

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF GEORGIA  
COLUMBUS DIVISION

MARCO LOPEZ-BOLOM, )

A# [REDACTED] )

Petitioner, )

vs. )

CASE NO.:  
4:26-cv-00099-CDL-ALS

JASON STREEVAL, in his official capacity as )  
*Warden of Stewart Detention center; and* )

LADEON FRANCIS, *Field Office Director for ICE* )  
*Atlanta Field Office, and* )

TODD LYONS, in his official capacity as *Acting* )  
*Director of Immigration and Customs Enforcement; and* )

KRISTI NOEM, *Secretary of Homeland Security; and* )

PAMELA BONDI, *U.S. Attorney General.* )

Respondents. )

**PETITIONER’S REPLY TO RESPONDENTS’ RETURN  
OF ORDER TO SHOW CAUSE SEEKING IMMEDIATE RELEASE**

The Petitioner, Marco Lopez-Bolom has been unlawfully detained in civil immigration detention. Petitioner hereby submits this reply seeking immediate release instead of a bond hearing, because a bond hearing is a proper remedy which pre-supposes a valid arrest under 8 U.S.C. § 1226(a), which is not the case here.

**I. Petitioner’s Detention is Unlawful Under § 1226(a) Due to a Warrantless Arrest**

Section 1226(a) explicitly provides that “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained pending a decision on whether the alien is to be removed from the United States.” Here, Respondents have offered no evidence that any such warrant was ever issued for Petitioner’s arrest, notwithstanding his detailed factual allegations to the contrary.

Because the statute conditions civil immigration arrest and detention on the existence of that warrant, the absence of a warrant is a fatal defect in Respondents' asserted § 1226(a) authority. Here, ICE arrested Petitioner without a warrant, probable cause, or reasonable suspicion of criminal activity. There was no justification to arrest him without a warrant.

Further, the absence of a warrant at the time of arrest is a fatal defect to the government's authority to detain Petitioner under § 1226(a). As the court in *Florida v. United States* held, "If the alien has not been arrested on a warrant, then the subsequent provisions giving the Attorney General discretion to detain or release 'the arrested alien' are likewise not triggered." Because the statutory precondition for detention under § 1226(a)—arrest on a warrant—was not met, the government lacks any lawful authority to detain Petitioner. The only appropriate remedy for an arrest and detention made without the required statutory authority is immediate and unconditional release, not merely a bond hearing. The unlawful nature of the initial arrest under § 1226(a) means that the detention is void from its inception, distinguishing this situation from cases where a bond hearing is the remedy for detention.

The government's response is wholly devoid of any response to Petitioner's facts or legal argument, nor do they respond with any counter evidence claiming that a warrant was issued for Petitioner's arrest. Thus, as the government failed to rebut or contest Petitioner's factual account of the events of his warrantless arrest, the Court should consider them undisputed for the purpose of this proceeding.<sup>1</sup>

---

<sup>1</sup> See also *Burnette v. Northside Hosp.*, 342 F. Supp. 2d 1128, 1140 (N.D. Ga. 2004) ("Failure to respond to the opposing party's summary judgment arguments regarding a claim constitutes an abandonment of that claim and warrants the entry of summary judgment for the opposing party."); *Brown v. Ramsay*, 785 F. Supp. 3d 1214, 1229 (S.D. Fla. 2025) (finding defendant waived challenge to plaintiff's declaratory judgment claim where "in three briefs submitted to the Court over the course of briefing the two Motions, [defendant] never addressed [the claim] despite [plaintiff]'s Motion specifically arguing the issue."); *A.L. v. Jackson Cnty. Sch. Bd.*, 635 F. App'x 774, 787 (11th Cir. 2015) (It is axiomatic that a party "waive[s] their claims by failing to brief them, failing to respond to the [opposing party's] motion for summary judgment, and failing to bring to the court's attention evidence that supported their claims"); *Ihor D., v. Noem*, No. 26-CV-351 (JMB/DTS), 2026 WL 146507, at \*1 (D. Minn. Jan. 20, 2026)

## II. The Court Should Order Petitioner's Immediate and Unconditional Release

Petitioner's detention is not the result of an initial custody determination but an unlawful arrest executed in violation of mandatory federal regulations, his constitutional right to due process, and the agency's own prior, binding, finding that he was eligible for discretionary release on recognizance. As such, his detention was unlawful *ab initio*.

Petitioner's recent arrest by ICE was warrantless and contravened 8 U.S.C. § 1357 and its implementing regulation at 8 C.F.R. § 287.8(c)(2)(ii). Together, these provisions establish a clear rule: a warrant is required for a civil immigration arrest under 8 U.S.C. § 1226(a) unless the officer has reason to believe the individual "is likely to escape before a warrant can be obtained." That "likely to escape before a warrant can be obtained" proviso is a mandatory statutory predicate for any warrantless civil immigration arrest, not surplusage. Here, Respondents cannot satisfy that exigency requirement because Petitioner was already in the custody of state authorities and thus posed no realistic risk of escape while a warrant was sought. Respondents have not produced any warrant in their Return, and the warrantless arrest therefore violated both the statute and regulation. This procedural failure renders Petitioner's detention void from the outset.

Whether based on Respondents' flawed "arriving alien" theory, the flagrant violation of Petitioner's Fifth Amendment right to due process, or the procedurally defective warrantless arrest, the conclusion is the same: Petitioner's detention is fundamentally unlawful from its inception. In an individual habeas case, 28 U.S.C. § 2243 directs this Court to "dispose of the matter as law and justice require." Where, as here, Respondents have never established a lawful statutory basis for

---

("Respondents do not oppose the Petition, and on that basis alone, and considering the factual showings made by Petitioner as recounted above, the Court grants the Petition); *Bland v. California Dep't of Corr.*, 20 F.3d 1469, 1474 (9th Cir. 1994) ("When the State's return fails to dispute the factual allegations contained in the petition and traverse, it essentially admits those allegations."), overruled on other grounds by *Schell v. Witek*, 218 F.3d 1017 (9th Cir. 2000).

custody—having misclassified Petitioner under § 1225, failed to obtain the warrant that § 1226(a) requires, and disregarded the arrest and exigency limits in 8 U.S.C. § 1357 and 8 C.F.R. § 287.8—law and justice require immediate and unconditional release, not a belated bond hearing that presumes a lawful initial arrest.

Federal district courts confronting materially identical unlawful-detention scenarios—long-term interior residents misclassified as § 1225(b)(2) “applicants for admission” and/or re-detained without the statutory warrant or required revocation procedures—have reached the same conclusion. In such cases, courts have exercised their equitable habeas powers to order outright release, recognizing that bond hearings are an appropriate remedy for prolonged but otherwise lawful detention, whereas detentions that are void ab initio must be corrected by restoring liberty, not by layering additional process onto unlawful custody.

Because Respondents have not identified any evidence that Petitioner is a danger or a flight risk—and because they have failed to establish any lawful statutory basis for his custody—the Court should exercise its habeas powers and order Petitioner’s immediate and unconditional release.<sup>2</sup>

---

<sup>2</sup> **Western District of Texas**

*Flores-Boziere v. Bondi et al.*, 5:24-cv-1853-JKP, 2026 U.S. Dist. LEXIS 1859 \*12, 2026 LX 29597 (WDTX January 5, 2026) (finding that because Petitioner cannot be detained under 1225(b)(2) and Respondents do not assert that they are detaining Petitioner under 1226, the Court should order outright release).

**Eastern District of Pennsylvania**

*Ibarra v. Warden of the Federal Detention Center Philadelphia*, 25-cv-6312, 2025 WL 3294726 (E.D. Pa. Nov. 25, 2025) (granting habeas and ordering release); *Buele Morocho v. Jaminson*, 5:25-cv-05930, 2025 WL 3296300 (E.D. Pa. Nov. 26, 2025) (granting habeas and ordering immediate release; requiring due process, including a bond hearing, for any re-detention); *Ousmane Soumare v. Jamal L. Jamison*, CV 25-6490, 2025 WL 3461542 (E.D. Pa. Dec. 2, 2025) (granting habeas and ordering immediate release); *Yilmaz v. Warden of Fed. Det. Ctr. Philadelphia*, CV 25-6572, 2025 WL 3459484 (E.D. Pa. Dec. 2, 2025) (ordering immediate release after finding no flight risk or danger); *Anirudh v. McShane*, No. 25-6458, 2025 WL 3527528 (E.D. Pa. Dec. 9, 2025) (granting habeas and ordering release); *Alberto Picon v. O’Neill*, CV 25-6731, 2025 WL 3634212 (E.D. Pa. Dec. 15, 2025) (granting habeas and ordering immediate release).

**Eastern District of New York**

*Arizmendi v. Noem*, No. 25-CV-7056, 2025 WL 3723960 (E.D.N.Y. Dec. 24, 2025) (ordering immediate release in a TRO); *Ye v. Maldonado*, 25-CV-6417, 2025 WL 3521298 (E.D.N.Y. Dec. 8, 2025) (granting habeas and ordering immediate release).

**Southern District of New York**

*Gonzalez v. Joyce*, No. 25 Civ. 8250, 2025 WL 2961626 (S.D.N.Y. Oct. 19, 2025) (ordering immediate release after unlawful immigration court arrest); *Munoz Materano v. Arteta*, 25 Civ. 6137, 2025 WL 2630826 (S.D.N.Y. Sep. 9,

One particular case with persuasive reasoning in a similar case of undersigned counsel's, *Javier De Jesus Aguilar v. English*, No. 3:25-CV-898 DRL-SJF, 2025 WL 3280219 (N.D. Ind., Nov. 25, 2025), granting immediate release without bond to a Petitioner detained under 8 U.S.C. § 1225(b)(2) who has been in the country for 19 years and twice bonded in immigration proceedings in the past. "All this begs the question whether the court should order immediate release or a hearing. The court is uninclined to order a hearing consistent with the procedures under § 1226(a) and give the government a pass for not securing a warrant before Mr. De Jesús Aguilar's arrest, particularly when the government has not asserted this a basis for his continued detention" ... [where there is no] "basis for his continued detention today or extraordinary circumstances or some likelihood of his escape (perhaps a tough position when he has been in the country for 19 years and

---

2025) (same); *Valdez v. Joyce*, 25 Civ. 4627, 2025 WL 1707737 (S.D.N.Y. Jun. 18, 2025) (same).

#### **District of Rhode Island**

*Mendes v. Hyde*, No. 25-CV-627-JJM-AEM, 2025 WL 3496546, at \*2 (D.R.I. Dec. 5, 2025) (finding immediate release appropriate "because the Government has put forth no evidence to suggest that Mr. Mendes poses a flight risk or is a danger to the community."); *Barrera Rodriguez v. Hyde*, No. 25-cv-607-JJM-PAS, 2025 WL 3274606, at \*2 (D.R.I. Nov. 25, 2025) (same).

#### **Western District of Tennessee**

*Cordova v. Ladwig*, No. 1:25-CV-03037-TLP-JAY, 2025 WL 3679764, at \*7 (W.D. Tenn. Dec. 18, 2025) (finding petitioner subject to the discretionary bond process but ordering immediate release pending the bond hearing).

#### **District of Idaho**

*Quijaba Cordoba v. Knight*, 1:25-cv-00605-BLW, --- F.Supp.3d ----, 2025 WL 3228945 (D. Id., Nov. 19, 2025) (Court ordering immediate release as the remedy. "**In many circumstances akin to the present case, a bond hearing would indeed be sufficient to rectify the violation of Petitioner's unlawful detention.**" See *E.C. v. Noem*, No. 2:25-cv-01789, 2025 WL 2916264, at \*12 (D. Nev. Oct. 14, 2025); see also *Hernandez-Lara v. Lyons*, 10 F.4th 19, 45-46 (1st Cir. 2021). Here, however, **Respondents have failed utterly to articulate a legitimate interest in the Petitioner being detained. There is no evidence that he is a flight risk or poses a danger to the community.** To the contrary, Petitioner's lack of criminal record, residence in the United States in the past year without incident, and familial ties to the United States all indicate that he is neither a danger nor a flight risk") (emphasis added).

Additional cases ordering the same:

*Camacho v. Hollinshead*, No. 1:25-cv-00593-BLW, 2025 WL 3228998 (D. Id., Nov. 19, 2025); *Elias v. Knight*, No. 1:25-cv-00594-BLW, 2025 WL 3228262 (D. Id., Nov. 19, 2025); *Casares v. Thompson*, No. 1:25-cv-00596-BLW, 2025 WL 3228988 (D. Id., Nov. 19, 2025); *Ibarra v. Knight*, No. 1:25-cv-00597-BLW, 2025 WL 3228968 (D. Id., Nov. 19, 2025); *Torres v. Hollinshead*, No. 1:25-cv-00599-BLW 2025 WL 3228974 (D. Id., Nov. 19, 2025); *Rodriguez v. Knight*, No. 1:25-cv-00600-BLW, 2025 WL 3228285 (D. Id., Nov. 19, 2025); *Esparza v. Knight*, 1:25-cv-00601-BLW (D. Id., Nov. 19, 2025); *Gonzalez v. Knight*, No. 1:25-cv-00602-BLW, 2025 WL 3228975 (D. Id., Nov. 19, 2025); *Elias v. Knight* No. 1:25-cv-00604-BLW, 2025 WL 3229013 (D. Id., Nov. 19, 2025); *Rangel v. Knight*, No. 1:25-cv-00607-BLW, 2025 WL 3229000 (D. Id., Nov. 19, 2025); *Rodriguez v. Hollinshead*, No. 1:25-cv-00609-BLW, 2025 WL 3228972 (D. Id., Nov. 19, 2025); *Martinez v. Knight*, No. 1:25-cv-00610-BLW, 2025 WL 3228987 (D. Id., Nov. 19, 2025); *Lopez v. Anderson*, No. 1:25-cv-00621-BLW, 2025 WL 3228997 (D. Id., Nov. 19, 2025).

twice bonded in immigration proceedings).” ... “The simple matter is this: the government has not established a lawful basis for detention— or, otherwise put, Mr. De Jesús Aguilar has established his detention is today unlawful— and the government must live by the rules that Congress has instituted.” These cases demonstrate that federal courts are exercising their equitable habeas powers to grant the only meaningful remedy for a fundamentally unlawful detention: unconditional release, which is the appropriate remedy in this case due to the unlawful arrest and lack of any legitimate reason for Petitioner’s detention.”

Given that Petitioner’s detention is likewise unlawful, the appropriate remedy is immediate release, not merely a bond hearing that would prolong his illegal confinement.

**WHEREFORE**, this Writ of Habeas should be granted, and the Court should issue an Order for Petitioner’s immediate and unconditional release.

Respectfully Submitted,

This 27<sup>th</sup> day of January, 2026.

/s/ Karen Weinstock  
Karen Weinstock  
Attorney for Petitioner  
Weinstock Immigration Lawyers, P.C.  
1827 Independence Square  
Atlanta, GA 30338  
Phone: (770) 913-0800  
Fax: (770) 913-0888  
kweinstock@visa-pros.com

**CERTIFICATE OF SERVICE**

I hereby certify that on this 27<sup>th</sup> day of January, 2026, this Foregoing Document was served, via electronic delivery to Respondents' counsel via the CM/ECF system, which will forward copies to Counsel of Record.

/s/ Karen Weinstock

Karen Weinstock

Attorney for Petitioner

Weinstock Immigration Lawyers, P.C.

1827 Independence Square

Atlanta, GA 30338

Phone: (770) 913-0800

Fax: (770) 913-0888

kweinstock@visa-pros.com