

IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI
WESTERN DIVISION

GERBER GEOVANNI GARCIA
HERNANDEZ,

Petitioner,

v.

Civil No. 5:25-cv-00145-DCB-RPM

Warden RAFAEL VERGARA, et al.

Respondents.

**PETITIONER’S REPLY IN FURTHER SUPPORT OF EMERGENCY MOTION TO
EXPEDITE CONSIDERATION AND RULING**

Petitioner, Gerber Geovanni Garcia Hernandez (“Petitioner”), by and through undersigned counsel, respectfully submits this Reply in further support of his Emergency Motion to Expedite (ECF No. 11). Respondent’s opposition (ECF No. 12) offers no basis to deny expedited consideration where Petitioner faces an imminent merits hearing and a concrete risk of removal before this Court can adjudicate the fully briefed habeas petition.

I. Expedited Consideration Is Warranted To Prevent Irreparable Harm And Preserve Meaningful Judicial Review

Respondent does not dispute that Petitioner’s EOIR individual merits hearing is scheduled for January 28, 2026. (ECF No. 12 at 1–2). This date alone establishes “good cause” for expedited judicial action because removal shortly after a merits hearing can frustrate the effectiveness of habeas relief and deprive Petitioner of meaningful review of the legality of his detention.

The habeas statute requires prompt attention to custody challenges. 28 U.S.C. § 2243. Where a petition is fully briefed and the petitioner faces imminent agency action that could moot

or practically defeat the habeas remedy, courts routinely exercise their inherent docket-management authority to prioritize the matter for decision.

II. Respondent’s “Docket Management” Argument Is Not A Reason To Deny Expedition; It Is A Reason To Grant At Least A Targeted Expedited Schedule

Respondent argues there are many similar petitions pending in this District and that granting expedition here would allow EOIR scheduling to “control” this Court’s docket. (ECF No. 12 at 2). That is incorrect.

Petitioner does not seek a categorical rule. He seeks an individualized exercise of discretion based on an imminent and date-certain merits hearing and the non-speculative risk of rapid execution of removal thereafter. Courts frequently grant targeted expedition (or set an expedited status conference) where a specific case presents time-sensitive facts that threaten to render judicial review ineffectual. This is especially appropriate here because Respondent confirms: (1) the Petition has been fully briefed, and (2) Petitioner’s requested relief is limited, an expedited ruling or, alternatively, an expedited conference/hearing before January 28, 2026.

III. Respondent’s String-Cite Of Out-Of-District Merits Decisions Does Not Defeat Expedition And Underscores Why Prompt Adjudication Is Necessary

Respondent cites a list of decisions from other districts denying similar § 1225 challenges and/or emphasizing exhaustion. (ECF No. 12 at 2–3). That goes to the merits, not whether there is good cause to expedite. Expedition is necessary to ensure the Court can decide the merits in time to provide meaningful relief.

Moreover, Respondent’s presentation is incomplete. That is, numerous courts nationwide, including very recent decisions issued this month, have rejected DHS’s assertion of § 1225 mandatory detention in materially similar circumstances and ordered bond hearings under § 1226 (and, in some cases, ordered release if the government fails to provide the bond hearing). See,

e.g.: *Bautista Villanueva v. [Respondents]*, No. 1:25-cv-04152-ABA (D. Md. Jan. 14, 2026) (holding petitioner not subject to mandatory detention under § 1225; concluding § 1225(b)(1)(A)(i) did not apply because petitioner was not “arriving,” § 1225(b)(1)(A)(iii) did not apply because she had been present for more than two years, and § 1225(b)(2) did not apply; ordering bond hearing under § 1226); [W.D. Mo. case], Case No. 6:26-cv-03001-MDH (W.D. Mo. Jan. 14, 2026) (granting TRO and habeas relief; holding petitioner not subject to mandatory detention under § 1225(b)(2) and requiring a § 1226(a) bond hearing within ten days; ordering immediate release if the government fails to provide the bond hearing; and enjoining relocation outside the court’s jurisdiction prior to compliance); *Yam Mendez v. Andrews*, No. 1:25-cv-01962 (E.D. Cal. Jan. 16, 2026) (granting habeas and directing bond hearing); *Bautista Villanueva*, No. 1:25-cv-04152 (D. Md. Jan. 14, 2026) (holding § 1225 not applicable and requiring § 1226 bond hearing or release); *Garcia Gabriel v. Hermosillo*, No. 2:25-cv-02594 (W.D. Wash.) (ordering § 1226 bond hearing); *Rendon Gutierrez v. Bondi*, No. 0:26-cv-00168 (D. Minn. Jan. 2026) (ordering immediate bond hearing or release).

These decisions underscore that Petitioner’s habeas claims are substantial, actively litigated throughout the country, and time-sensitive, which further supports expedited consideration so the Court can resolve the merits before agency action may moot the case.

IV. Respondent’s “Exhaustion” Argument Supports the Need For Prompt Adjudication

Respondent suggests Petitioner’s pending administrative proceedings are a reason expedition should be denied. (ECF No. 12 at 1–2). But Respondent also argues Petitioner is mandatorily detained under § 1225(b)(2) and notes that the Immigration Judge found no bond jurisdiction under *Matter of Yajure Hurtado*, leaving Petitioner without an effective

administrative custody remedy while his case proceeds. In these circumstances, a prompt ruling on the legal authority of the government's custody of the Petitioner is necessary to preserve judicial review.

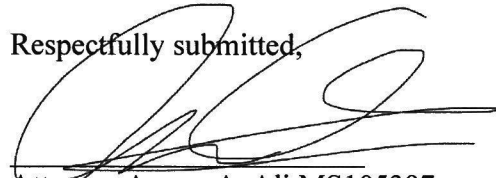
V. Requested Relief

For the foregoing reasons, Petitioner respectfully requests the Court: (1) expedite consideration and ruling on the Petition; (2) issue a ruling on or before January 27, 2026, or as soon thereafter as practicable; or (3) grant such other and further relief as the Court deems just and proper.

Dated: White Plains, New York

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Respectfully submitted,



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