THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA

LUIS ALAIN NAVARRO PERERA, Petitioner vs. PAMELA BONDI, in her official capacity as Attorney General of the United States, et. al. Respondents.	)	Case No.: 2:25-cv-1054 Agency File: [redacted]

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO HABEAS PETITION

Petitioner Luis Alain Navarro Perera hereby submits this Reply to Respondents' Response to Habeas Petition [Docket No. 8]. Mr. Navarro Perera challenges his mandatory detention under 8 U.S.C. § 1225 pursuant to new DHS policy and precedent from the Board of Immigration Appeals, and asserts that he is instead entitled to a bond hearing under 8 U.S.C. § 1226.

FACTUAL AND PROCEDURAL BACKGROUND

Mr. Navarro Perera entered the United States on October 26, 2023. Docket

No. 1 at ¶ 62. On October 27, 2023, he was issued a Warrant for Arrest of Alien and detained under section 236 of the INA, 8 U.S.C. § 1226. *Id.* at ¶ 63. That same day, he was issued a Notice to Appear ("NTA"), charging him as an alien present in the United States who has not been admitted or paroled. *Id.* at ¶ 64. Also on October 27, 2023, Mr. Navarro Perera was issued an Order of Release on Recognizance, indicating that "in accordance with section 236 of the Immigration and Nationality Act . . . you are being released on your own recognizance." *Id.* at ¶ 65.

Despite Mr. Navarro Perera's consistent compliance with conditions of his release and absence of any new violations, on November 13, 2025, he was detained by ICE. *Id.* at ¶ 66. Since then, Mr. Navarro Perera remains detained at Alligator Alcatraz without the right to a bond hearing.

ARGUMENT

The Government concedes that the questions of law presented in this case, and the challenges to the government's policy and practice, "substantially overlap" with *Garcia v. Noem*, et al., No. 2:25-cv-00879-SPC-NPM, Doc. 14 at 4-5, (M.D. Fla. Oct. 10, 2025), in which this Court already rejected the same arguments the Respondents now advance. Nevertheless, Mr. Navarro Perera addresses each contention briefly.

Respondents argue that title 8 U.S.C. § 1252(g) bars review of Mr. Navarro Perera's claims. But this Court already held in *Garcia v. Noem* that § 1252(g) does

not bar review of the precise question presented here. *Garcia v. Noem*, et al., No. 2:25-cv-00879-SPC-NPM, Doc. 14 at 4-5, (M.D. Fla. Oct. 10, 2025). The jurisdictional bar at 8 U.S.C. § 1252(g) is narrow – it applies only "to three discrete actions that the Attorney General may take: her 'decision or action' to 'commence proceedings, adjudicate cases, or execute removal orders.'" *Id.* at 4-5 (quoting *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999) and *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018)). Mr. Navarro Perera is not challenging any of those actions. Instead, like the petitioner in *Garcia* "he asks the Court to answer a legal question–whether he is subject to mandatory detention under Section 1225(b)(2) or discretionary detention under Section 1226(a)." *Id.* at 4. Therefore, section 1252(g) does not apply.

Next, Respondents argue that title 8 U.S.C. § 1252(b)(9) bars review of Mr. Navarro Perera's claims. Section 1252, titled "Judicial Review of Orders of Removal," outlines certain matters not subject to judicial review. *See* 8 U.S.C. § 1252. Subsection (b), titled "Requirements for Review of Orders of Removal," channels review of "final orders of removal" to federal courts of appeals. 8 U.S.C. § 1252(b). There is no such order here, nor is Mr. Navarro Perera seeking review of one. Therefore, this Court should find that § 1252(b)(9) does not bar this Court from reviewing Mr. Navarro Perera's claims.

As to Respondents' third and fourth arguments regarding exhaustion of remedies and detention under 8 U.S.C. § 1225, Petitioner incorporates by reference the arguments in his initial habeas petition.

Finally, Respondents argue that outright release is inappropriate and that this Court cannot order a bond hearing because such hearings are conducted by EOIR—which, they claim, is not a proper party to this suit. According to Respondents, the only appropriate respondent in this habeas action is the individual with physical custody of Petitioner, Matthew Mordant, and not the Attorney General or EOIR. But the Supreme Court has expressly declined to resolve the very question Respondents assert is settled, refusing to decide whether habeas petitions challenging immigration detention must be directed to the Attorney General or the immediate physical custodian. *See Rumsfeld v. Padilla*, 542 U.S.426, 435 n.8 (2004). This footnote recognizes that immigration detention raises unique considerations and leaves this precise question open.

Moreover, Respondents' position leads to an untenable result. On one hand, they argue that outright release is inappropriate under § 1226. On the other, they insist that a bond hearing is likewise unavailable because EOIR, not ICE, conducts such hearings and is "not a proper party." Under Respondents' theory, then, no form of habeas relief is possible—Petitioner cannot be released, and the Court also cannot order the only alternative relief that protects due process: a bond hearing. That

cannot be correct. Habeas is designed to provide a meaningful remedy where detention violates federal law. *See Boumediene v. Bush*, 553 U.S. 723, 779 (2008) ("The habeas court must have the power to order conditional release to cure unlawful detention.").

Federal courts—including those in this district—have routinely permitted habeas petitions to proceed with the Attorney General as a respondent in cases seeking release or bond hearings even when EOIR is not named as a party. *See*, e.g., *Hernandez-Lopez v. Hardin, et al.*, No. 2:25-CV-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025) (ordering EOIR bond hearing; Attorney General remained a respondent); *Garcia v. Noem*, et al., No. 2:25-cv-00879-SPC-NPM, Doc. 14 at 12, (M.D. Fla. Oct. 10, 2025) (same); *Armentero v. INS*, 340 F.3d 1058, 1068–70 (9th Cir. 2003).

Respondents' argument that the Attorney General must be excluded would render this Court powerless to award any relief at all—a result profoundly inconsistent with *Padilla*, which expressly contemplates exceptions to the immediate-custodian rule in non-core habeas contexts, and with the basic purpose of habeas corpus itself. The Court should reject Respondents' attempt to create a remedial vacuum and should instead grant effective relief, whether through ordering release or a prompt bond hearing.

CONCLUSION

For these reasons, and the reasons stated in the Petition, the Court should GRANT the Petition for Writ of Habeas Corpus and order Petitioner's immediate release or, in the alternative, a bond hearing.

Respectfully submitted,

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