

UNITED STATES DISTRICT COURT FOR  
THE EASTERN DISTRICT OF CALIFORNIA

Hilario Suarez Aguilar

*Petitioner,*

v.

John Doe, Warden, California City  
Corrections Center; John Doe, Field Office  
Director, San Francisco Field Office, United  
States Immigration and Customs  
Enforcement; TODD M. LYONS, Acting  
Director, United States Immigration and  
Customs Enforcement; KRISTI NOEM,  
Secretary of Homeland Security; PAMELA  
JO BONDI, United States Attorney General,  
*in their official capacities,*

*Respondents.*

Civil Action No.:1:25-cv-01742-KES-HBK

**REPLY TO RESPONDENTS' RETURN  
TO HABEAS PETITION;  
OPPOSITION TO RESPONDENT'S  
MOTION TO DISMISS**

**Argument**

A. Petitioner is unlawfully detained and his petition should be granted.

Petitioner reiterates the arguments for why his detention is unlawful under Section 1225 as made in his petition. Petitioner's circumstances are similar to the circumstances of other petitioners in a plethora of *habeas corpus* petitions across the country challenging their detention under Section 1225. An overwhelming majority of courts are finding that the circumstances of these detentions are unlawful and that instead these petitioners should be allowed a substantive bond hearing under Section 1226. *See Martinez Lopez* at 8 – 9

(compiling cases); *Lepe v. Andrews*, No. 25-01163, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025) (compiling cases).

Additionally, in its response to the petition, the Respondents' make no argument that in the alternative of a finding that the Petitioner is being lawfully detained under § 1225 that this Court should order that a bond hearing be granted to the Petitioner because he is being lawfully detained under § 1226. As such, this Court should order that the Petitioner is being unlawfully detained under § 1225 and be released immediately. *See Gimenez Rivero v. Mina*, 6:26-cv-00066-RBD-NWH, (M.D.Fla 2026) ("The government had an opportunity to argue in the alternative that Petitioner was subject to detention under § 1226; it did not... [w]ith the Government having asserted no lawful basis for his detainer, this court could only conclude that Gimenez Rivero was entitled to immediate release.).

### **Conclusion**

For the foregoing reasons, the Court should grant the Petitioner's prayer for relief.

Dated: January 30, 2026

Respectfully submitted,

/s/Scott A. Emerick, Esq.

Scott A. Emerick  
Bolour / Carl Immigration Group, APC  
**Counsel for Petitioner**