

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

)	
ERNESTO ALFONSO PEREZ)	
)	Case No. 2:25-cv-00947-SPC-DNF
Petitioner,)	
)	
v.)	
)	
MATTHEW MORDANT, in his official)	
capacity as Warden of the Florida Soft Side)	
South, "Alligator Alcatraz"; GARRET)	
RIPA, in his official capacity as Miami Field)	
Office Director, Immigration and Customs)	
Enforcement's Enforcement and Removal)	
Operations; TODD LYONS, in his official)	
capacity as Acting Director of Immigration)	
and Customs Enforcement; KRISTI NOEM,)	
in her official capacity as Secretary of the)	
Department of Homeland Security; and)	
PAMELA BONDI, in her official capacity as)	
Attorney General.)	
)	
Respondents.)	
)	

PETITIONER'S REPLY

INTRODUCTION

Petitioner is replying to Respondent’s Response within the three days allotted by this Court. *See* Doc. 7; Doc. 9. This Court retains jurisdiction over the present habeas petition pursuant to 28 U.S.C. § 2241 and the protections guaranteed by the Suspension Clause of the U.S. Constitution. Furthermore, “under 8 U.S.C. § 1225(b)(1)(A)(iii)(II), a person who has been paroled without first having been placed in expedited removal cannot be designated for expedited removal.” *Espinoza v. Kaiser*, 2025 WL 2675785, at *5 (E.D. Cal. Sept. 18, 2025) (emphasis in original; citing *Coalition For Humane Immigrant Rights, v. Noem*, No. 25CV-872 (JMC), 2025 WL 2192986, at *3 (D.D.C. Aug. 1, 2025)); *see also* *Munoz Materano v. Arteta*, No. 25-CV-6137, 2025 WL 2630826, at *11 (S.D.N.Y. Sept. 12, 2025) (adopting the holding in *Coalition*); *see also* *Pedro Yimi Cardin Alvarez*, WL 2898389, at * 13 (D. Ariz. Oct. 7, 2025).

ARGUMENT

Under 28 U.S.C. § 2241, federal district courts have the authority and jurisdiction to hear applications for habeas corpus by *any* person who claims to be held “in custody in violation of the Constitution or laws or treaties of the United States.” The “essence of habeas corpus is an attack by a person in custody upon the legality of that custody,” and thus to be within the “core of habeas corpus,” a petitioner must seek “either immediate release from that confinement or the

shortening of its duration.” *Preiser v. Rodriguez*, 411 U.S. 475, 484, 489 (1973).

Mr. Alfonso is challenging his unlawful detention following the termination of his parole and § 1229a removal proceedings without any consideration of his case and circumstances. 8 U.S.C. § 1252(g) does not bar jurisdiction given that this is a challenge of the Government’s applied implementation of expedited removal under the INA, not the constitutionality of it. *See E.V., v. Raycraft*, No. 4:25-CV-2069, 2025 WL 2938594, at *6 (N.D. Ohio Oct. 16, 2025); *see Munoz Materano*, 2025 WL 2630826, at *10; *Mata Velasquez v. Kurzdorfer*, No. 25-CV-493, 2025 WL 1953796, at *7 (W.D.N.Y. July 16, 2025) (holding that § 1252(e)(3) cannot bar jurisdiction when the petitioner argued the Government did not have the lawful authority to initiate the expedited removal process against him at that time, rather than arguing the constitutionality of expedited removal generally).

The Suspension Clause of the U.S. Constitution allows for this Court to exercise jurisdiction over Mr. Alfonso’s claims. The Supreme Court in *Boumediene v. Bush* provided three factors for district courts to consider when evaluating the reach and applicability of the Suspension Clause. 553 U.S. 723, 766 (2008). Those factors are: “(1) the citizenship and status of the detainee and the adequacy of the process through which that status determination was made; (2) the nature of the sites where apprehension and then detention took place; and (3) the practical obstacles inherent in resolving the prisoner’s entitlement to the writ.” *Id.*

For the first factor, courts compare the process that a detainee has actually been afforded with the “procedures and adversarial mechanisms that would eliminate the need for habeas corpus review.” *Id* at 767. As for the second factor, that the apprehension and detention took place within the United States weighs in favor of finding rights under the Suspension Clause. *Id* at 768. Concerning the third factor, if government objectives will be compromised if habeas corpus courts had jurisdiction to hear the detainees’ claims, that may weigh against application of the Suspension Clause, but that is not the case here. *See id* at 769-771.

In *Department of Homeland Security v. Thuraissigiam*, the Supreme Court provided an analysis of the Suspension Clause in the immigration context. 591 U.S. 103, 114 (2020). Thuraissigiam, a noncitizen, was apprehended within 25 yards of the border and detained for expedited removal. *Id*. He claimed a fear of returning to his home country, Sri Lanka but also affirmed that he did not fear persecution based on a protected ground. *Id*. Accordingly, the asylum officer determined that Thuraissigiam lacked a credible fear of persecution and ordered him removed, which was affirmed by a supervising officer and an Immigration Judge. *Id*. Thuraissigiam then filed a habeas petition, arguing that he was deprived of a “meaningful opportunity to establish his claims” and requesting a writ of habeas corpus directing the government to provide him with “a new opportunity to apply for asylum and other applicable forms of relief.” *Id* at 114-115. The Supreme

Court found that the Suspension Clause was inapplicable in that case because Thuraissigiam was not seeking release from custody. *Id.* at 117–118. Instead, he sought to have his removal order vacated and to obtain another opportunity to apply for asylum, which the Court characterized as a request for “the opportunity to remain lawfully in the United States,” which it “falls outside the scope of the writ [of habeas] as it was understood when the Constitution was adopted.” *Id.* at 119.

Petitioner’s case is readily distinguishable from *Thuraissigiam*. Petitioner does not seek “the opportunity to remain lawfully in the United States,” but merely seeks release from custody, which is the traditional purpose of the habeas writ. Petitioner also was lawfully paroled into the U.S. as opposed to being apprehended just inside the border and placed on Expedited Removal Proceedings, has lived here for over three years, has connections to the United States, and has been granted a work permit.

Under the *Boumediene* factors, and the distinction between a migrant who is “at the threshold of initial entry” from one who is more established in this country, the Suspension Clause applies to Petitioner. For the first factor, although Petitioner is not a citizen, he has a much stronger status than the petitioners in *Boumediene* and *Thuraissigiam*. Petitioner was not apprehended only 25 yards from the border and immediately ordered removed but instead he was paroled into the United

States and has remained here for over three years. He was apprehended at the Miami Immigration Court and, upon information and belief, has not yet been ordered removed. During his over three years in the U.S., Petitioner has received work authorizations and has developed significant ties to the community, including a U.S. Citizen girlfriend, a Lawful Permanent Resident father, and several friends who are either U.S. Citizens or Lawful Permanent Residents.

With respect to the second *Boumediene* factor, if the 8 U.S.C. § 1252 were to deprive the Court of jurisdiction to review Mr. Alfonso's detention, then he would have *no* forum to challenge his detention. The absence of any meaningful review mechanism, combined with the limited avenues for judicial oversight under the expedited removal framework, leaves Mr. Alfonso with no access to a court with jurisdiction to review the legality of his detention outside of the Petition for Writ of Habeas Corpus. Respondents mention the appeals process with the Board of Immigration Appeals ("BIA), but this would only review the Immigration Judge's decision to dismiss Mr. Alfonso's proceedings, not his detention.

Concerning the third factor, Respondents' Response does not express any arguments as to any practical obstacles that prevent Mr. Alfonso from seeking the writ of habeas corpus. There is no evidence that Petitioner is dangerous or a flight risk. Notably, Respondents made the decision to parole Petitioner when he arrived, without having ties to the community or approved work authorizations, and in the

over three years since his entry into the country, Petitioner's ties to the United States have only increased. Petitioner also has complied with the law during his presence in the United States, as evidenced by his lack of criminal record and the fact that he was detained at the Miami Immigration Court, where he was trying to formalize his status.

Thus, this Court has jurisdiction pursuant to the Suspension Clause.

CONCLUSION

For the foregoing reasons and those expressed in the Petition for Habeas Corpus and Request for Order to Show Cause, this Court should find that it has jurisdiction over this case and should grant the petition.

Respectfully submitted,

/s/ Kenia Garcia

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Dated: November 2, 2025

CERTIFICATE OF SERVICE

I hereby certify that on November 2, 2025, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

Respectfully submitted,

/s/ Kenia Garcia

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