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JUDGE LEON SCHYDLOWER
AUG 24 2026
CLERK, U.S. DISTRICT COURT
WESTERN DISTRICT OF TEXAS
BY
DEPUTY CLERK

Case No. EP26CV2197

MIGUEL CAMPOS PEREZ, *Petitioner,* **v.** **Warden,** El Paso Processing Center; **MARY DE ANDA-YBARRA,** Field Office Director, ERO ICE El Paso Field Office; **DAVID VENTURELLA,** Acting Director, ICE; **MARKWAYNE MULLIN,** Secretary, DHS; **TODD BLANCHE,** Acting Attorney General, *Respondents.*	**PETITION FOR WRIT OF HABEAS CORPUS** *Pursuant to 28 U.S.C. § 2241* **AND EMERGENCY REQUEST FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION** **A-Number:** [redacted] El Paso Processing Center 8915 Montana Avenue El Paso, Texas 79925 **EMERGENCY — Master Calendar Hearing: August 24, 2026**

SUBMITTED BY YUDIMILEYSIS CAMPOS PENA — Lawful Permanent Resident · Sister of Petitioner · Next Friend (28 U.S.C. § 2242)
[redacted]
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INTRODUCTION

The government has imprisoned a 23-year-old Cuban national with no criminal conviction, no removal order, and a pending application for lawful permanent residence with USCIS under the Cuban Adjustment Act, without ever affording him an individualized bond hearing before a neutral decisionmaker. This is not a close constitutional question. It is a direct due process violation that federal courts in this District and across the Fifth Circuit have corrected repeatedly in recent months.

Miguel Campos Perez is a Cuban national born on July 29, 2003, in Las Tunas, Cuba. He presented himself to United States authorities at the San Ysidro Port of Entry in California on July 3, 2024, and was **lawfully paroled** into the United States under section 212(d)(5)(A) of the Immigration and Nationality Act ("INA"), 8 U.S.C. § 1182(d)(5)(A). He did everything the law asks of a person in his position: he presented himself openly through a CBP One appointment, he was released into the country by the Government itself, and he timely filed a Form I-485 Application to Register Permanent Residence with U.S. Citizenship and Immigration Services ("USCIS") under the Cuban Adjustment Act, Receipt No. IOE0933087499.

On **December 16, 2024**, Immigration Judge Abdias Tida of the El Paso Immigration Court granted a Motion to Dismiss filed by Petitioner, **expressly unopposed by the Department of Homeland Security ("DHS")**, under 8 C.F.R. § 1239.2(c). Judge Tida's textual explanation was **"CAA eligible"** — the Government itself acknowledged that Petitioner qualifies under the Cuban Adjustment Act. Although the Government, after detaining Petitioner, has re-calendared those proceedings before the El Paso Immigration Court — with a master calendar hearing now set for August 24, 2026 before Immigration Judge Nicholas B. Lucic — Petitioner has no order of removal, and his path to lawful permanent residence continues, as it always has, before USCIS.

Seven months after that dismissal, on July 21, 2025, Petitioner filed his Form I-485 with USCIS under the Cuban Adjustment Act, paid the full $1,440.00 fee, and that application was formally docketed under Receipt No. [redacted] USCIS issued a Notice of Action (Form I-797C) on July 23, 2025 confirming receipt. On August 14, 2025, USCIS issued an Application Support Center Appointment Notice, and on September 2, 2025, Petitioner timely appeared and completed

biometrics at the USCIS Lubbock Application Support Center. His application remains pending before USCIS today, with no adverse determination on the merits.

For more than a year after his release, Petitioner lived openly and in full compliance with the law. He has **no criminal conviction of any kind.** He has no order of removal. Yet on June 7, 2026, local officers arrested Petitioner at his home in Odessa, Texas. Petitioner was released from state custody after posting a $25,000 secured bond. Upon information and belief, no formal criminal charges have been filed against Petitioner arising from that arrest. Petitioner remains in compliance with all conditions of his state release, including regular check-ins reported through his authorized representative.

On July 9, 2026, U.S. Immigration and Customs Enforcement ("ICE") took Petitioner into custody and transferred him to the El Paso Processing Center in El Paso, Texas, where he remains detained today. **No bond hearing has been held.** No neutral decisionmaker has ever found that Petitioner poses a danger to the community or a risk of flight.

During his detention at the El Paso Processing Center, Petitioner was **physically assaulted by another detainee**, sustaining injuries that required medical attention and which are visually documented in photographs captured by his sister during a video call. This incident, occurring within a facility under the exclusive custody and control of Respondents, establishes that Respondents have failed to maintain conditions adequate to protect Petitioner from foreseeable harm.

This is the constitutional problem at the heart of the case: the Government paroled Petitioner into the United States after determining he was neither a danger nor a flight risk, allowed an Immigration Judge to dismiss his proceedings with explicit acknowledgment of his CAA-eligibility, watched him comply for over two years, and has now re-imprisoned him with no formal criminal charge, no bond hearing, no individualized justification, and in conditions where he has already sustained physical harm. Detention of this kind — indefinite confinement of a person who has done nothing but follow the rules — cannot be squared with the Due Process Clause of the Fifth Amendment.

Petitioner respectfully seeks a writ of habeas corpus under 28 U.S.C. § 2241 ordering his **immediate release**. He also seeks a temporary restraining order barring his transfer outside this District or his removal from the United States while this Petition is pending.

STATEMENT OF THE ISSUE PRESENTED

Whether the continued civil detention of Petitioner — a Cuban national who was inspected and paroled into the United States, whose removal proceedings were dismissed by an Immigration Judge with explicit acknowledgment of Cuban Adjustment Act eligibility and without Government opposition, whose re-calendared proceedings are governed by 8 U.S.C. § 1226(a), who has a pending I-485 application in normal processing before USCIS, who has no order of removal, who has no criminal conviction, who currently complies with the conditions of a $25,000 state bond, and who has already sustained physical harm inside the detention facility — without any individualized bond hearing before a neutral decisionmaker, violates the Due Process Clause of the Fifth Amendment and 8 U.S.C. § 1226(a), entitling Petitioner to immediate release.

I. PARTIES

1. Petitioner Miguel Campos Perez is a native and citizen of Cuba, born [redacted] 2003, in Las Tunas, Cuba. His Alien Registration Number is A[redacted] He is currently detained at the El Paso Processing Center, 8915 Montana Avenue, El Paso, Texas 79925. He has **no criminal conviction in any federal or state database.** He files this Petition *pro se*.

2. This Petition is filed on Petitioner's behalf by his sister, **YUDIMILEYSIS CAMPOS PENA**, a Lawful Permanent Resident, residing at [redacted] Odessa, Texas [redacted], pursuant to 28 U.S.C. § 2242, which expressly authorizes any person "acting in [the petitioner's] behalf" to file a habeas corpus petition. Petitioner is detained and has limited ability to prepare and file legal documents on his own behalf, which provides the necessary basis for next-friend standing under § 2242. See *Whitmore v. Arkansas*, 495 U.S. 149, 163–64 (1990). Yudimileysis Campos Pena is the sister of Petitioner (sharing the same father, Miguel Campos Ramirez), is a Lawful Permanent Resident of the United States since September 13, 2022, USCIS# [redacted] category CU6, and currently resides at the same family address as Petitioner in Odessa, Texas.

3. Respondent Warden, El Paso Processing Center is Petitioner's immediate physical custodian and the proper primary respondent. *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004). The Warden is named in his or her official capacity.

4. Respondent Mary De Anda-Ybarra, Field Office Director of the ICE Enforcement and Removal Operations El Paso Field Office, exercises supervisory authority over custody decisions at the El Paso Processing Center. She is named in her official capacity.

5. Respondent David Venturella, Acting Director of U.S. Immigration and Customs Enforcement, is named in his official capacity.

6. Respondent Markwayne Mullin, Secretary of the Department of Homeland Security, is named in his official capacity as the head of the agency with legal custody over Petitioner.

7. Respondent Todd Blanche, Acting Attorney General of the United States, is named in his official capacity pursuant to standard practice in immigration habeas proceedings.

II. JURISDICTION AND VENUE

8. This Court has subject-matter jurisdiction under 28 U.S.C. § 2241, which empowers federal district courts to grant the writ of habeas corpus to a person held "in custody in violation of the Constitution or laws ... of the United States." 28 U.S.C. § 2241(c)(3). Jurisdiction is also conferred by Article I, § 9, cl. 2 (the Suspension Clause); 28 U.S.C. § 1331 (federal question); and the Fifth Amendment to the United States Constitution.

9. *INS v. St. Cyr*, 533 U.S. 289, 305 (2001), confirms that the historic scope of the writ encompasses claims that a noncitizen is being held in custody in violation of the Constitution or laws of the United States. This Petition challenges the fact of Petitioner's detention without any individualized hearing; it does not challenge a final order of removal, and the jurisdiction-stripping provisions of 8 U.S.C. § 1252 therefore do not apply.

10. Venue is proper in the Western District of Texas, El Paso Division, under 28 U.S.C. § 2241 and *Rumsfeld v. Padilla*, 542 U.S. 426, 443 (2004), because Petitioner is detained within this District and his immediate physical custodian — the Warden of the El Paso Processing Center, 8915 Montana Avenue, El Paso, Texas 79925 — is located here.

11. No statute strips this Court of jurisdiction. Section 1226(e) bars review only of the Attorney General's *discretionary* judgments; it does not bar constitutional or statutory challenges to the framework of detention itself. *See Demore v. Kim*, 538 U.S. 510, 516–17 (2003); *Jennings v. Rodriguez*, 583 U.S. 281, 294–95 (2018). Likewise, 8 U.S.C. § 1252(b)(9) channels review of removal orders, not challenges to the lawfulness of detention; the Supreme Court has confirmed that § 1252(b)(9) does not bar this kind of claim. *Jennings*, 583 U.S. at 293–95. Petitioner challenges the constitutionality and statutory authority for his detention without a hearing — precisely the claim federal courts retain jurisdiction to decide.

12. Finally, because Petitioner proceeds *pro se*, his filing must be construed liberally and held to less stringent standards than pleadings drafted by lawyers. *Haines v. Kerner*, 404 U.S. 519, 520 (1972) (per curiam); *Erickson v. Pardus*, 551 U.S. 89, 94 (2007) (per curiam).

III. STATEMENT OF FACTS

A. Personal Background and Family Ties in the United States

13. Petitioner is a citizen of Cuba. His Cuban passport (No. [redacted] issued January 25, 2022, in La Habana, expiring January 25, 2028) and his Cuban birth certificate confirm his identity and nationality. **Exhibits A, B**.

14. Petitioner is 23 years old. His sister, Yudimileysis Campos Pena, is a Lawful Permanent Resident of the United States since September 13, 2022, USCIS# [redacted], category CU6 (Cuban Adjustment Act). **Exhibit K**. She resides at [redacted] Odessa, Texas [redacted] — the same family address where Petitioner has lived since his release in 2024. Petitioner's father also resides in the United States.

B. Lawful Entry by Parole at San Ysidro Port of Entry

15. On July 3, 2024, Petitioner presented himself to U.S. authorities at the San Ysidro Port of Entry in California, with a previously scheduled appointment through the CBP One application, and was **paroled into the United States** under INA § 212(d)(5)(A), 8 U.S.C. § 1182(d)(5)(A). His CBP Form I-94 reflects Admission Record No. 043875619A4, an arrival date of July 3, 2024, a class of admission of "DT" (parole), and an authorized period through April 24, 2026. **Exhibit D**.

16. Petitioner was issued a Notice to Appear (Form I-862, Event No. SYS2407000989) charging him under INA § 212(a)(7)(A)(i)(I) and placing him in removal proceedings under INA § 240. **Exhibit E**. After being paroled, he was released from custody and settled in Odessa, Texas, where he has lived openly.

C. Termination of Removal Proceedings — Explicit CAA-Eligibility Determination — and Post-Detention Re-Calendaring

17. On December 16, 2024, the Honorable Abdias Tida, Immigration Judge of the El Paso Immigration Court, granted a Motion to Dismiss filed by Petitioner under 8 C.F.R. § 1239.2(c). The motion was **expressly unopposed by DHS.** The court's order contains the textual explanation: **"CAA eligible." Exhibit F**.

18. The dismissal was administratively final when entered, and no appeal was ever taken. Its enduring significance is twofold: first, Petitioner has never been ordered removed; second, and with particular force, DHS itself acknowledged through its non-opposition that Petitioner qualifies under the Cuban Adjustment Act of 1966. As a noncitizen paroled at a port of entry, Petitioner's Form I-485 falls within the **exclusive jurisdiction of USCIS** under 8 C.F.R. § 1245.2(a)(1)(ii); the Immigration Court never had authority to adjudicate his adjustment, whether or not he was in proceedings.

19. After ICE detained Petitioner, the Government re-calendared his previously dismissed removal proceedings before the El Paso Immigration Court. EOIR's Automated Case Information now lists the case as pending and sets a master calendar hearing, by WebEx, on August 24, 2026, at 1:00 PM before Immigration Judge Nicholas B. Lucic. **Exhibit N**. That setting is a master calendar hearing, **not a bond hearing**, and the Immigration Judge has no authority to redetermine Petitioner's custody so long as the Government treats him as an arriving alien. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B).

D. Timely I-485 CAA Application and Perfect Biometrics Compliance

20. As a Cuban national who was inspected and paroled, Petitioner is prima facie eligible to adjust status to lawful permanent residence under the Cuban Adjustment Act of 1966, Pub. L. No. 89-732, 80 Stat. 1161. On July 21, 2025, Petitioner filed a Form I-485 Application to Register Permanent Residence with USCIS under that Act, paying the full $1,440.00 fee. USCIS issued a

receipt notice (Form I-797C) confirming Receipt No. [redacted] with the preference classification expressly identified as **"Cuban Adjustment Act." Exhibit G.**

21. On August 14, 2025, USCIS issued an Application Support Center Appointment Notice (Form I-797C) directing Petitioner to appear for biometrics on September 2, 2025, at the USCIS Lubbock Application Support Center. **Exhibit H.** Petitioner timely appeared and completed biometrics on the scheduled date and time. The collection of biometrics reflects an active, advancing adjudication; USCIS has made no adverse finding on the merits of his application, which remains pending today.

E. State Arrest, Release on $25,000 Bond, and Ongoing Compliance

22. On June 7, 2026, Petitioner was arrested by local authorities at his home in Odessa, Texas. Petitioner was released from state custody after posting a secured bond of **$25,000.00.**

23. Upon information and belief, **no formal criminal charges have been filed against Petitioner** arising from that arrest. Petitioner has not been indicted, has not been arraigned, and is not the subject of any formal criminal accusation. No state or federal court has entered any conviction against Petitioner.

24. Petitioner is currently in compliance with all conditions of his state release, including regular check-ins that are reported through his sister and authorized representative, Yudimileysis Campos Pena. This affirmative compliance with conditions imposed by a state court — a court with actual jurisdiction and local expertise to evaluate both flight risk and dangerousness — establishes that Petitioner does not present a risk requiring civil detention without bond.

F. ICE Assumption of Custody Without Any Individualized Determination

25. On July 9, 2026, ICE assumed custody of Petitioner and transferred him to the El Paso Processing Center, 8915 Montana Avenue, El Paso, Texas 79925. **Exhibit I.** As of the filing of this Petition, Petitioner has been detained by ICE for more than six weeks.

26. ICE has not afforded Petitioner **any bond hearing.** No Immigration Judge or other neutral decisionmaker has ever made an individualized determination that Petitioner presents a danger to

the community or a risk of flight. He is being held on the basis of his immigration status alone, without any individualized justification and without any process.

27. At no point in connection with his June 7, 2026 arrest was Petitioner charged with a crime, arraigned, or made the subject of a criminal complaint. The Government has identified no change in his individual circumstances — no new conviction, no new charge, no finding of danger or flight risk — since it released him in 2024 and since Judge Tida dismissed his proceedings with explicit acknowledgment of CAA-eligibility in 2024.

G. Physical Assault Sustained Inside Facility

28. During his detention at the El Paso Processing Center, Petitioner was physically assaulted by another detainee, sustaining injuries that required medical attention. The injuries are visually documented in photographs captured by his sister Yudimileysis Campos Pena during a video call with Petitioner while he was detained at the facility. **Exhibit J**.

29. This incident, occurring within a facility under the exclusive custody and control of Respondents, establishes that Respondents have failed to maintain conditions adequate to protect Petitioner from foreseeable physical harm. Petitioner has sustained actual physical harm within the government's custody, and remains exposed to the continuing risk of additional harm.

H. The Absence of Any Legitimate Detention Purpose

30. Petitioner has no final order of removal. There is, accordingly, nothing for his detention to "effectuate." His re-calendared proceedings are at their earliest stage, with only a master calendar hearing set, and are governed by 8 U.S.C. § 1226(a). At the same time, the Government has already determined — by paroling and releasing him under INA § 212(d)(5)(A), by allowing the dismissal of his proceedings with recognition of CAA-eligibility, and by leaving him at liberty for more than two years — that he is neither a danger nor a flight risk. His continued confinement is untethered from any purpose that civil detention may lawfully serve. *See Zadvydas v. Davis*, 533 U.S. 678, 690 (2001).

IV. LEGAL STANDARD

31. The writ of habeas corpus is the fundamental instrument for safeguarding individual liberty against arbitrary executive action. *Boumediene v. Bush*, 553 U.S. 723, 743 (2008). A district court may grant the writ to a person held "in custody in violation of the Constitution or laws ... of the United States." 28 U.S.C. § 2241(c)(3). Civil immigration detention is a deprivation of physical liberty subject to the Due Process Clause, and it is constitutional only insofar as it bears a reasonable relation to a legitimate, non-punitive governmental purpose — namely, ensuring appearance and protecting the community. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001); *Jackson v. Indiana*, 406 U.S. 715, 738 (1972).

32. Detention that is not connected to such a purpose, or that is imposed without procedures adequate to guard against erroneous deprivation, cannot stand. *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976); *Foucha v. Louisiana*, 504 U.S. 71, 80 (1992). Where the Government detains a noncitizen who is present in the interior and not subject to mandatory detention, due process and 8 U.S.C. § 1226(a) require an individualized bond hearing before a neutral decisionmaker — or, where the record already demonstrates the absence of any legitimate basis for detention, immediate release.

V. LEGAL ARGUMENT

A. Petitioner's Detention Is Governed by 8 U.S.C. § 1226(a), Not § 1225(b); His Detention Without Any Hearing Violates Due Process.

33. Civil immigration detention must rest on a specific statutory grant of authority. Section 1225(b) governs applicants for admission stopped at the border; § 1231 governs detention during the removal period after a final order; and § 1226(a) governs the discretionary detention of a noncitizen already present in the United States pending a decision on whether he is to be removed.

34. Petitioner falls within § 1226(a). He has no final order of removal, so § 1231 does not apply. He was not apprehended at the border; he was paroled into the country and has lived in the interior for more than two years. His proceedings were dismissed on December 16, 2024, with explicit recognition by DHS itself that he qualifies under the Cuban Adjustment Act, and although the Government re-calendared them following his detention, those proceedings are precisely the setting in which § 1226(a) — and its guarantee of a bond hearing — applies.

35. This Court and its sister courts within the Fifth Circuit have consistently recognized that noncitizens already present in the United States who were paroled at a port of entry are subject to discretionary detention under § 1226 and are entitled to a bond hearing. *See Longoria Mendoza v. Noem*, No. 5:26-CV-0728-JKP, 2026 WL 809441 (W.D. Tex. Feb. 26, 2026); *Aliaga Zamora v. Bondi*, No. SA-26-CA-00447-XR, 2026 WL 693054 (W.D. Tex. Mar. 10, 2026); *Rojas v. Noem*, 2025 WL 3038262 (W.D. Tex. Oct. 30, 2025). Recent decisions from sister districts in the Fifth and Tenth Circuits have recognized that § 1226(a) governs such detentions.

36. The dividing line is between a noncitizen apprehended *at* the border or a port of entry, who may be treated as an applicant for admission, and a noncitizen who — like Petitioner — was released into the interior and was later taken into custody away from the border. The latter is detained under § 1226(a) and is entitled to an individualized bond hearing. Petitioner was paroled, released, and lived in the interior for over two years before being re-detained during an interior enforcement action — not at any port of entry. Section 1226(a) governs.

37. The point has special force here. Petitioner is now once again in re-calendared Section 240 proceedings, with a master calendar hearing set for August 24, 2026 — proceedings in which he is a noncitizen present in the interior, not an applicant apprehended at the border. His detention pending those proceedings is governed by § 1226(a), which carries with it the right to an individualized bond hearing. The Government cannot invoke the existence of removal proceedings to justify his detention while denying him the bond hearing those very proceedings, under § 1226(a), require.

38. Even if the Court were to accept the Government's premise that § 1225(b) supplies the detention authority, that would not authorize confining Petitioner indefinitely without a hearing. The Supreme Court has held that the indefinite detention of even **inadmissible** noncitizens raises grave constitutional problems and must be read to contain an implicit reasonableness limit. *Clark v. Martinez*, 543 U.S. 371, 386 (2005) (extending *Zadvydas* to inadmissible aliens, in a case involving Cuban nationals whom Cuba would not repatriate); *Zadvydas v. Davis*, 533 U.S. 678, 690, 699–701 (2001).

B. The Government Cannot Have It Both Ways: Having Paroled Petitioner, Recognized His CAA-Eligibility, and Left Him at Liberty, It May Not Now Recharacterize Him to Deny a Hearing.

39. The Government's own conduct refutes any claim that Petitioner must be detained without a hearing. The Government **paroled** him into the United States under INA § 212(d)(5)(A) — a discretionary act that reflects an affirmative determination that his release served a public interest and that detention was unnecessary. The Government then **did not oppose** the Motion to Dismiss before Judge Tida, formally acknowledging that Petitioner qualifies under the Cuban Adjustment Act. Finally, it left Petitioner at liberty for more than two years. Having made these determinations, the Government cannot now relabel Petitioner a "mandatory" detainee to avoid the individualized hearing the Constitution and § 1226(a) require.

40. Absent evidence of a material change in Petitioner's individualized circumstances — and the Government has identified none, for there is none — there is no reason to believe that re-detention serves any permissible purpose. A prior release determination by the Government is powerful evidence that detention is not necessary to prevent flight or protect the community.

C. ICE's Custody Is Pretextual and Punitive in Violation of Bell v. Wolfish and Kingsley v. Hendrickson.

41. The facts of Petitioner's re-detention reveal the pretextual nature of ICE's custody. State authorities investigated a matter and released Petitioner on a $25,000 secured bond — a determination that Petitioner did not pose an unmanageable risk such that no bond could contain him. No formal charges have been filed. Petitioner had and has a pending I-485 CAA application, having timely completed biometrics on September 2, 2025. Yet ICE assumed custody of Petitioner upon his release from state jail, effectively substituting indefinite civil detention for the calibrated conditions of release imposed by the state court that had actual jurisdiction to evaluate any risk.

42. This pattern — where ICE detention functions as an extension of a state investigation with no formal charges — is precisely the pretextual civil confinement that *Bell v. Wolfish*, 441 U.S. 520, 535 (1979), and *Kingsley v. Hendrickson*, 576 U.S. 389 (2015), forbid. Civil detention cannot be used as punishment. When the civil immigration apparatus is employed to accomplish what the criminal system did not even attempt — and where the criminal system has already evaluated the individual and deemed him suitable for release on bond — the detention loses its civil character.

43. The deference between systems runs in one direction only: the state court has superior local expertise to evaluate risk and has already done so. When the criminal system — with full access to the record of the state investigation — determines that $25,000 in secured bond is sufficient, ICE cannot reasonably conclude that **no** conditions of release protect federal interests.

D. Respondents' Failure to Protect Petitioner from Physical Harm Establishes Deliberate Indifference and Irreparable Injury.

44. Petitioner sustained physical assault inside the El Paso Processing Center by another detainee, requiring medical attention. This fact, documented in photographs, establishes more than a theory of future harm — it establishes harm already sustained within the government's custody.

45. Under *Farmer v. Brennan*, 511 U.S. 825, 834 (1994), officials violate due process when they exhibit deliberate indifference to substantial risks of harm to persons in their custody. The Supreme Court has extended this protection to civil detainees with protections at least as strong as those of convicted prisoners. *Kingsley v. Hendrickson*, 576 U.S. 389 (2015). *Youngberg v. Romeo*, 457 U.S. 307, 315–16 (1982), establishes that the government has an affirmative duty toward persons in its custody, including the duty to provide reasonably safe conditions.

46. The physical harm already sustained, coupled with the ongoing risk of further violence in a facility that has demonstrated its inability to protect Petitioner, constitutes irreparable harm within the meaning of Federal Rule of Civil Procedure 65. This factor alone justifies the remedy most protective of Petitioner's liberty: immediate release. Continuing detention in a facility where Petitioner has already been physically harmed is tantamount to the Court sanctioning continued physical harm upon a person without formal criminal charges and with a constitutional right to remain free.

E. Substantive Due Process Independently Forbids This Confinement.

47. The Fifth Amendment protects **all persons** within the United States. *Zadvydas*, 533 U.S. at 693. "Freedom from imprisonment — from government custody, detention, or other forms of physical restraint — lies at the heart of the liberty that [the Due Process] Clause protects." *Id.* at 690. Physical liberty is "the most elemental of liberty interests." *Hamdi v. Rumsfeld*, 542 U.S. 507, 529 (2004).

48. Substantive due process independently forbids this confinement. Detention violates substantive due process unless it is narrowly tailored to a compelling government interest and bears a reasonable relation to its purpose. *Foucha*, 504 U.S. at 79–80; *Zadvydas*, 533 U.S. at 690. Here, the only purposes that could justify civil detention — preventing flight and protecting the community — are unserved: there is no removal order, no conviction, no individualized finding, the Government itself determined that release was appropriate, and the state court imposed specific conditions of release with which Petitioner complies. Continued detention is substantively untethered from any legitimate end.

F. The Mathews v. Eldridge Balancing Test Compels Immediate Release.

49. The procedural-due-process analysis of *Mathews v. Eldridge*, 424 U.S. 319, 335 (1976), requires far more process than Petitioner has received.

50. Private interest. The private interest is physical liberty itself — "the most elemental of liberty interests" — together with Petitioner's ability to continue pursuing his pending Cuban Adjustment Act application from outside detention. *Hamdi*, 542 U.S. at 529; *Zadvydas*, 533 U.S. at 690.

51. Risk of erroneous deprivation. The risk is at its zenith. Petitioner has received **no hearing at all** — no neutral decisionmaker has examined whether he is dangerous or a flight risk. A person who was released by the Government, complied for two years, has no conviction, currently complies with state bond conditions, and has sustained physical harm inside the government's custody is being held on the basis of no individualized finding whatsoever.

52. Government interest. No legitimate government interest is served here: there is no removal order, no conviction, no changed circumstance, and the Government already determined that release was appropriate. The pendency of his re-calendared proceedings cuts the other way — it confirms that § 1226(a) governs and that a bond hearing is required.

G. Petitioner's Pending Cuban Adjustment Act Application and the Absence of Any Removal Order Confirm That Detention Serves No Legitimate Purpose.

53. Petitioner is not a person at the end of the immigration process awaiting removal; he is a person actively pursuing lawful permanent residence through the very channel that Congress created for Cuban nationals. The Cuban Adjustment Act of 1966 permits a Cuban native or citizen who has

been inspected and admitted or paroled to adjust status. Petitioner was paroled, has a pending Form I-485 (Receipt No. IOE0933087499), has completed biometrics, and has received no adverse merits determination. **Exhibits G, H.**

54. Because Petitioner has no final order of removal, there is no removal for his detention to facilitate; his re-calendared proceedings are at their earliest stage. Detention may not be used to warehouse a person who is statutorily eligible for relief and pursuing it in good faith.

55. Additionally, Cuba has historically declined to repatriate its nationals, and that fact has been officially recognized by the U.S. government. See Presidential Proclamation 10949 (June 4, 2025), 90 Fed. Reg. 24427; Executive Order 14380 (May 1, 2026). Judicial notice under Federal Rule of Evidence 201. The practical impossibility of removal to Cuba only confirms the point: there is no realistic removal on the horizon to which detention could be tethered. *See Zadvydas*, 533 U.S. at 690; *Clark v. Martinez*, 543 U.S. at 386.

56. Petitioner's record establishes that he is neither a flight risk nor a danger. He presented himself to U.S. authorities at an official port of entry with a pre-scheduled appointment; he was released and complied with every condition; he filed and prosecuted a lawful application; he appeared timely for biometrics; he lived openly in the community for more than two years after his proceedings were dismissed; and he now complies with state bond conditions imposed by a court with actual jurisdiction. A person who behaves this way is the paradigm of someone who should be released.

H. A Bond Hearing Is Not an Adequate Remedy in the Circumstances of This Case — Direct Release Under § 2241 Is Required.

57. This Court should not order a bond hearing as the exclusive remedy because the record demonstrates that such hearings routinely deny bond to similarly situated CAA-eligible detainees on grounds of "flight risk" and "danger to community" that ignore the pendency of I-485 applications and the absence of any formal criminal charges. Recent decisions from sister districts within the Fifth and Tenth Circuits have recognized that § 1226(a) governs such detentions and have ordered bond hearings — yet in analogous cases across this region, immigration judges have systematically denied bond, forcing detainees to file successive habeas petitions to obtain meaningful relief. Where a remedy proves "utterly inadequate" to redress the underlying

constitutional injury, this Court retains authority under § 2241 to grant direct release. *See Preiser v. Rodriguez*, 411 U.S. 475, 485 (1973); *Peyton v. Rowe*, 391 U.S. 54, 66–67 (1968).

58. The record here is unidirectional: DHS acknowledged Petitioner's CAA-eligibility, USCIS accepted and is processing his I-485, Petitioner complied with biometrics, has no convictions, has no formal charges, complies with state bond conditions, has stable LPR family ties, and has already sustained physical harm in detention. On this record, a bond hearing — where the burden might be placed on Petitioner or where the Immigration Judge might cite generic "flight risk" — would not remedy the constitutional injury. Only direct release does.

59. If notwithstanding the foregoing this Court considers ordering a bond hearing as an alternative remedy, Petitioner respectfully requests: (a) a minimum of **twenty-one (21) days** for adequate preparation of evidence, witnesses, and sponsor documentation — an essential period given that Petitioner proceeds pro se from detention, with limited access to documents and legal assistance; (b) that the Government bear the burden by clear and convincing evidence under *Addington v. Texas*, 441 U.S. 418, 432–33 (1979), and *Foucha v. Louisiana*, 504 U.S. 71, 81–83 (1992); and (c) that the Immigration Judge be expressly prohibited from invoking INA § 235(b) or 8 U.S.C. § 1225(b) as a basis to deny bond.

I. Any Exhaustion Requirement Is Excused Because No Administrative Remedy Is Available.

60. Exhaustion does not bar this Petition. By treating Petitioner as an "arriving alien," the Government places his bond determination outside the jurisdiction of the Immigration Court: an Immigration Judge "may not redetermine conditions of custody" for "arriving aliens in removal proceedings." 8 C.F.R. § 1003.19(h)(2)(i)(B). The Government thus simultaneously denies Petitioner a bond hearing before the agency and asserts that he may be detained without one. Where the agency offers no avenue for relief, exhaustion is excused as futile, and habeas is the only available remedy.

VI. EMERGENCY MOTION FOR TEMPORARY RESTRAINING ORDER AND PRELIMINARY INJUNCTION

61. Petitioner moves for an emergency temporary restraining order and preliminary injunction (1) barring his transfer outside this District and (2) barring his removal from the United States while this Petition is pending. The four *Winter* factors are satisfied. *Winter v. Nat'l Res. Def. Council*, 555 U.S. 7, 20 (2008).

62. Likelihood of success. For the reasons set forth above, Petitioner is likely to succeed on his claim that his detention without any individualized hearing violates the Fifth Amendment and that, under the law of this District, § 1226(a) governs his detention and entitles him to immediate release given the unidirectional record in his favor.

63. Irreparable harm. Every additional day of unlawful physical confinement is an irreparable injury that no later judgment can undo. The loss of physical liberty is the paradigmatic irreparable harm. Moreover, Petitioner **has already sustained physical harm** inside the detention facility, documented in photographs (**Exhibit J**), and remains in the same environment where that harm occurred. The ongoing risk of additional physical harm constitutes irreparable harm in its most acute form. Moreover, transfer out of the District or removal would defeat this Court's ability to grant any effective remedy.

64. Balance of equities. The balance tips sharply toward Petitioner. He seeks only the process the Constitution guarantees, while facing continuing physical harm. The Government has no legitimate interest in transferring or removing a person who has no removal order, no conviction, a pending application for lawful status, and whom the Government itself acknowledged as CAA-eligible.

65. Public interest. The public interest is always served by compliance with the Constitution. *See Preston v. Thompson*, 589 F.2d 300, 303 n.3 (7th Cir. 1978). There is no public interest in confining a compliant, CAA-eligible individual without a hearing. There is no public interest in keeping a person in a facility where he has already been physically harmed.

66. To preserve the status quo and this Court's jurisdiction, the requested injunction against transfer and removal should issue immediately. *Cf. Ex parte Endo*, 323 U.S. 283, 306 (1944).

67. The risk is concrete. Immigration detainees are routinely moved between facilities and across districts, and removal can be effectuated rapidly and without notice.

VII. PRAYER FOR RELIEF

WHEREFORE, Petitioner respectfully requests that this Court:

a. Assume jurisdiction over this matter;

b. Issue a writ of habeas corpus ordering Petitioner's immediate release from immigration custody, on his own recognizance or under reasonable conditions of supervision;

c. Issue a temporary restraining order and preliminary injunction barring Respondents and all persons acting in concert from transferring Petitioner outside this District, or removing him from the United States, while this Petition is pending, without first obtaining leave of this Court;

d. Order Respondents to show cause, within three (3) days, why the writ should not be granted;

e. Order Respondents to immediately notify this Court and Petitioner's authorized representative of any attempt to transfer or remove Petitioner; and

f. Grant such other and further relief as this Court deems just and proper.

VIII. VERIFICATION

I, **YUDIMILEYSIS CAMPOS PENA**, a Lawful Permanent Resident of the United States, declare under penalty of perjury pursuant to 28 U.S.C. § 1746 that I am the sister of Petitioner Miguel Campos Perez and am filing this Petition on his behalf pursuant to 28 U.S.C. § 2242 as his next friend, because he is detained at the El Paso Processing Center with limited ability to prepare and file legal documents; that I am a Lawful Permanent Resident of the United States since September 13, 2022 (USCIS# [redacted], category CU6); that I reside at [redacted] Odessa, Texas [redacted] — the same family address where Petitioner has lived since his release in 2024; that during a recent video call with my brother while he was detained at the El Paso Processing Center, I observed that his face was visibly swollen from injuries he had sustained inside the facility, and I captured photographs from that video call, which are attached as **Exhibit J**; that Petitioner is currently in compliance with the conditions of his state release under a $25,000 secured bond, including regular check-ins reported through me; and that the factual statements in this Petition are true and correct to the best of my knowledge, information, and belief.

Respectfully submitted,

_____ Date: August 21, 2026

YUDIMILEYSIS CAMPOS PENA
Lawful Permanent Resident; Sister of Petitioner and Next Friend
[redacted]@gmail.com