

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION**

PORFIRIO ALONZO IZAGUIRRE,

Petitioner,

v.

Case No. 2:26-cv-48-SPC-DNF

A-No. 

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

Respondents.

_____ /

Response to Petition for Writ of Habeas Corpus

Petitioner Porfirio Alonzo Izaguirre 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. This is a standard § 1225 v. § 1226 case without detention at the border.

While reserving all rights—including a right to appeal—the Federal

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).

To the extent that Petitioner seeks relief against Executive Office of Immigration Review (“EOIR”)—i.e., the immigration court, which has absolutely no custody or control over Petitioner—or attempts to include EOIR as an improper Respondent, Respondents object and would ask to file an appropriate dispositive motion on the issue.

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.

Background

Alonzo Izaguirre is a 39-year-old citizen and national of Honduras who allegedly entered the United States unlawfully without inspection, admission, or parole in June 2007. (Doc. 1 at 2). ICE has no record of his detention at the border.

In 2014, Alonzo Izaguirre was charged with felony domestic battery and aggravated battery with deadly weapon. (Ex. 1). This apparently occurred after [REDACTED] (Ex. 1 at 3). These charges appear to have been pled down to a domestic violence battery with a sentence of six-month probation. (Ex. 2 at 2).

Shortly after this conviction, ICE issued a Form I-862, Notice to Appear ("NTA"). (Ex. 2 at 2). It charged unlawful presence (8 U.S.C. § 1182(a)(6)(A)) and lack of valid documentation (*id.* § 1182(a)(7)(A)). (Ex. 2 at 2).

In December 2025, Border Patrol encountered and detained Alonzo Izaguirre. Last week, ICE filed a motion to recalendar removal proceedings.

Alonzo Izaguirre is detained at Glades. This habeas follows.

Certified Habeas Return

ICE is detaining Alonzo Izaguirre 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.”). Alonzo Izaguirre 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

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

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).

1. 8 U.S.C. § 1252(g) bars review of the Alonzo Izaguirre'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. Alonzo Izaguirre failed to exhaust administrative remedies. *Id.* at 7-8.
4. Alonzo Izaguirre is properly detained under 8 U.S.C. § 1225. *Id.* at 8-13.

Should the Court determine Alonzo Izaguirre'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 Alonzo Izaguirre is a flight risk or danger to the community. *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

Alonzo Izaguirre'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.

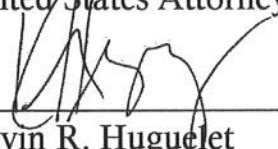
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⁴ Respondents acknowledge Local Rule 3.01(h) prohibits incorporation by reference of any other motion, legal memorandum, or brief. To achieve the purpose of efficiency, Respondents respectfully request the Court to suspend application of the rule in this instance. *See* M.D. Fla. Local R. 1.01(a)-(b); Fed. R. Civ. P. 1.

Date: January 21, 2026

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney



Kevin R. Huguelet
Assistant United States Attorney
Florida Bar Number 125690
Kevin.Huguelet@usdoj.gov
2110 First Street, Suite 3-137
Fort Myers, Florida 33901
239-461-2237

(Lead counsel for Respondents)