

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

SIMION HERNANDEZ,
a/k/a Simon Hernandez Veliz
a/k/a Simon Hernandez

Petitioner,

Case No. 3:26-cv-00019-JEP-SJH

v.

RONNIE WOODALL, Warden, Baker
Correctional Institute, in his official
capacity as Warden, Baker County
Correctional Institute; **GARRETT
RIPA**, in his official capacity as Field
Office Director, Miami Field Office, U.S.
Immigration and Customs Enforcement;
KRISTI NOEM, in her official capacity
as Secretary of the U.S. Department of
Homeland Security; **PAM BONDI**, in
her official capacity as Attorney General
of the United States; **SIRCE OWEN**, in
her official capacity, Acting Director for
Executive Office for Immigration
Review; **EXECUTIVE OFFICE FOR
IMMIGRATION REVIEW**;

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Simion Hernandez challenges his detention by the United States Immigration and Customs Enforcement (“ICE”), arguing that he is entitled to a bond hearing under 8 U.S.C. § 1226. This Court has previously addressed the applicability of § 1225 v. § 1226 to persons such as Petitioner who are subject to mandatory

detention by ICE without the possibility of obtaining bond. While reserving all rights—including a right to appeal—the Federal Respondents¹ submit this abbreviated brief in lieu of exhaustive, duplicative briefing on the § 1225(b)(2) v. § 1226 issue. This is an effort to preserve the Federal Respondents' arguments and conserve scarce judicial resources. Should the Court prefer a fulsome discussion or entertain reconsidering its rulings on § 1226, the Federal Respondents stand ready to submit additional briefing.

PRELIMINARY STATEMENT

On January 6, 2026, Petitioner filed this instant Petition, challenging his detention at the Baker County Institute as unlawful. *See* Doc. 1. By Order dated January 13, 2026, this Court ordered service of the Petition and directed Respondents

¹ The individual having physical custody of a petitioner is the only appropriate respondent. 8 U.S.C. § 2243; *Rumseld 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 within the power of the immediate custodian 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).

The Executive Office for Immigration Review ("EOIR") is a component of the U.S. Department of Justice and, thus, is a federal entity, not an individual. Because EOIR is not an individual having physical custody of Petitioner, it is not a proper respondent. Further, Ronnie Woodall was the warden at the Baker Correctional Institution when it was operated by the State of Florida as a men's prison in Sanderson, FL. *See* www.fdle.state.fl.us.

Ronnie Woodall was not and is not the warden or facility administrator of the North Florida Detention Center ("NFDC"), operated in the now shuttered Baker Correctional Institution in Sanderson, FL. Based on information and belief, the Facility Administrator of the NFDC is Eric Hall. **Thus, Petitioner is in the custody of Eric Hall, not Ronnie Woodall.**

to respond within 30 days of the date of the Order. Doc. 4. Here, Petitioner's detention is lawful. This Court should deny the writ and dismiss the action.

BACKGROUND

1. Petitioner is a 51-year-old male national and citizen of Guatemala who entered the United States at or near Nogales, Arizona on or about October 12, 1995. *See Exhibit A* (Notice to Appear). Petitioner was not then admitted or paroled. *Id.*

2. On or about December 11, 1997, Petitioner was ordered removed from the United States due to his failure to appear at an immigration proceeding. *See* Doc. 1 at ¶ 16. At Petitioner's request, the Immigration Judge ("IJ") re-opened Petitioner's immigration case in 2020 and closed his case administratively on August 7, 2023. *See id.* at ¶¶ 19-20.

3. On November 27, 2023, Petitioner filed a Form I-601A (Application for Provisional Waiver), which remains pending with United States Citizenship and Immigration Services ("USCIS"). *See id.* at ¶ 21.

4. On May 16, 2025, the Department of Homeland Security ("DHS") filed a motion to re-calendar the administratively closed proceedings, which was denied. *See id.* at ¶¶ 22 & 26.

5. On December 17, 2025, ICE took Petitioner into custody. *See id.* at ¶ 31. Petitioner is currently detained at the NFDC (Baker Correctional Institute) and has been in custody for approximately 57 days.

6. On January 9, 2026, DHS filed a motion to re-calendar the immigration proceedings, which was since granted. *See Exhibit C* (IJ Order to Re-Calendar dated February 4, 2026).

7. Petitioner's next internet-based immigration hearing is scheduled for March 6, 2026. *See Exhibit D* (Notice of Internet-Based Hearing).

MEMORANDUM OF LAW

I. CERTIFIED HABEAS RETURN

ICE is detaining Petitioner under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). *See* 28 U.S.C. § 2243 (stating “[t]he person to whom the writ or order is directed shall make a return certifying the true cause of the detention.”). Petitioner 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).

As an “alien present in the United States who has not been admitted or paroled,” *see Exhibit A* (Notice to Appear), Petitioner is an “applicant for admission” detention rule in 8 U.S.C. § 1225(b)(2). Accordingly, pursuant to § 1225(b)(2), Petitioner’s detention pending removal is mandatory because as an “alien shall be detained for a proceeding under section 1229a”—*i.e.*, full removal proceedings—after “the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted.” 8 U.S.C. § 1225(b)(2)(A).

Petitioner is free to contend his detention under § 1225 is unlawful or argue he should instead be detained under § 1226. But § 1225(b)(2)—not § 1226—is the certified basis on which ICE is detaining Petitioner.

II. ARGUMENT

A. Petitioner's Detention is Lawful.

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 INA’s statutory scheme, Supreme Court and BIA precedents, 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.

Federal Respondents believe that questions of law in this case substantially overlap with this Court’s decision in *Diaz Lopez v. Director of Enforcement and Removal Operations et al.*, Case No. 3:25-cv-1313-JEP-SJH, 2026 WL 261938 (M.D. Fla. Jan. 26, 2026). Thus, the Federal Respondents submit that the same result should be reached in this case. In addition to this Court’s favorable decision in *Lopez*, there is a growing number of district courts that have ruled in the Federal Respondents’ favor

on this issue. *See, E.g., Iraheta Morales v. Noem*, Case No. 25-62598-Civ-Singhal (Doc. 10) (S.D. Fla. Jan 29, 2026).²

² *See also Cortez v. Lynch*, No. 1:25-CV-822, 2026 WL 82039 (S.D. Ohio Jan. 12, 2026); *Garibay-Robledo v. Noem*, -- F. Supp. 3d --, No. 1:25-CV-177-H, 2026 WL 81679 (N.D. Tex. Jan. 9, 2026); *Singh v. Noem*, No. 2:25-CV-00157-SCM, 2026 WL 74558 (E.D. Ky. Jan. 9, 2026); *Benitez v. Bradford*, No. 4:25-CV-06178, 2026 WL 82235 (S.D. Tex. Jan. 8, 2026); *Cruz Rodriguez v. Olson*, -- F. Supp. 3d --, No. 1:25-CV-12961, 2026 WL 63613 (N.D. Ill. Jan. 8, 2026); *D.M.R.D. v. Andrews*, No. 1:26-CV-00081-WBS-CSK, 2026 WL 61504 (E.D. Cal. Jan. 8, 2026); *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2026 WL 44683 (N.D. Tex. Jan. 7, 2026); *Naikpay v. Sukkar*, No. 2:25-CV-1167-KCD-DNF, 2026 WL 44820 (M.D. Fla. Jan. 7, 2026) (Dudek, J.); *Azizzadeh v. Rhoney*, No. 25-CV-1288 (JLS), 2026 WL 44324 (W.D.N.Y. Jan. 6, 2026); *Gutierrez Sosa v. Holt*, No. CIV-25-1257-PRW, 2026 WL 36344 (W.D. Okla. Jan. 6, 2026); *Parra v. Sec'y, DHS*, No. 2:25-CV-1116-KCD-DNF, 2026 WL 21243 (M.D. Fla. Jan. 5, 2026) (Dudek, J.); *Rodriguez v. Jeffreys*, No. 8:25CV714, 2025 WL 3754411 (D. Neb. Dec. 29, 2025); *Zuniga v. Lyons*, No. 1:25-CV-221-H, 2025 WL 3755126 (N.D. Tex. Dec. 29, 2025); *Montoya v. Holt*, No. CIV-25-01231-JD, 2025 WL 3733302 (W.D. Okla. Dec. 26, 2025); *Pastor v. Dir. of Detroit Field Off.*, No. 4:25-CV-02761, 2025 WL 3746495 (N.D. Ohio Dec. 24, 2025); *Masis Lucero, v. Field Office Director of Enforcement and Removal Operations*, No. 1:25-CV-823, 2025 WL 3718730 (S.D. Ohio Dec. 23, 2025); *A.M. v. Joyce*, No. 2:25-CV-00615-LEW, 2025 WL 3706922 (D. Me. Dec. 22, 2025); *Calderon Lopez v. Lyons*, No. 1:25-CV-226-H, 2025 WL 3683918 (N.D. Tex. Dec. 19, 2025); *Rivera Hernandez v. Noem*, No. 9:25-CV-00326, 2025 WL 3754434 (E.D. Tex. Dec. 19, 2025); *Zapata v. Chestnut*, No. 1:25-CV-01922-WBS-CKD, 2025 WL 3687643 (E.D. Cal. Dec. 19, 2025); *Bartolon v. Bondi*, No. 1:25-CV-747, 2025 WL 3674604 (S.D. Ohio Dec. 18, 2025); *E.R.J.B. v. Wofford*, No. 1:25-CV-01843-WBS-SCR, 2025 WL 3683118 (E.D. Cal. Dec. 18, 2025); *Romero Rebolledo v. Chestnut*, No. 1:25-CV-01904-WBS-CKD, 2025 WL 3683122 (E.D. Cal. Dec. 18, 2025); *Padilla v. Galovich*, No. 25-CV-865-JDP, 2025 WL 3640960 (W.D. Wis. Dec. 16, 2025); *Coronado v. Sec'y, DHS*, No. 1:25-CV-831, 2025 WL 3628229 (S.D. Ohio Dec. 15, 2025); *Liang v. Almodovar*, No. 1:25-cv-09322, 2025 WL 3641512 (S.D.N.Y. Dec. 15, 2025); *P. B. v. Bergami*, No. 3:25-CV-02978-O, 2025 WL 3632752 (N.D. Tex. Dec. 13, 2025); *Delgado v. Noem*, No. 9:25-CV-00329, 2025 WL 3639439 (E.D. Tex. Dec. 12, 2025); *Garcia v. U.S. Att'y Gen.*, No. 2:25-CV-1053-KCD-DNF, 2025 WL 3537592 (M.D. Fla. Dec. 10, 2025) (Dudek, J.); *Rodriguez v. Noem*, No. 9:25-CV-00320, 2025 WL 3639440 (E.D. Tex. Dec. 10, 2025); *Oliveria v. Albarran*, No. 1:25-CV-01760 WBS AC, 2025 WL 3525923 (E.D. Cal. Dec. 9, 2025); *Ugarte-Arenas v. Olson*, No. 25-C-1721, 2025 WL 3514451 (E.D. Wis. Dec. 8, 2025); *Melgar v. Bondi*, No. 8:25CV555, 2025 WL 3496721 (D. Neb. Dec. 5, 2025); *Candido v. Bondi*, No. 25-CV-867, 2025 WL 3484932 (W.D.N.Y. Dec. 4, 2025); *Chen v. Almodovar*, No. 1:25-cv-08350, 2025 WL 3484855 (S.D.N.Y. Dec. 4, 2025); *Topal v. Bondi*, No. 1:25-cv-01612, 2025 WL 3486894 (W.D. La. Dec. 3, 2025); *Cruz v. Noem*, No. 8:25-CV-02566, 2025 WL 3482630 (C.D. Cal. Dec. 2, 2025); *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); *Manzo Valencia v. Chestnut*, No. 1:25-cv-01550 WBS JDP, 2025 WL 3205133, at *1-4 (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);

Federal Respondents acknowledge there is clearly a split amongst district courts across the country on applying § 1225 or § 1226. Currently, there are active appeals regarding this issue in the Eleventh Circuit, *see Hernandez Alvarez v. Warden, Federal Detention Center Miami et al.*, No. 25-14065 (11th Cir.) and *Cerro Perez v. Assistant Field Office Director, Krome North Service Processing Center, et al.*, No. 25-14075 (11th Cir.),³ and active appeals in at least four other circuits, *Martinez v. Hyde*, No. 25-1902 (1st Cir.); *Pizzaro Reyes v. ERO*, No. 25-1982 (6th Cir.); *Cortes Alonzo v. Noem*, No. 25-7348 (9th Cir.).⁴ Also, the appeal in the Fifth Circuit was recently decided in favor of the Federal Respondents in *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir. Feb. 6, 2026) concluding “the government’s position is correct,” reversing “the district courts’ orders to provide petitioners with bond hearings or release them.”⁵

The Federal Respondents believe that the Court’s decision in *Lopez* should guide its decision here, and that the instant Petition should be denied. As a result, in

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 *See Hernandez Alvarez v. Warden, Federal Detention Center Miami, et al.*, Case No. 1:25-cv-24806-KMW (S.D. Fla. Oct. 27, 2025); *Cerro Perez v. Assistant Field Office Director, Krome North Service Processing Center, et al.*, Case No. 1:25-cv-24820-KMW (S.D. Fla. Oct. 27, 2025).

⁴ *See Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025); *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Pizzaro Reyes v. ERO*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025); *Cortes Alonzo v. Noem*, No. 1:25-cv-01519 WBS SCR, 2025 WL 3208284 (E.D. Cal. Nov. 17, 2025).

⁵ *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025)

the interest of judicial economy and to expedite the Court's consideration of this matter, Federal Respondents make the following arguments for preservation purposes:

1. 8 U.S.C. § 1252(g) bars review of Petitioner's claims. *Diaz Lopez*, Case No. 3:25-cv-1313-JEP-SJH (Doc. 7, p. 4-7).⁶
2. 8 U.S.C. § 1252(b)(9) bars review of these claims. *Id.* at 7.
3. Petitioner is properly detained under 8 U.S.C. § 1225. *Id.* at 8-20.

Should the Court determine Petitioner'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 Petitioner 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.

B. *Maldonado Bautista* Should Not Be Applied.

Contrary to Petitioner's assertions, the *Maldonado Bautista*, Case No. 5:25-cv-1873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec 18, 2025), should not be applied in this case and, thus, does not entitle Petitioner to the relief he requests.

⁶ Federal 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.

First, the court in *Maldonado Bautista*, in entering a final judgment, declined to vacate the decision of the BIA in *Matter of Yajure Hurtado*, 29 I&N Dec. 616 (BIA 2025). Hence, *Hurtado* remains binding on ICE and immigration judges. *See* 8 U.S.C. §1103(a)(1) (stating “determination and ruling by the Attorney General to all questions of law shall be controlling”). Thus, the final judgment entered by the *Maldonado Bautista* court does not entitle Petitioner to an individualized hearing.

Second, even if Petitioner does fit within the class in *Maldonado Bautista*, that decision is not binding on this Court because “absent the application of *res judicata* or collateral estoppel, a district court is not bound by another district’s judgment,” *Iraheta Morales*, Case No. 0:23-cv-62598-AHS (Doc. 10, p 16) (S.D. Fla. Jan. 29, 2026) (citing *Stone v. First Union Corp.*, 371 F.3d 1305, 1310 (11th Cir. 2004)). Here, Petitioner has not bothered to argue *res judicata* or collateral estoppel, *see* Doc. 1, and neither would apply to his case, *see Iraheta Morales*, Case No. 0:23-cv-62598-AHS (Doc. 10, p 17) (S.D. Fla. Jan. 29, 2026). Even so, the *Maldonado Bautista* case is on appeal as of December 18, 2025, *Maldonado Bautista*, Case No. 5:25-cv-1873-SSS-BFM (Doc. 95); hence, this Court should not give preclusive effect to the declaratory final judgment entered in *Maldonado Bautista* on December 18, 2025.

Moreover, the declaratory judgment entered in *Maldonado Bautista* has no preclusive effect outside of the Central District of California and over custodians who are located outside of that District. *See Calderon v. Ashmus*, 523 U.S. 740, 747 (1998). *See also Burnham v. Superior Court of Cali.*, 495 U.S. 604, 608 (1990). Hence, the Court

should not apply the declaratory final judgment entered in *Maldonado Bautista* to Petitioner's case.

C. No Violation of Due Process.

Petitioner is in removal proceedings. The Supreme Court has held that §1225(b)(2) “mandate[s] detention of aliens throughout the completion of applicable proceedings [for removal] and not just until the moment those proceedings begin.” *Jennings v. Rodriguez*, 583 U.S. 281, 302 (2018). Because § 1225(b)(2) is the proper basis for detention, there is no Fifth Amendment violation caused by detaining Petitioner or denying a bond hearing to Petitioner.

III. CONCLUSION

Hernandez'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.

Dated: February 12, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 12, 2026, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, which will send a notice of electronic filing to the following CM/ECF participant:

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