

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JOHAN ALFONSO PARRA,

Petitioner,

v.

Case No. 2:25-cv-1116-KCD-DNF
A- Number: 079-451-517

WARDEN, GLADES COUNTY
DETENTION CENTER, et al. (all
official capacity),¹

Respondents.

Response to Petition for Writ of Habeas Corpus

Petitioner Johan Alfonso Parra 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. As it appears Alfonso Parra was detained at or near the border during his most recent illegal entry, the Court should deny the Petition. *Duenas Garcia v. ICE*, No. 2:25-cv-1004-KCD-NPM, 2025 WL 3277163 (M.D. Fla. Nov. 25, 2025) (Dudek, J.). That analysis is in Section A below.

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).

Alternatively, while reserving all rights—including a right to appeal—the Federal Respondents submit this abbreviated brief in lieu of exhaustive, duplicative briefing on the § 1225(b)(2) v. § 1226 issue. 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 § 1226, Respondents request leave to submit additional briefing. Otherwise, these standard preservation arguments are included below in Section B.

Background

Alfonso Parra is a 40-year-old citizen and national of Colombia who entered the United States without inspection, admission, or parole several times. As ICE understands it, he entered in 2000 and claimed asylum in 2003. During immigration proceedings between 2003 and 2009, Alfonso Parra was cited or charged with at least twenty-five criminal or civil offenses. In 2009, he withdrew his asylum application and voluntarily departed the United States.

In 2010, Alfonso Parra again entered without inspection. Initially, the Government charged this crime by complaint under 8 U.S.C. § 1325. *United States v. Alfonso Parra*, No. 5:10-po-5129 (S.D. Tex.). Shortly after, in October 2010, Alfonso Parra was removed from the United States by expedited removal procedures.

His last illegal entry was in December 2021.² Alfonso Parra was apparently

² Respondents make no argument or representations here as to this entry and reserve all rights to pursue any applicable criminal charges for illegal reentry under 8 U.S.C. § 1326(a).

detained at or near the border—then released into the country under parole “due to detention capacity and/or time in custody constraints.” In February 2022, ICE issued him a Form I-862, Notice to Appear (“NTA”). (Doc. 1-2 at 40). It charged unlawful presence (8 U.S.C. § 1182(a)(6)(A)) and failure to possess valid documentation (§ 1182(a)(7)(A)(i)). (Doc. 1-2 at 40). Then, in October 2022, Alfonso Parra filed another asylum application for withholding of removal, which is still pending.

Between 2022 and 2025, he was cited for six civil traffic infractions. Then, in November 2025, ICE reconsidered the conditions of Alfonso Parra’s parole and determined he was a flight risk. So it detained him. Alfonso Parra is currently detained at Glades County Detention Center.

On December 15, the immigration court held a hearing on Alfonso Parra’s proceedings. And the case was continued to February 4.

Certified Habeas Return

ICE is detaining Alfonso Parra 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.”). Alfonso Parra 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

A. Detention Near Border

As stated, it appears Alfonso Parra was detained at or near the border when he

last illegally reentered the United States in December 2021. No allegation (even liberally construed) rebuts ICE's understanding of the facts. Given his detention at or near the border upon entry, § 1225(b)(2) applies to Alfonso Parra. *Duenas Garcia*, 2025 WL 3277163, at *2 (M.D. Fla. Nov. 25, 2025) (Dudek, J.); *Aranda Garcia v. ICE*, No. 2:25-cv-1053-KCD-DNF, 2025 WL 3277163, at *1 (M.D. Fla. Dec. 10, 2025) (Dudek, J.). So the Court should deny the Petition.

B. Standard § 1225 v. § 1226 Argument

Alternatively, *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).³ 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.).⁴

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:

³ 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).

⁴ *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 Alfonso Parra's claims. *Hernandez Lopez*, No. 2:25-cv-830-KCD-NPM (Doc. 5 at 5-6) (M.D. Fla.).⁵
2. 8 U.S.C. § 1252(b)(9) bars review of Alfonso Parra's claims. *Id.* at 7-8.
3. Alfonso Parra failed to exhaust his administrative remedies. *Id.* at 8.
4. Alfonso Parra is properly detained under 8 U.S.C. § 1225. *Id.* at 8-14.

Should the Court determine Alfonso Parra'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 Alfonso Parra 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

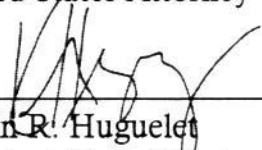
Alfonso Parra's Petition for Writ of Habeas Corpus should be denied. Even if the Court grants relief under § 1226, the only appropriate relief would be a bond determination by ICE and submission to an actual IJ bond hearing as set by EOIR.

⁵ 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 23, 2025

Respectfully submitted,

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