UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No.: 1:26-cv-20257-AHS

MYNOR TOBAR NAJARRO,

Petitioner,

v.

FIELD OFFICE DIRECTOR,
et al.,

Respondents.
_____/

RETURN TO PETITION FOR WRIT OF HABEAS CORPUS

Respondents,[1] through the undersigned Assistant U.S. Attorney and pursuant to the Court's *Order to Show Cause* [DE 10], respond to the *Amended Petition for Writ of Habeas Corpus* [DE 9] (the Petition).

OVERVIEW

Petitioner Mynor Tobar Najarro (Petitioner) asks the Court to order his release from immigration detention at the Krome North Service Processing Center (Krome) or, alternatively, to order Respondents to provide him with a bond hearing. Petition at 7. In

[1] Several of the named respondents are not proper parties-defendant to this habeas action and should be dismissed. *Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) ("[I]n habeas challenges to present physical confinement—'core challenges'—the default rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official."). Because Petitioner is detained at Krome, his immediate custodian is Assistant Field Office Charles Parra. Accordingly, the only proper respondent to this case is AFOD Parra, in his official capacity. He should be substituted as the sole respondent to this action and all other named respondents should be dismissed. *Mayorga v. Meade*, No. 24-cv-22131, 2024 WL 4298815, at *3 (S.D. Fla. Sept. 26, 2024) (Bloom, J.) (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).

support, Petitioner argues that his immigration detention is governed by 8 U.S.C. § 1226(a) and not by § 1225(b)(2). *Id.* at ¶¶ 20-21.

RESPONSE[2]

The government has carefully reviewed the Petition; its factual and procedural allegations are sufficient to allow this Court to rule on the pure question of law it presents: whether Petitioner's immigration detention is governed by 8 U.S.C. § 1225(b)(2) or § 1226(a) and, relatedly, whether Petitioner is entitled to a bond hearing conducted by the immigration court.

A. This Court has already determined that aliens in Petitioner's circumstances are subject to detention under Section 1225(b)(2); that determination controls here

Respondents submit that Petitioner is subject to detention under Section 1225(b)(2) because he entered the United States without being admitted or paroled, *see* Petition at ¶ 15, and therefore remains an "applicant for admission" subject to mandatory detention. *See Buenrostro-Mendez v. Bondi*, --- F.4th ---, 2026 WL 323330 (5th Cir. Feb. 6, 2026); *see also Morales*, 2026 WL 236307 at *8; *Perez Morales v. Noem*, No. 26-cv-60251, DE 15 (S.D. Fla. Feb. 9, 2026) (Dimitrouleas, J.) (adopting the analysis of the Fifth Circuit in *Buenrostro-Medina*); *Mokanu v. Warden*, No. 25-cv-24121, DE 19 (S.D. Fla. Feb. 19, 2026) (Artau, J.) (same; and ruling that the jurisdiction-stripping provision of 8 U.S.C. § 1252(g) prohibits a district court from reviewing the denial of bond to a person detained under 8 U.S.C. § 1225).

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[2] In light of the current volume of immigration habeas petitions and this Court's recent decision in *Morales v. Noem*, No. 25-cv-62598, 2026 WL 236307, *8 (S.D. Fla. Jan. 29, 2026) (Singhal, J.) (concluding a similarly situated habeas petitioner was an applicant for admission subject to mandatory detention under Section 1225(b)(2), notwithstanding having been present in the country for more than 20 years), Respondents respectfully submit this *truncated* return to Petition in lieu of a formal memorandum of law and fact. They do so to conserve judicial and party resources and to expedite the Court's consideration of the Petition. If the Court prefers to receive a formal memorandum of law and fact, Respondents will prepare and submit one upon request.

To the extent this Court adheres to its decision in *Morales*, that will control the outcome in this case. The facts here are not materially distinguishable from *Morales* and Respondents' legal argument regarding the applicability of Section 1225(b)(2)—with which this Court agrees—remains the same.

B. The vacatur of *Hurtado* has no effect on the Petition or on this Court's prior interpretation regarding the applicability of Section 1225[3]

The only thing that has changed since this Court issued its decision in *Morales* is that a district court issued an order vacating the BIA's decision in *Matter of Hurtado*,[4] under the APA. *See Bautista v. Santacruz*, No. 5:25-cv-01873, 2026 WL 468284 (C.D. Cal. Feb. 18, 2026). Accordingly, the Court has directed Respondents to specifically address the effect of the *Bautista* court's vacatur on its consideration of this Petition. DE 10.

The vacatur of *Hurtado* changes nothing. While Article III judges who have agreed with the government's interpretation of Section 1225(b) may have cited to the BIA's decision in *Hurtado*, they, like the Fifth Circuit in *Buenrostro-Medina*, independently analyzed the statutory language of Section 1225(b)(2) and agreed with the government's interpretation that aliens like Petitioner were "applicants for admission" no matter how long they had been

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[3] Separate from the *Bautista* court's vacatur of *Hurtado*, Petitioner's reliance on his mere status as a purported *Bautista* class member (Petition at ¶ 17) does not alter the analysis. As this Court already determined in *Morales*, the *Bautista* partial final judgment is neither binding nor applicable here and presents no independent basis for granting the Petition. Absent application of *res judicata* or collateral estoppel, a district court is not bound by another district court's judgment. *Stone v. First Union Corp.*, 371 F.3d 1305, 1310 (11th Cir. 2004). *Res judicata* does not apply here because, between this case and *Bautista*, "the parties are not the same on either side of the 'v.'" *Morales*, 2026 WL 236307 at *8. And "offensive collateral estoppel is not available against the government." *Id.* (citing *Demaree v. Fulton Cnty. Sch. Dist.*, 515 F. App'x 859, 863 (11th Cir. 2013)). Further, (1) habeas relief in *Bautista* was sought only for the named petitioners; (2) the petitioners did not seek nationwide habeas relief; (3) the *Bautista* decision is limited to the Central District of California; and (4) the *Bautista* court itself noted that habeas relief could only be afforded to class members who were located within its own judicial district. *See Irure-Rodriguez v. Lyons*, No. 25-cv-62585, DE 9 (S.D. Fla. Jan. 20, 2026) (Damian, J.).

[4] 29 I. & N. Dec. 216 (BIA 2025).

present in the country. *See e.g., Morales*, 2026 WL 236307, at *4 (concluding that an alien present in the United States without being lawfully admitted is subject to mandatory detention).

Further, the *Bautista* court vacated *Hurtado* in response to a motion to enforce its prior partial summary judgment, wherein the *Bautista* petitioners argued (and the *Bautista* court agreed) that relief was necessary because Immigration Judges (IJs) are indeed bound by BIA decisions, and so as long as *Hurtado* remained an active precedent, IJs remained unable to grant bonds absent a habeas order from a district court requiring them to. That was causing what the *Bautista* court determined to be violations of its prior judgment as it relates to treatment of the class members. *See Bautista*, 2026 WL 468284, at *9 ("As evidenced by the volume of habeas petitions filed by Bond Eligible Class members and the conduct of Respondents in continuing to violate the rights of those class members, further is relief necessary to effectuate the Final Judgment.").

In other words, decisions by Article III courts interpreting Section 1225, on the one hand, and what IJs could do absent an order granting a habeas petition and requiring bond a hearing under Section 1226(a), on the other, are wholly separate considerations. *See id.* at *10 ("All *Yajure Hurtado* does is parrot the DHS Policy. *Yajure Hurtado* contains an identical, incorrect interpretation of law. It is merely in another form. Yet Respondents state that *Yajure Hurtado* controls because the BIA issues precedential decisions binding on IJs."). But for any court (e.g. *this* Court) that has already interpreted Section 1225 as applying to aliens like Petitioner—and would thus disagree that DHS policy and/or *Hurtado* are premised on an "incorrect interpretation of law"—the subsequent vacatur of *Hurtado* changes nothing because those courts' orders/judgments were never *compelled by the Hurtado decision* in the first place,

albeit they reached the same or a similar conclusion regarding the statutory text as the BIA had.

C. Conclusion

Thus, in the interest of efficiency Respondents incorporate by reference the legal arguments presented in substantially similar cases filed in this district—including in *Morales*—and they submit the Court is positioned rule on the instant Petition without individualized legal briefing. Respondents also respectfully suggest that a hearing on the Petition is unnecessary and would not be a constructive use of party or judicial resources.

* * *

Given this Court's decision in *Morales*, which remains unaffected by the subsequent vacatur of the BIA's *Hurtado* decision, the Petition should be denied.

As noted above, should the Court prefer to receive a formal memorandum of law and fact specific to this Petitioner, Respondents will file one upon the Court's request.

Respectfully submitted,

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