UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

DYOVENSON DIXON,

Petitioner,

v.

Case No. 2:25-cv-1067-KCD-DNF
A- Number: [redacted]

WARDEN, SOUTH FLORIDA SOFT-SIDED FACILITY SOUTH, et al. (all official capacity),[1]

Respondents.
_____/

Response to Petition for Writ of Habeas Corpus

Petitioner Dyovenson Dixon challenges his detention by U.S. Department of Homeland Security ("DHS") and Immigration and Customs Enforcement ("ICE"), arguing he is entitled to a bond hearing under 8 U.S.C. § 1226. While reserving all rights—including a right to appeal—the Federal Respondents submit this abbreviated brief in lieu of exhaustive, duplicative briefing. This is an effort to preserve Respondents' arguments and conserve scare judicial resources. Should the Court prefer a fulsome discussion or entertain reconsidering its rulings on § 1226,

[1] The Warden is the only appropriate Respondent. 8 U.S.C. § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004); *Vandersnick v. Sec'y, Fla. Dep't of Corr.*, No. 5:18-cv-603-SPC-PRL, 2021 WL 1020914, at *1 n.3 (M.D. Fla. Mar. 17, 2021). Any relief the Court awards should be fashioned to that within the power of the immediate custodian (i.e., the Warden) or ICE/DHS. *See, e.g.*, *Mirando Bravo v. Noem*, No. 2:25-cv-1046-SPC-DNF, Doc. 8 at *3 (M.D. Fla. Dec. 5, 2025) (ordering ICE *either* to bring petitioner for a bond hearing or release by a specific date). The Court should substitute the Warden as a Respondent. *See* Fed. R. Civ. P. 25(d).

Respondents request leave to submit additional briefing. Otherwise, these standard preservation arguments are included in Section B below.

That said, there is some unique facts to this case rendering denial appropriate without getting to that argument. Those matters are addressed beneath in Section A.

Background

Dixon is a noncitizen who allegedly entered the United States without inspection, admission, or parole in January or February 2025. (Doc. 4 at 2). He entered through the US Virgin Islands—specifically, St. Thomas. (Doc. 4 at 2). Dixon tried to leave the Islands to visit Florida. (Doc. 4 at 2). When he was at the airport in St. Thomas in November 2025, US Customs and Border Patrol ("CBP") detained Dixon. (Doc. 4 at 2).

He was later transferred to ICE custody and detained at "Alligator Alcatraz." (Doc. 4 at 2). But he is now at Glades County Detention Center. (Doc. 4 at 1).

Certified Habeas Return

ICE is detaining Dixon under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). *See* 28 U.S.C. § 2243 ("The person to whom the writ or order is directed shall make a return certifying the true cause of the detention."). Dixon bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec'y of State*, 853 F. App'x 327, 329 (11th Cir. 2021).

Discussion

This analysis begins with an argument specific to these facts before turning to

Respondents typical position on §§ 1225 vs. 1226.

A. Unique Matters

Dixon claims he unlawfully entered the US about one year ago. (Doc. 4 at 2). After doing so, however, CBP encountered him at the airport on St. Thomas. (Doc. 4 at 2).

CBP checkpoints at airports are commonly US ports of entry. *See, e.g.*, *Jennings v. Rodriguez*, 583 U.S. 281, 285 (2018). Ports of entry are the equivalent of the American border. *See, e.g.*, *United States v. Cotterman*, 709 F.3d 952, 961-62 (9th Cir. 2013). Put different, after his unlawful entry (apparently without detection), Dixon physically returned to the border months later. That is the point at which CBP encountered him. And he was in that position presumably to gain admission to the US mainland for a visit.

Within the mine-run of habeas cases in Fort Myers over the last few months, these facts are unique. These circumstances are more like an obvious applicant for admission first detained at the border than an individual encountered years after entry within the country's interior. Dixon effectively went back to the US border to get travel permission within the country.

Where—as here—an alien is originally detained at the border seeking some sort of admission, this Court holds § 1225 applies. *Aranda Garcia v. Warden*, No. 2:25-cv-1053-KCD-DNF, 2025 WL 3537592, at *1 (M.D. Fla. Dec. 10, 2025); *Duenas Garcia v. ICE*, No. 2:25-cv-1004-KCD-NPM, 2025 WL 3277163, at *2 (M.D. Fla.

Nov. 25, 2025); *Pirto v. Warden*, No. 2:25-cv-966-KCD-DNF, Doc. 13 (M.D. Fla. Nov. 13, 2025). The facts here dictate the same result. CBP (then ICE) detained Dixon when he appeared at the legal equivalent of the border while seeking to travel from a US territory to Florida. On this unique fact pattern, § 1225(b)(2) applies.

To the extent that the Court disagrees, Respondents make the following argument for preservation.

B. Standard § 1225(b)(2) Argument

In *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), the Board of Immigration Appeals ("BIA") examined the plain language of § 1225, the Immigration and Nationality Act's ("INA") statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and ICE's prior practices. After doing so, the BIA held that "under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the respondent, who are present in the United States without admission." 29 I&N Dec. at 225. This Court should rule the same.

Respondents acknowledge that questions of law in this case substantially overlap with *Hernandez Lopez v. Hardin*, No. 2:25-cv-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct. 29, 2025). It should be noted, however, many courts recently ruled in Respondents favor on this issue. *Manzo Valencia v. Chestnut*, No. 1:25-cv-

01550 WBS JDP, 2025 WL 3205133, at *1-4 (E.D. Cal. Nov. 17, 2025).[2] As the battle of the string cites builds, there is clearly a countrywide district split on applying § 1225 or § 1226 in these instances. And at least five circuits—including the Eleventh—have active appeals on the matter. *Martinez v. Hyde*, No. 25-1902 (1st Cir.); *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir.); *Pizzaro Reyes v. ERO*, No. 25-1982 (6th Cir.); *Cortes Alonzo v. Noem*, No. 25-7348 (9th Cir.); *Hernandez Alvarez v. Warden*, No. 25-14065 (11th Cir.).[3]

Respondents respectfully disagree with the Court's decision in *Hernandez Lopez* and believe appeals on this legal question will be in their favor. That said, in the interest of judicial economy and to expedite the Court's consideration of this matter, Respondents make the following arguments for preservation purposes:

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[2] *See also Suarez v. Noem*, No. 1:25-cv-00202-JMD, 2025 WL 3312168, at *2-3 (E.D. Mo. Nov. 28, 2025); *Cortes Alonzo v. Noem*, No. 1:25-cv-01519 WBS SCR, 2025 WL 3208284, at *1-5 (E.D. Cal. Nov. 17, 2025); *Altamirano Ramos v. Lyons*, No. 2:25-cv-09785-SVW-AJR, 2025 WL 3199872, at *4-9 (C.D. Cal. Nov. 12, 2025); *Montoya Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331, at *3-7 (S.D. Tex. Nov. 13, 2025); *Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942, at *2-5 (E.D. Mo. Nov. 10, 2025);*Oliveira v. Patterson*, No. 6:25-cv-01463-DCJ-DJA, 2025 WL 3095972, at *2-6 (W.D. La. Nov. 4, 2025); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926, *2-6 (W.D. La. Oct. 31, 2025); *Rojas v. Olson*, No. 25-cv-1437-bhl, 2025 WL 3033967, at *2-10 (E.D. Wis. Oct. 30, 2025); *Garibay-Robledo v. Noem*, No. 1:25-cv-00177-H (Doc. 9) (N.D. Tex. Oct. 24, 2025); *Kum v. Ross*, No. 6:25-cv-00451-DCJ-CBW, 2025 WL 3113646, at *1-2 (W.D. La. Oct. 22, 2025); *Vargas v. Lopez*, No. 25-CV-526, 2025 WL 2780351, at *4-9 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-CV-23250CAB-SBC, 2025 WL 2730228 at *4-5 (S.D. Cal. Sept. 24, 2025).

[3] *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025); *Cortes Alonzo*, 2025 WL 3208284; *Pizzaro Reyes v. ERO*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) *Alvarez v. Morris*, No. 0:25-cv-24806, Doc. 6 (S.D. Fla. Oct. 27, 2024).

1. 8 U.S.C. § 1252(g) bars review of the Dixon's claims. *Hernandez Lopez*, No. 2:25-cv-830-KCD-NPM (Doc. 5 at 5-6) (M.D. Fla.). [4]

2. 8 U.S.C. § 1252(b)(9) bars review of Dixon's claims. *Id.* at 7-8.

3. Dixon failed to exhaust his administrative remedies. *Id.* at 8.

4. Dixon is properly detained under 8 U.S.C. § 1225. *Id.* at 8-14.

Should the Court determine Dixon's detention is subject to § 1226, the only appropriate remedy is to begin the process for a bond hearing—not outright release—during which an IJ can determine whether Dixon is a flight risk or danger to the community. *See, e.g., Vasquez Carcamo*, 2025 WL 3119263, at *5-6. Again, only EOIR can provide a bond hearing. That said, if ordered, ICE would do what is in its power to facilitate a hearing. *See Mirando Bravo*, No. 2:25-cv-1046-SPC-DNF, Doc. 8 at *3.

Conclusion

Dixon's Petition for Writ of Habeas Corpus should be denied. Even if the Court grants relief under § 1226, the only appropriate relief would be a bond determination by ICE and submission to an actual IJ bond hearing as set by EOIR.

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[4] Respondents acknowledge Local Rule 3.01(h) prohibits incorporation by reference of any other motion, legal memorandum, or brief. To achieve the purpose of efficiency, Respondents respectfully request the Court to suspend application of the rule in this instance. *See* M.D. Fla. Local R. 1.01(a)-(b); Fed. R. Civ. P. 1.

Date: December 15, 2025

Respectfully submitted,

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