

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

OSCAR ALEXANDER PADILLA-
ORELLANA,

Petitioner,

v.

Case No. 2:25-cv-1195-SPC-NPM

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

Respondents.

Response to Petition for Writ of Habeas Corpus

Petitioner Oscar Padilla-Orellana 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.

Padilla-Orellana was detained at or near the border after his illegal entry, so 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). That analysis is in Section A below.

Given his detention at the border, the issues related to a class action lawsuit in

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).

California are irrelevant because Padilla-Orellana isn't a member of that class. *Aranda Garcia v. Warden*, No. 2:25-cv-1053-KCD-DNF, 2025 WL 3537592, at *2 n.2 (M.D. Fla. Dec. 10, 2025). This is addressed in Section B.

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 C.

Background

Padilla-Orellana is a 26-year-old citizen and national of Honduras who entered the United States without inspection, admission, or parole. (Ex. 1 at 2). As ICE understands it, he entered on April 1, 2017, and was seemingly detained at the border. (Ex. 1 at 2). Specifically, U.S. Border Patrol ("USBP") arrested Padilla-Orellana near Sasabe, Arizona. (Ex. 1 at 2). That is a border town. (Ex. 2). USBP processed Padilla-Orellana as a "WA/NTA" (i.e., warrant of arrest/notice to appear). (Ex. 1 at 2).

In November 2025, Florida Highway Patrol ("FHP") encountered Padilla-Orellana during a traffic stop. (Ex. 1 at 2). After determining his unlawful presence, FHP arrested and transferred him to ICE custody. (Ex. 1 at 2). ICE issued a Form I-200, WA, and Form I-862, NTA. (Ex. 1 at 5-14). It charged unlawful presence (8

U.S.C. § 1182(a)(6)(A)). (Ex. 1 at 5).

Padilla-Orellana is currently detained at Glades County Detention Center. He has a master calendar hearing set for January 14. (Ex. 3).

Certified Habeas Return

ICE is detaining Padilla-Orellana 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.”). Padilla-Orellana 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, Padilla-Orellana was seemingly first detained near the border in April 2017 when he illegally entered the United States. (Ex. 1 at 2). No specific allegation rebuts this fact. Given his detention at or near the border upon entry, § 1225(b)(2) applies to Padilla-Orellana. Judge Dudek consistently explains this reasoning. *Aranda Garcia*, 2025 WL 3537592, at *1; *Duenas Garcia*, 2025 WL 3277163, at *2; *Pirto v. Warden*, No. 2:25-cv-966-KCD-DNF, Doc. 13 (M.D. Fla. Nov. 13, 2025). Likewise, the Court should deny the Petition.

B. Class Action Component

Padilla-Orellana argues he is entitled to relief based on developments in a class action lawsuit. *Maldonado Bautista v. Noem*, No. 5:25-cv-1873-SSS-BFM, 2025 WL

3678485 (C.D. Cal. Dec. 18, 2025); *Maldonado Bautista v. Noem*, No. 5:25-cv-1873-SSS-BFM, 2025 WL 3713982 (C.D. Cal. Dec. 18, 2025). He is mistaken. Simply put, he isn't a member of the class definition.

Maldonado Bautista defined the certified class as follows:

Bond Eligible Class: All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) *were not or will not be apprehended upon arrival*; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

2025 WL 3288403, at *9 (emphasis added). Padilla-Orellana is not a member of the *Maldonado Bautista* class. He (1) entered the United States without inspection and (3) was not subject to detention under §§ 1226(c), 1225(b)(1), or 1231 at the time DHS made its initial custody determination. But Padilla-Orellana was (2) “apprehended upon arrival.” So by its own terms, the *Maldonado Bautista* class definition does not extend to Padilla-Orellana. *Aranda Garcia*, 2025 WL 3537592, at *2 n.2.

Without any support or explanation, Padilla-Orellana makes conclusory allegations that he entered in 2016 and was not apprehended at the border. (Doc. 1 at 3, 5). Yet bare, conclusory allegations are insufficient. *E.g.*, *McMann v. Richardson*, 397 U.S. 759, 765 (1970) (Even in habeas, “conclusory allegations would in no case suffice.”); *Chavez v. Sec’y, Fla. Dep’t of Corr.*, 647 F.3d 1057, 1061 (11th Cir. 2011) (“The allegations must be factual and specific, not conclusory.”).

Juxtaposed from those unsupported allegations is documentation of specific

facts that contradict them. Specifically, after interviewing Padilla-Orellana, ICE's understanding is that he entered and was arrested by USBP on April 1, 2017. (Ex. 1 at 2). This initial encounter occurred near Sasabe, Arizona. (Ex. 1 at 2). Sasabe is a town so close to the border that it literally has an eponymous sister city straddling the other side in Mexico. (Ex. 2). Upon his detention at the border, USBP processed him as a WA/NTA. (Ex. 1 at 2).

In short, Padilla-Orellana offers nothing to rebut the record evidence that he was apprehended at the border upon arrival. So he is not a class member. *Aranda Garcia*, 2025 WL 3537592, at *2 n.2.

C. 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 *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).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 *Vasquez Carcamo* and believe appeals on this legal question will be in their favor. That said, in the

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).

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 Padilla-Orellana's claims. *Vasquez Carcamo*, No. 2:25-cv-922-SPC-NPM (Doc. 5 at 2-6) (M.D. Fla.).⁴
2. 8 U.S.C. § 1252(b)(9) bars review of these claims. *Id.* at 6-7.
3. Padilla-Orellana failed to exhaust administrative remedies. *Id.* at 7-8.
4. Padilla-Orellana is properly detained under 8 U.S.C. § 1225. *Id.* at 8-13.

Should the Court determine Padilla-Orellana'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 Padilla-Orellana 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, Doc. 8 at *3.

Conclusion


Padilla-Orellana'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.

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 30, 2025

Respectfully submitted,

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