

**IN THE UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA**

CASE No. 26-20096-CIV-ALTMAN

ZENOVIO JIMENEZ-CLEMENTE,

Petitioner,

v.

**ASSISTANT DIRECTOR, U.S. DHS
ICE ERO Miami Field Office, et al.,**

Respondents.

**PETITIONER'S REPLY TO RESPONDENTS' RETURN IN OPPOSITION
TO THE PETITION FOR WRIT OF HABEAS CORPUS**

NOW COMES Petitioner Zenovio Jimenez-Clemente, by and through undersigned counsel, and hereby files the instant Reply to Respondent's Return in Opposition to the Petition for Writ of Habeas Corpus (ECF No. [9]) ("Response"), and respectfully states as follows:

LEGAL ARGUMENT

In their Response, Respondents argued *inter alia* that 8 U.S.C. § 1225(b)(2)(A) mandates Mr. Jimenez-Clemente's detention because he is in the United States without having been lawfully admitted or paroled. *See* ECF No.[9] at **3-12. Chief Judge Altonaga, in *Puga v. Assistant Field Off. Fir. Krome N. Serv. Processing Ctr.*, No. 25-cv-24535, 2025 WL 2938369, at *5 (S.D. Fla. Oct. 15, 2025), noted that her Court "and District Courts within this District, have consistently rejected similar arguments in granting habeas petitions." *Garcia-Perez v. Walker*, Case No. 25-

62639-CV-DIMITROULEAS, 2026 WL 522258, at *1 (S.D. Fla. Jan. 8, 2026) (citing *Puga; Acosta v. Ripa, et. al*, Case No. 25-cv-62360-WPD (S.D. Fla. Dec. 26, 2025); *Taffur v. Noem, et. al.*, Case No. 25-cv-62308-WPD (S.D. Fla. Dec. 22, 2025)). In *Puga*, this Court reviewed the statutory text, context, and scheme of 8 U.S.C. §§ 1225 and 1226 and rejected the Respondents' argument that § 1225(b)(2)(A) mandates detention of noncitizens that entered the United States without inspection before remaining in the United States for long periods under similar circumstances to those Mr. Jimenez-Clemente presents in the instant matter. *See Puga*, 2025 WL 2938369, at **3-5; *but see Iraheta Morales v. Noem*, --- F.Supp.3d ----, Case No. 25-62598-CIV-SINGHAAL, 2026 WL 23607 (S.D. Fla. Jan. 29, 2026) (finding Court had jurisdiction to consider claim but rejecting argument that petitioner was not applicant for admission pursuant to 8 U.S.C. § 1225).

Respondents argue in their Response that 8 U.S.C. § 1225(b)(2) mandates detention of aliens, like Petitioner, who are present in the United States without having been lawfully admitted because the statute's plain language mandates detention of applicants for admission. *See* ECF No. [9], at **3-4. Furthermore, Respondents argue that applicants for admission are seeking to be legally admitted to the United States because (1) the "seeking admission" does not negate or otherwise limit the statutorily defined term "applicant for admission," (2) any redundancy in the statute cannot serve as a basis to avoid the statute's clear language, and (3) applicants for admission seek admission when they lawfully seek to remain in the United States. *See* ECF No. [9], at **4-8. Respondents also argue that 8 U.S.C. § 1226 does not support Mr. Jimenez-Clemente's claims and their position comports with Congressional Intent and Supreme Court precedent. *See* ECF No. [9], at **8-12. These arguments did not convince Chief Judge Altonaga that Respondents' position is correct. *See Puga*, 2025 WL 2938369

In *Puga*, Judge Altonaga addressed Respondents' arguments and found that "[w]hether Petitioner is detained under section 1225(b)(2) or section 1226(a) is an issue of statutory interpretation that hinges on the meaning of 'seeking admission'" and that this phrase "is ambiguous in the context of the INA." *Puga*, 2025 WL 2938369, at *4. Moreover, Judge Altonaga concluded that the statutory structure, legislative history, and Supreme Court precedent support the position that petitioners like Mr. Jimenez-Clemente are subject to detention under § 1226. *Puga*, 2025 WL 2938369, at *4 (noting inclusion of catchall provision in § 1226 following more specific provision in § 1225 and citing *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018) for notion that § 1226 provides default rule that applies to aliens already within the United States). Judge Altonaga also noted that Respondents' position would render a recent amendment to § 1226(c)(1)(E) meaningless. *See Puga*, 2025 WL 2938369, at *5. Additionally, Judge Altonaga noted that Respondents' interpretation of the ambiguous statute is due no deference under *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 413 (2024). *See Puga*, 2025 WL 2938369, at *5. Judge Altonaga concluded that "the statutory text, context, and scheme of section 1225 do not support a finding that a noncitizen is 'seeking admission' when he never sought to do so." *Id.* Respondents have provided this Court with no reason to depart from Judge Altonaga's reasoning in *Puga*, therefore Mr. Jimenez-Clemente respectfully requests that this Court grant his Petition.

Furthermore, in their Response, Respondents disclosed in a footnote that a DHS ICE ERO Assistant Miami Field Office Director, in his official capacity, is Petitioners' immediate custodian. *See* ECF No. [6] at *1, n.1. A writ of habeas corpus must "be directed to the person having custody of the person detained," 28 U.S.C. § 2243, which, in cases involving present physical confinement, means the "immediate custodian, not a supervisory official who exercises legal control," *see Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004). For that reason, Respondents assert, and Petitioner

agrees, that the proper Respondent in this case is Assistant Field Office Director Charles Parra in his official capacity. *See, e.g., Masingene v. Martin*, 424 F. Supp. 3d 1298, 1302–03 (S.D. Fla. 2020) (“[T]he Court finds that the proper respondent to the Petition is Jim Martin, the Director of the Miami Field Office for ICE.”). Accordingly, should the Court agree with Respondents that there is only one Respondent, Petitioner respectfully requests that the Court substitute the Assistant Field Office Director as Respondent. *See, e.g., Mayorga v. Meade*, No. 24-CV-22131, 2024 WL 4298815, at *3 (S.D. Fla. Sept. 26, 2024) (substituting as Respondent the Assistant Field Director of facility where Petitioner was detained because denial of a habeas petition for failure to name proper respondent would give an unreasonably narrow reading to habeas corpus statute).

CONCLUSION

Accordingly, Petitioner respectfully requests that this Honorable Court issue a Writ of Habeas Corpus requiring that Respondents release Petitioner from custody and produce Petitioner. Alternatively, Petitioner requests that this Honorable Court issue an order requiring Respondents to conduct a bond hearing where the Respondents bear the burden of establishing continued detention of Petitioner by clear and convincing evidence.

Respectfully submitted this 02nd day of February, 2026,

By: /s/ Andrew W. Clopman

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that I electronically filed the foregoing document with the Court Clerk and to the best of my knowledge a true and correct copy of the foregoing, along with a Notice of Electronic Filing, will be served through the Court's ECF system to all counsel of record this 02nd day of February, 2026.

Respectfully submitted,

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