


UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

RAYMUNDO FLORES CASTIZO

Petitioner,

v.

Case No. 2:25-cv-1087-SPC-DNF

A- Number: 

WARDEN, SOUTH FLORIDA SOFT-  
SIDED FACILITY SOUTH, et al. (all  
official capacity),<sup>1</sup>

Respondents.

\_\_\_\_\_ /

**Response to Petition for Writ of Habeas Corpus**

Petitioner Raymundo Flores Castizo 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 scarce judicial resources. Should the Court prefer a fulsome discussion or entertain reconsidering its rulings on

---

<sup>1</sup> 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 that Court award 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).

§ 1226, Respondents request leave to submit additional briefing. Otherwise, these standard preservation arguments are included below.

### **Background**

Flores Castizo is a 45-year-old national and citizen of Mexico who entered the United States without inspection, admission, or parole several times. (Doc. 1 at 19). He alleges voluntary returns to Mexico after multiple illegal entries, which ICE does not have any information to dispute right now. (Doc. 1 at 19). His last unlawful entry was allegedly in 2006. (Doc. 1 at 19).

Police encountered Flores Castizo during a traffic stop in November 2025. (Doc. 1 at 19). ICE served him with a form I-200, Warrant of Arrest (“WA”), and form I-862, Notice to Appear (“NTA”). (Ex. 1 at 1-4). The NTA charged him with unlawful presence and failure to possess proper entry documentation. (Ex. 1 at 1). Between his unlawful entry in 2006 and arrest in 2025, Flores Castizo made no effort to obtain legal status in the United States.

He was detained at “Alligator Alcatraz.” (Doc. 1 at 2). After he filed his Petition, Flores Castizo was transferred to his current location in Pearsall, Texas.

### **Certified Habeas Return**

ICE is detaining Flores Castizo 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.”). Flores Castizo 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

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 *Vasquez Carcamo v. Noem*, No. 2:25-cv-922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 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).<sup>2</sup> As the battle

---

<sup>2</sup> 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*

of the string cites builds, there is clearly a countrywide district split on applying § 1225 or § 1226 in these instances. And at least four circuits 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.).<sup>3</sup>

Respondents respectfully disagree with the Court's decision in *Vasquez Carcamo* 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:

1. 8 U.S.C. § 1252(g) bars review of the Flores Castizo's claims. *Vasquez Carcamo*, No. 2:25-cv-922-SPC-NPM (Doc. 5 at 2-6) (M.D. Fla.).<sup>4</sup>
2. 8 U.S.C. § 1252(b)(9) bars review of Flores Castizo's claims. *Id.* at 6-7.
3. Flores Castizo failed to exhaust his administrative remedies. *Id.* at 7-8.

---

*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).

<sup>3</sup> *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).

<sup>4</sup> 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.

4. Flores Castizo is properly detained under 8 U.S.C. § 1225. *Id.* at 8-13.

Should the Court determine Flores Castizo'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 Flores Castizo 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.

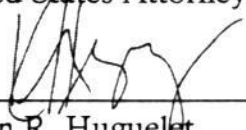
### **Conclusion**

Flores Castizo'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.

Date: December 8, 2025

Respectfully submitted,

GREGORY W. KEHOE  
United States Attorney



---

Kevin R. Huguelet  
Assistant United States Attorney  
Florida Bar Number 125690  
[Kevin.Huguelet@usdoj.gov](mailto:Kevin.Huguelet@usdoj.gov)  
2110 First Street, Suite 3-137  
Fort Myers, Florida 33901  
239-461-2237

**(Lead counsel for Respondents)**