

Angela Alvero (SBN 864404)
Angela@LegalAllen.com
Law Offices of Wilfredo O. Allen
2250 S.W. 3rd Ave., Ste. 301
Miami, FL 33129
Telephone: (305) 854-5955

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

MANUEL DE JESUS LOPEZ AREVALO,

CASE NO.: 2:26-cv-18-SPC-DNF

Petitioner,

v.

DAVID HARDIN, Glades County Sheriff;
GARRETT J. RIPA, Field Office Director
of the Miami Immigration and Customs
Enforcement Office; TODD LYONS,
Acting Director of United States Immigration
and Customs Enforcement; KRISTI NOEM,
Secretary of the United States Department of
Homeland Security; PAMELA BONDI,
Attorney General of the United States, acting
in their official capacities, U.S. IMMIGRATION
AND CUSTOMS ENFORCEMENT; and
DEPARTMENT OF HOMELAND SECURITY,

Respondents.

**PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITION FOR
WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241**

MANUEL DE JESUS LOPEZ AREVALO, ("Petitioner") Petitioner, by and through undersigned counsel, hereby files this reply to Respondent's Opposition to Petition for Writ of Habeas Corpus Under 28 U.S.C. § 2241, [ECF No. 13] and in support states the following:

INTRODUCTION

PETITIONER'S REPLY TO RESPONDENTS' OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS
UNDER 28 U.S.C. § 2241
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LEGAL MEMORANDUM

I. The Petitioner was not first detained at the border when he illegally entered the United States.

Respondents' assertion that Petitioner was first detained at the border is incorrect. Respondents' Form I-831 dated January 31, 2016 [ECF No. 13-1] indicated that Petitioner was encountered in the Rio Grande Valley. The Rio Grande Valley encompasses a nearly 5,000-square-mile area, that is made up of four counties – Starr, Hidalgo, Cameron and Willacy – and includes nearly 200 cities and communities.

Removal proceedings against Petitioner were dismissed by an immigration judge upon DHS' motion on November 27, 2023. Petitioner was subsequently encountered on August 18, 2025, by ICE Agents while allegedly looking for another suspect in Miami, Florida. Petitioner was only stopped because he “resembled” the “target of the operation.” The Form I-831 [ECF No. 13-2] continues to narrate that Petitioner was driving a “target vehicle” with a particular Florida tag number. To clarify, Petitioner was driving his own work vehicle. The “target vehicle” is owned and registered to Petitioner and remains with his work equipment at his residence to this date. The vehicle Petitioner was driving, and that his nine-year-old daughter was a passenger in, could not have been “the target of the operation” because Petitioner owns his own work van. ICE agents lied in Form I-831 to cover-up Petitioner's warrantless arrest.

Now Respondents want this Honorable Court to continue to require Petitioner's detention in a case that they exercised their discretion to dismiss. These Respondents unilaterally disavowed the prosecutorial agreement they undertook - to Petitioner's disadvantage, resulting in his detention without bond for five months, only to argue that he does not fall within the class certified by the United States District Court in *Maldonado Bautista v. Santacruz*, No. 5:25-cv-

01873-SSS-BFM (C.D. Cal. Nov. 2025). Respondents' position is unconscionable.

II. The Immigration Judge Did Not Conduct a Custody Redetermination.

Respondents assert, implicitly and explicitly, that Petitioner requested and received a bond redetermination hearing before an immigration judge who concluded that Petitioner was subject to mandatory detention. [ECF No. 13.] This characterization is incorrect. The Immigration Judge did not adjudicate bond eligibility or conduct a discretionary custody redetermination under 8 U.S.C. § 1226(a). Instead, the Immigration Judge expressly declined jurisdiction and the request for custody redetermination was denied solely on the ground that he lacked authority to redetermine Petitioner's custody status because "Respondent is present without admission and subject to mandatory detention pursuant to section 235(b)(2)(A) of the INA. *Matter of Yajure Hurtado*, ID #4125." [ECF No. 1-2, p.37]

The Immigration Judge's refusal to proceed was not based on any assessment of flight risk, danger to the community, or other custody factors ordinarily considered in a bond redetermination under *Matter of Guerra*, 24 I. & N. Dec. 37 (B.I.A. 2006). Nor did the Immigration Judge exercise discretion under § 1226(a). Rather, the Immigration Judge's decision rested entirely on a threshold legal conclusion that he lacked statutory authority to conduct a custody redetermination – a conclusion driven by Respondents' reliance on *Matter of Yajure Hurtado*, 28 I. & N. Dec. 605 (B.I.A. 2025). Therefore, there is no discretionary custody determination for this Court to review, defer to, or disturb, notwithstanding Respondents' framing of this case as a challenge to mandatory detention.

Because Petitioner has already been in custody for a period of five months (not including an initial 6 months in 2016), Petitioner prays this Honorable Court orders Respondents to effectuate his immediate release from custody. Petitioner has shown for almost ten years in the

United States that he is a person of good moral character, not a flight risk, and certainly not a danger to the community. Petitioner argues that detaining him additional days for an immigration judge to review if he is a flight risk or a danger to the community would only be punitive at this stage. Petitioner prays that his deprivation of liberty should be ended as expeditiously as possible.

III. This Case Presents a Pure Question of Statutory Authority.

Due to the Immigration Judge declining to conduct a custody redetermination based solely on a legal conclusion regarding statutory authority, this case presents a pure question of law. The question is not whether Petitioner is a flight risk or a danger to the community, and it is not whether he should be detained or if a bond should be granted. The sole issue is whether Petitioner's detention is governed by 8 U.S.C. § 1226(a), which authorizes custody redeterminations, or by 8 U.S.C. § 1225(b), which mandates detention for applicants for admission.

The relevant facts are undisputed. Petitioner entered the United States without inspection almost ten years ago, was arrested in the interior of the country, and was placed in removal proceedings under 8 U.S.C. § 1229a. Respondents do not contend that Petitioner was encountered at a port of entry, placed in expedited removal proceedings, or subjected to inspection or screening under § 1225. Respondents do not dispute that Petitioner has been in the United States continuously since his entry.

Despite this, Respondents argue that Petitioner is subject to mandatory detention under § 1225(b) based on a categorical interpretation of INA § 235(a)(1), 8 U.S.C. § 1225(a)(1), under which they contend that individuals charged under § 212(a)(6)(A)(i), 8 U.S.C. § 1182(a)(6)(A)(i)

are applicants for admission as a matter of law. That argument obscures the statutory distinction between inspection-stage detention under § 1225 and pre-order detention during removal proceedings under § 1226. By operation of law, that would render § 1226(a)'s bond framework futile for a broad class of interior arrests.

Where, as here, the Immigration Judge declined to exercise jurisdiction based on such a legal interpretation, habeas review is appropriate to determine whether the correct detention statute applies. The resolution of that question does not require factual development or discretionary judgment. It requires only interpretation of the statutory scheme Congress enacted and application of that scheme to undisputed facts.

IV. Section 1225(b) Cannot Apply Where There Is No Application for Admission.

Respondents' detention theory depends on the premise that Petitioner is an "applicant for admission" within the meaning of INA § 235(a)(1), 8 U.S.C. § 1225(a)(1), and therefore subject to mandatory detention under § 1225(b). That premise is incorrect. Section 1225 governs inspection-stage detention - *i.e.*, the processing of individuals who present themselves for admission or are otherwise treated as seeking admission.

The statutory text reads that an "alien present in the United States who has not been admitted . . . shall be deemed for purposes of this chapter an applicant for admission." 8 U.S.C. § 1225(a)(1). The "deeming" provision must be read in context. Section 1225, taken as a whole, governs inspection, screening, and processing at the threshold of entry, including expedited removal and related procedures. It does not convert a long-term interior presence into a perpetual, ongoing application for admission untethered from any inspection or entry process. Respondents' interpretation would eliminate the functional boundary between § 1225 and §

1226. Nothing in the statutory text nor congressional legislative history supports that result. In fact, Congress expressly provided a separate detention framework for individuals arrested after entry while removal proceedings are pending - § 1226 - and authorized discretionary release and custody redeterminations in that context.

Respondents rely on *Matter of Yajure Hurtado* to bridge this statutory gap, but *Matter of Yajure Hurtado* cannot supply authority that the statute itself does not provide. As this honorable Court has already stated, DHS's post-*Hurtado* interpretation "flies in the face of the plain language and historical understanding of the INA" and would nullify Congress's recent amendment to § 1226(c) through the Laken Riley Act. *Vasquez Carcamo v. Noem*, No. 2:25-cv-00922 SPC NPM, 2025 WL 3119263, at 4 (MD. Fla. 2025). If mere inadmissibility automatically triggered mandatory detention under § 1225(b), Congress's amendment to § 1226(c) would have no operative effect. *Id.*

Summarily, § 1225(a)(1) cannot be read to convert a decades-old interior presence into an ongoing application for admission, and § 1225(b) cannot be used to displace § 1226(a)'s custody framework in removal proceedings under § 1229a. Because Petitioner was not seeking admission and was arrested long after entry in the interior of the United States, mandatory detention under § 1225(b) is not authorized. The Immigration Judge's contrary conclusion rests on legal error.

V. Respondents Offer No Basis for This Court to Depart from Its Prior Decisions.

Respondents acknowledge that courts within this District have repeatedly rejected the detention theory they advance here, yet they nevertheless ask this Court to reach a dissimilar conclusion. Respondents do not identify any intervening statutory amendment, binding appellate precedent, or material change in governing law that would justify such a departure. Instead, they ask the Court to revisit, and overturn settled conclusions based on the same arguments that have

already been considered and rejected.

Additionally, Respondents do not provide any meaningfully distinguishable facts of this case from those previously before this Court. Respondents' once again renew their insistence that the Court should adopt an interpretation it has already rejected. Absent an intervening change in the law, principles of consistency and judicial restraint direct against such a divergence. Respondents' disagreement with this Court's prior rulings does not supply a legal basis to disregard them. Because Respondents offer no reasoned justification for abandoning settled precedent within this District, their opposition falls well short of its desired request.

CONCLUSION

For the foregoing reasons, the Court should grant the Petition for Writ of Habeas Corpus. The Immigration Judge declined to conduct a custody redetermination based on an erroneous interpretation of the governing detention statute, leaving Petitioner without the custody review authorized by 8 U.S.C. § 1226(a) and subjected to continued deprivation of his liberty. Petitioner asks this Court to end this. Petitioner respectfully requests that the Court order Respondents to release him under reasonable conditions of supervision and to facilitate his transportation from the detention facility by notifying his counsel when and where he may be collected.

Respectfully submitted this 15th day of January, 2026.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 15, 2026, I electronically filed the foregoing with

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the Clerk of Court using the CM/ECF electronic filing system which will serve a copy to all counsels of record.

/s/ Angela Alvero
Angela Alvero (SBN 864404)
Angela@LegalAllen.com
Law Offices of Wilfredo O. Allen
2250 S.W. 3rd Ave., Ste. 301
Miami, FL 33129
Telephone: (305) 854-5955
Attorney for Petitioner