futility."); *Mosqueda v. Noem*, 2025 WL 2591530, at *7 (C.D. Cal. Sep. 8, 2025) (waiving exhaustion as "the most recent BIA decision on [whether section 1225 or 1226 applies] has adopted the legal interpretation of the new DHS policy that petitioners challenge.")

Furthermore, federal courts retain discretion to excuse the exhaustion requirement where the petition raises constitutional questions unsuitable for administrative resolution and where the unexhausted remedy is plainly inadequate. While exhaustion of administrative remedies may be a normal precursor to seeking habeas relief, exceptions exist where: (1) the petition raises constitutional questions beyond the scope of administrative review; and (2) the immigration appellate timeline exacerbates the petitioner's alleged injury of prolonged detention without a bond hearing. See *Zuniga v. Lyons*, No. 1:25-CV-221-H, 2025 WL 3755126, at 1 n.1 (N.D. Tex. Dec. 29, 2025); *Shi v. Lyons*, No. 1:25-CV-274, 2025 WL 3637288, at 4 n.6 (S.D. Tex. Dec. 12, 2025). Moreover, by Respondents' own interpretation of 8 U.S.C. § 1225, detention is mandatory without a bond hearing — meaning exhaustion would not only be futile but would unconstitutionally prolong Petitioner's unlawful confinement.

Any exhaustion argument fails because Petitioner does not challenge the Immigration Judge's ruling, but instead challenges the statutory authority for his continued detention. Where, as here, the INA provides no administrative mechanism to remedy an erroneous application of INA § 1225(b) or to compel a bond hearing after the Immigration Court has disclaimed jurisdiction, habeas corpus is the appropriate vehicle for relief. See *Giron v. Noem*, 2026 U.S. Dist. LEXIS 2912 (M.D. Fla. Jan. 7, 2026).

B. Relevant Immigration Statutes: Section 1226 governs Petitioner's detention, this Court should order his immediate release.

Two (2) statutes principally govern the detention of noncitizens: 8 USC section 1225 and 1226.

I. 8 USC 1225

Section 1225 governs the inspection, detention, and removal of applicants for admission. See 8 USC section 1225 et seq. Applicants for admission are defined as noncitizens “present in the United States who ha[ve] not been admitted” or those “arriv[ing] in the United States.” *Id.* All applicants for admission “must be inspected by immigration officers to ensure that they may be admitted into the country consistent with U.S. immigration law.” *Jennings v. Rodriguez*, 583 US 281, 287 (2018). To that end, US immigration law authorizes the Government to detain certain aliens seeking admission into the country under section 1225(b)(1) and (b)(2).” *Id.* at 289.

Unlike the Fifth Circuit's recent decision in *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026), which held that noncitizens present without lawful admission are subject to mandatory detention under § 1225(b)(2)(A) without bond hearings, that decision is not controlling authority in this Circuit. The Eleventh Circuit has not adopted Buenrostro's interpretation, and this Court is not bound by it. Moreover, *Buenrostro* itself does not resolve the constitutional due process questions that remain at issue here. As multiple courts have recognized, even where § 1225(b)(2)(A) applies, it does not extinguish an individual's constitutional right to an individualized bond hearing where prolonged detention implicates liberty interests protected by the Fifth Amendment.

"Section 1225(b)(1) applies to all aliens initially determined to be inadmissible due to fraud, misrepresentation, or lack of valid documentation." *Id.* Such non-citizens are subject to expedited removal "without further hearing or review." 8 U.S.C. section 1225(b)(1). However, if the noncitizen expresses "an intention to apply for asylum" or a fear of persecution, "the statute requires referral to an interview with an immigration officer. *Id.* Section 1225(b)(1)(A)(ii). If the immigrant officer finds a "credible fear," the non-citizen "shall be detained for further consideration of the application for asylum." *Id.*

"Section 1225(b)(2) is broader" and "serves as a catchall provision that applies to all applicants for admission not covered by section 1225(b)(1)." *Jennings*, 583 US at 287. Non-citizens covered under section 1225(b)(2) are detained for removal proceedings "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted" into the country. 8 U.S.C. section 1225(b)(2)(A). Importantly, detention under section 1225(b)(2) is mandatory. *See Gomes v. Hyde*, No. 25-cv-11571, 2025 WL 1869299, at *8 (D. Mass. July 7, 2025).

II. 8 USC 1226

Federal immigration law "also authorizes the Government to detain certain aliens *already in the country* pending the outcome of removal proceedings." *Jennings*, 583 U.S. at 289 (emphasis added). Section 1226(a) provides that when a noncitizen has been "arrested and detained pending a decision on whether the alien is to be removed from the United States," the Attorney General may either continue to detain the individual or release them on bond or conditional release. *See* 8 USC section 1226(a). The statute thus "establishes a discretionary

detention framework.” *Gomes*, 2025 WL 1869299, at *2.

III. 1226 Applies to Mr. Soto Guzman

The primary issue here is whether section 1225 or 1226 governs this Petitioner’s detention.

DHS proceeded under INA § 1226. Petitioner is not classified as an “arriving alien,” but rather as a noncitizen present in the United States without admission or parole. This classification places him squarely within section 1226. *See e.g. Pizarro Reyes*, 2025 WL 2609425, at *8 (emphasizing ICE’s selection of “present” rather than “arriving” on the notice to appear as evidence that section 1226 applied); *see also Hyppolite v. Noem*, No. 25-4304, 2025 WL 2829511, *8 (E.D.N.Y. Oct. 6, 2025) (respondent’s initial classification of petitioner “certainly is relevant to the Court’s assessment of the credibility and good faith of ‘Respondents’ new position as to the basis for detention, which was adopted post hoc and raised for the first time in this litigation.”)(citation omitted); *Perez v. Berg*, No. 25-cv-494, 2025 WL 2531566, at *2 (D. Neb. July 24, 2025)(“The Court notes that the government itself charged Petitioner as an alien present in the United States who has not been admitted or paroled rather than an arriving alien.”)(quotation omitted).

Countless courts have uniformly rejected the Government’s expansive interpretation of section 1225. *See e.g., Gil-Paulino v. Sec’y of the US Dep’t of Homeland Sec.*, 25-cv-24292, DE 41, (S.D. Fla. Oct. 10, 2025) (respondent’s interpretation of the INA “directly contravenes the statutes” and “disregards decades of settled precedent”); *see also Pizarro Reyes*, 2025 WL 2609425, at *7 (“Finally, the BIA’s decision to pivot from three decades of consistent statutory interpretation and call for Pizarro Reyes’ detention under section 1225(b)(2)(A) is at odds with every District Court that has been confronted with the same questions of statutory interpretation.”) *Puga*, No. 25-24535, 2025 WL 2938369, at *3-6; *Merino v. Ripa*, No. 25-23845, 2025 WL 2941609, at *3 (S.D. Fla. Oct. 15, 2025); *Lopez v. Hardin*, No. 25-cv-830, 2025 WL 2732717, at *2 (M.D. Fla. Sept. 25, 2025); *Harsh Patel v. Crowley*, No. 25-11180, 2025 U.S. Dist. LEXIS 209958, at *9-12 (N.D. Ill. Oct. 24, 2024); *Esquivel-Ipina v. Larose*, No. 25-cv-2672, 2025 U.S. Dist. LEXIS 210275, at *9-12 (C.D. Cal. Oct. 24, 2025); *Carmona v. Noem*, No. 25-cv-1131, 2025 U.S. Dist. LEXIS 209629, at *14-17 (W.D. Mich. Oct. 24, 2025); *Lopez v. Hyde*, 25-12680, 2025 U.S. Dist. LEXIS 209916, at *4-5 (D. Mass. Oct 24, 2025);

Guerra v Joyce, No. 25-cv-00534, 2025 WL 2986316, at *3 (D. Me. Oct. 23, 2025); *Lomeau v. Soto*, 25-cv-16589, 2025 WL 2981296, at *7-8 (D.N.J. Oct. 23, 2025); *Maldonado v. Cabezas*, No. 25-13004, 2025 WL 2985256, at *4 (D.N.J. Oct. 23, 2025); *Aparicio v. Noem*, 2025 U.S. Dist. LEXIS 208898, at *12-13 (D. Nev. Oct. 23, 2025); *Loa Caballero v. Baltazar*, No. 25-cv-03120, 2025 WL 2977650, at *5-6 (D. Colo. Oct. 22, 2025); *Garcia v. Noem*, 25-cv-02771, 2025 U.S. Dist. LEXIS 209286, at *10-15 (C.D. Cal. Oct. 22, 2025); *Aguiar v. Moniz*, No. 25-cv-12706, 2025 WL 2987656, at *3 (D. Mass. Oct. 22, 2025); *Rivera v. Moniz*, 25-cv-12833, 2025 WL 2977900, at *1-2 (D. Mass. Oct. 22, 2025); *Avila v. Bondi*, No. 25-3741, 2025 WL 2976539, at *5-7 (D. Minn. Oct. 21, 2025); *Contreras-Lomeli v. Raycraft*, No. 25-cv-12826, 2025 U.S. Dist. LEXIS 207162, at *22 (E.D. Mich. Oct. 21, 2025).

In *Giron v. Noem*, 2026 U.S. Dist. LEXIS 2912 (M.D. Fla. Jan. 7, 2026), the United States District Court for the Middle District of Florida held that a noncitizen who was released into the interior of the United States and later re-detained could not be subjected to mandatory detention under INA § 1225(b). The court concluded that once DHS permits a noncitizen to remain in the United States for a prolonged period, the government may not later invoke expedited removal procedures to avoid the safeguards of INA § 1226(a). As a result, the court ordered the government to either provide an individualized bond hearing before an immigration judge or release the petitioner within ten (10) days.

C. Alternatively, Petitioner's Prolonged Detention Without an Individualized Hearing Violates the Fifth Amendment Due Process Clause

Even assuming, *arguendo*, that § 1225(b)(2)(A) applies to Petitioner's detention — which Petitioner expressly denies — his continued confinement for more than two (2) months without any meaningful opportunity for an individualized assessment of his flight risk or dangerousness independently violates the Due Process Clause of the Fifth Amendment.

I. The Fifth Amendment Protects Noncitizens Against Prolonged Civil Detention Without Individualized Review

The Supreme Court has long recognized that the Due Process Clause of the Fifth Amendment applies to all persons within the United States, including noncitizens subject to

removal proceedings. *Zadvydas v. Davis*, 533 U.S. 678, 693 (2001) (“Freedom from imprisonment — from government custody, detention, and other forms of physical restraint — lies at the heart of the liberty that [the Due Process] Clause protects.”). Civil detention, even in the immigration context, may become constitutionally problematic when it is prolonged without meaningful review. *Id.* at 701.

While *Zadvydas* addressed post-removal-order detention, its core constitutional principle — that prolonged civil detention without meaningful procedural safeguards raises serious due process concerns — applies with equal force in the pre-removal context. See *Ly v. Hansen*, 351 F.3d 263, 271 (6th Cir. 2003) (“The due process problems with indefinite detention do not disappear simply because the detention occurs before rather than after a final order of removal.”); *Hernandez v. Sessions*, 872 F.3d 976, 990 (9th Cir. 2017) (recognizing that prolonged pre-removal detention triggers due process protections requiring individualized bond hearings).

II. Petitioner’s Detention Has Become Constitutionally Unreasonable

Petitioner has been detained for more than two (2) months without any individualized determination of whether his detention is justified by a legitimate governmental interest, such as flight risk or danger to the community. No immigration judge has conducted any merits-based custody determination. Instead, the Immigration Court did not reach the merits of Petitioner’s custody request; rather, it was reflected as “withdrawn,” and no individualized bond determination was ever made.

Courts have consistently held that civil immigration detention, untethered to individualized review, becomes constitutionally suspect when prolonged. See *Demore v. Kim*, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring) (noting that detention for a prolonged period without individualized review raises serious constitutional concerns); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 233 (3d Cir. 2011) (“As detention becomes prolonged, the government’s justification must be more substantial to remain reasonable.”).

Here, the constitutional unreasonableness of Petitioner’s detention is further underscored by the facts of his case:

First, Petitioner has resided continuously in the United States for more than twenty-one (21) years, establishing deep family and community ties that substantially mitigate any risk of flight.

Second, Petitioner has no criminal history other than a minor, non-violent traffic infraction (driving without a license), which does not support a finding of dangerousness.

Third, Petitioner has a pending T visa application before USCIS pursuant to 8 U.S.C. § 1101(a)(15)(T), reflecting his cooperation with law enforcement and his legally cognizable interest in remaining in the United States.

Fourth, Petitioner has a designated financial sponsor, stable housing, and a spouse residing in Florida, all of which strongly weigh against any risk of flight.

III. The Government Cannot Justify Prolonged Detention Without Individualized Review

The Government's reliance on mandatory detention under § 1225(b)(2)(A) does not override Petitioner's constitutional right to an individualized hearing where detention has become prolonged and is not supported by any individualized findings of risk. See *Zadvydas*, 533 U.S. at 690 ("A statute permitting indefinite detention of an alien would raise a serious constitutional problem.").

As the court held in *Giron v. Noem*, 2026 U.S. Dist. LEXIS 2912 (M.D. Fla. Jan. 7, 2026), even where the Government invokes § 1225(b), a noncitizen who has been present in the interior of the United States for a prolonged period retains constitutional protections that cannot be eliminated through statutory classification alone.

Accordingly, even if this Court concludes that § 1225(b)(2)(A) governs the statutory basis for detention, the Due Process Clause of the Fifth Amendment independently requires that Respondents provide Petitioner with an individualized bond hearing before a neutral decision-maker, at which the Government bears the burden of proving by clear and convincing evidence that Petitioner poses a flight risk or danger to the community. See *Hernandez v. Sessions*, 872 F.3d at 991; *Banda v. McAleenan*, 385 F. Supp. 3d 1099, 1117 (W.D. Wash. 2019).

CLAIMS FOR RELIEF

FIRST CLAIM FOR RELIEF – Violation of Fifth Amendment Procedural Due Process

46. Petitioner has never received a constitutionally adequate bond hearing before a neutral decision-maker. Although Petitioner requested a custody redetermination, the Immigration Court did not adjudicate the request on the merits. In Orlando, the request was reflected as "withdrawn," and in subsequent proceedings before the Miami Krome Immigration Court, the Immigration Judge declined jurisdiction pursuant to *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025). At no point has any neutral decision-maker conducted an individualized assessment of Petitioner's flight risk or dangerousness.

47. As a result, Petitioner has been deprived of any meaningful opportunity to challenge his detention before a neutral decision-maker, rendering his continued confinement arbitrary and in violation of the Due Process Clause of the Fifth Amendment.

SECOND CLAIM FOR RELIEF – Violation of Fifth Amendment Substantive Due Process

48. Petitioner's continued detention is excessive, punitive in effect, and not reasonably related to any legitimate governmental purpose.

49. Immigration detention is civil in nature and may not be imposed in a manner that becomes arbitrary or punitive. *See Foucha v. Louisiana*, 504 U.S. 71, 80 (1992); *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). Here, Petitioner has been detained without any individualized finding of flight risk or danger to the community, rendering his continued confinement unconstitutional under the Fifth Amendment.

THIRD CLAIM FOR RELIEF – Unlawful Detention Beyond Statutory Authority

50. Respondents lack statutory authority to detain Petitioner under INA § 1225(b)(2)(A). Petitioner's detention is governed by INA § 236(a), 8 U.S.C. § 1226(a), which requires an individualized custody determination and eligibility for release on bond. By continuing to detain Petitioner under § 1225(b)(2)(A) without providing such a determination, Respondents are acting beyond their statutory authority and in violation of federal law.

51. As this Court and others in this District have consistently held, § 1226(a) — not § 1225(b)(2) — governs the detention of noncitizens who are present in the interior of the United States and charged as removable under INA § 212(a)(6)(A)(i). *See Aguilar Merino v. Ripa*, No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *3, 8 (S.D. Fla. Oct. 15, 2025); *Gil Paulino v. Sec'y of the U.S. Dep't of Homeland Sec.*, 25-24292-CIV-WILLIAMS, ECF No. 41 (S.D. Fla.

Oct. 2025); *Hernandez Alvarez v. Acting Warden Roger Morris*, No. 25-24806-CIV-WILLIAMS, ECF No. 6 (S.D. Fla. Oct. 27, 2025). Respondents' continued detention of Petitioner under § 1225(b)(2)(A) is therefore ultra vires and unlawful.

FOURTH CLAIM FOR RELIEF – Violation of the Fifth Amendment Due Process Clause (Prolonged Detention Without Review)

52. Even assuming *arguendo* that INA § 1225(b)(2)(A) applies to Petitioner's detention — which Petitioner expressly denies — his continued confinement for more than two (2) months without any individualized determination of flight risk or dangerousness independently violates the Due Process Clause of the Fifth Amendment.

53. Civil immigration detention cannot continue indefinitely without meaningful procedural safeguards. *See Demore v. Kim*, 538 U.S. 510, 532 (2003) (Kennedy, J., concurring); *Diop v. ICE/Homeland Sec.*, 656 F.3d 221, 233 (3d Cir. 2011). The absence of any individualized hearing renders Petitioner's detention constitutionally unreasonable and requires relief in the form of an individualized bond hearing before a neutral decision-maker.

54. Petitioner's detention is further arbitrary because Respondents themselves classified him as "present without admission" on the Notice to Appear — a classification inconsistent with mandatory detention under § 1225(b)(2)(A) and reflecting the government's own acknowledgment that § 1226(a) governs his custody. *See Pizarro Reyes*, 2025 WL 2609425, at *8; *Hyppolite v. Noem*, No. 25-4304, 2025 WL 2829511, at *8 (E.D.N.Y. Oct. 6, 2025). Respondents' post-hoc invocation of § 1225(b)(2)(A) — after having charged Petitioner under a framework inconsistent with that statute — is arbitrary, inconsistent, and contrary to law.

FIFTH CLAIM FOR RELIEF – Violation of the INA and Binding Class Judgment in Maldonado Bautista

55. Petitioner is a member of the Bond Eligible Class certified in *Maldonado Bautista et al. v. Noem et al.*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.), and is entitled to consideration for release under 8 U.S.C. § 1226(a).

56. Petitioner satisfies the definition of the Bond Eligible Class because he: (1) is detained pursuant to INA § 1225(b)(2)(A) by Respondents' own classification; (2) is in removal proceedings under INA § 240; and (3) has not been subject to a final order of removal. As a

member of the Bond Eligible Class, Petitioner is entitled to the full benefit of the declaratory relief granted by the *Maldonado Bautista* court.

57. On November 20, 2025, the district court granted partial summary judgment holding that Bond Eligible Class members are detained under § 1226(a) and may not be denied consideration for release on bond under § 1225(b)(2)(A). *See Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861, at *11 (C.D. Cal. Nov. 20, 2025). On November 25, 2025, the court certified a nationwide Bond Eligible Class and extended declaratory relief to all class members. *Id.* at *9. On December 18, 2025, the court entered final judgment granting classwide declaratory relief consistent with its prior orders.

58. Respondents are parties to *Maldonado Bautista* and are bound by the court's judgment. By asserting that Petitioner is subject to mandatory detention under § 1225(b)(2)(A) and denying him an individualized bond hearing, Respondents have violated Petitioner's statutory rights under the INA and the court's judgment in *Maldonado Bautista*.

59. Furthermore, as the court held in *Giron v. Noem*, 2026 U.S. Dist. LEXIS 2912 (M.D. Fla. Jan. 7, 2026), detention under INA § 1225(b) is unlawful where DHS previously released the noncitizen into the interior of the United States and permitted him to reside there for years. Under those circumstances, the government's authority to detain arises, if at all, under INA § 1226(a), which requires a meaningful, individualized bond hearing. Respondents' failure to comply with this statutory framework renders Petitioner's continued detention ultra vires and unlawful.

SIXTH CLAIM FOR RELIEF – Attorney's Fees Under the Equal Access to Justice Act

60. If Petitioner prevails in this action, he respectfully requests an award of reasonable attorney's fees and costs pursuant to the Equal Access to Justice Act ("EAJA"), 28 U.S.C. § 2412. Petitioner is the prevailing party, the Government's position is not substantially justified, and no special circumstances exist that would make an award unjust.

PRAYER FOR RELIEF

WHEREFORE, Petitioner Mr. Soto Guzman respectfully requests that this Honorable

Court:

1. Exercise jurisdiction over this Petition for Writ of *Habeas Corpus* pursuant to 28 U.S.C. § 2241;
2. Declare that Respondents' continued detention of Petitioner without a meaningful and individualized bond hearing violates the Due Process Clause of the Fifth Amendment and the Immigration and Nationality Act;
3. Order Respondents to immediately release Petitioner from DHS custody, or in the alternative, provide a constitutionally adequate bond hearing before an Immigration Judge within five (5) days, where the Government bears the burden of proof;
4. Order Respondents to cease detaining Petitioner in violation of the Constitution and laws of the United States;
5. Retain jurisdiction to ensure compliance with the Court's order; and
6. Grant such other and further relief as the Court deems just and proper.

EXHIBITS

- Exhibit 1 – Final Judgment entered December 18, 2025, in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-01873-SSS-BFM (C.D. Cal.);
- Exhibit 2 – Immigration Judge's Order dated **April 14, 2026**, denying bond pursuant to *Matter of Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025);
- Exhibit 3 – Copy of Petitioner's passport;
- Exhibit 4 – Copy of Petitioner's Notice to Appear (NTA);
- Exhibit 5 – Copy of ICE Form I-830E (Transfer and Docketing Information);
- Exhibit 6 – Copy of Motion for Bond and Supporting Evidence (Filed February 26, 2026);
- Exhibit 7 – Copy of Bond Order Reflecting "Withdrawn" Custody Redetermination (March 2, 2026);
- Exhibit 8 – Copy of ICE Form I-830E (Transfer to FDC Miami) (March 10, 2026; Transfer Effective March 7, 2026);
- Exhibit 9 – Copy of USCIS T Visa Receipt;
- Exhibit 10 – Copy of Bond Hearing Request Filed April 8, 2026.

Verification

I declare under penalty of perjury that the facts set forth in the foregoing Verified Petition for Writ of *Habeas Corpus* are true and correct to the best of my knowledge, information, and belief.

A handwritten signature in black ink, appearing to read 'Belman Onelio Soto Guzman', written over a horizontal line.

Signature Petitioner

Belman Onelio SOTO GUZMAN

Dated: 04/24/2026

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed via the CM/ECF portal on this 24th day of April, 2026.

Respectfully submitted,

By: /s/ Magdalena Cuprys, Esq.

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