

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

Emerson S. Ramirez Perez,

Petitioner,

v.

**Warden, Florida Soft Side South Detention
Center, *et al.***

Respondents.

Case No. 2:26-cv-00108-SPC-DNF

REPLY TO GOVERNMENT RESPONDENTS'

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner, Emerson S. Ramirez Perez, through the undersigned counsel submits this reply to Respondents' response to his petition for writ of habeas corpus.

I. INTRODUCTION

Respondents¹ continue to detain Petitioner without a bond hearing due to their misinterpretation of the detention authorities of Sections 1225 and 1226 of the Immigration and Nationality Act (INA), in violation of the Trafficking Victims Protection and Reauthorization Act (TVPRA), and in violation of his Due Process Rights. Contrary to the Government's arguments in their response, this Court does have jurisdiction to hear Petitioner's petition for a writ habeas corpus, Petitioner is eligible for release on bond under § 1226(a), and his immediate

¹ Respondent Warden of the Florida Soft Side South Detention Center has immediate custody over Petitioner. However, Respondents Kristi Noem, as Secretary of the Department of Homeland Security and Pamela Bondi, as the U.S. Attorney General, also exercise custody over Petitioner, as they oversee Immigration and Customs Enforcement and the Executive Office for Immigration Review, respectively, two agencies that are also responsible for Petitioner's continued mandatory detention without bond.

release is the appropriate remedy. The Government's response did not address Petitioner's claims under the TVPRA and Due Process Clause (Petition, ECF No. 1, ¶¶53-56, ¶¶60-63).

II. DISCUSSION

A. The District Court Does Have Jurisdiction to Review Petitioner's Continued Detention Without Bond.

Respondents argue that this Court lacks jurisdiction to hear Petitioner's request under 8 U.S.C. § 1252(g), § 1252(b)(9) and for failure to exhaust his remedies. *See* Government's Response, ECF No. 6 at 7.

Sections 1252(g) and 1252(b)(9) limit judicial review of decisions and actions to commence removal proceedings or to execute final removal orders. Respondents' jurisdictional arguments fail because Petitioner is only challenging his detention without bond, and not his removal proceedings or a final order of removal. This Court has dismissed these arguments in cases similar to Petitioner's, where noncitizens were being subjected to mandatory detention without the possibility of release on bond. *See, e.g., Hinojosa Garcia v. Noem*, No. 2:25-cv-00879-SPC-NPM, ECF No. 18, at *2-5 (M.D. Fla. Oct. 31, 2025); *Gomez Rodriguez v. Secretary, United States Department of Homeland Security*, No. 2:25-cv-01115, ECF No. 10 (M.D. Fla. Dec. 31, 2025); *Miranda Bravo v. Noem*, No. 2:25-cv-1046-SPC-DNF, ECF No. 8, at *2 (M.D. Fla. Dec. 5, 2025);

Moreover, exhaustion is not mandatory here and would be futile after the Board of Immigration Appeal's precedential decision in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), finding that all noncitizens, like Petitioner, who entered the United States without being admitted are subject to detention under § 1225(b) and are ineligible for bond hearings. *Id.*

B. Petitioner is Eligible for Release on Bond Under § 1226(a).

Respondents assert that Petitioner is detained under 1225(b)(2). “Section 1225(b)(2) mandates the detention of applicants for admission ‘if the examining immigration officer determines that [a noncitizen] seeking admission is not clearly and beyond a doubt entitled to admission.’” *Hinojosa Garcia v. Noem*, No. 2:25-cv-00879-SPC-NPM, ECF No. 18, at *7-8 (M.D. Fla. Oct. 31, 2025) (quoting 28 USC § 1225(b)(2)). The statute clearly limits this mandatory detention to noncitizens who, unlike Petitioner, are “seeking admission.” Petitioner entered the U.S. in 2024 and has lived here ever since, therefore he was not “seeking admission” when he was detained. *See* Petition, ECF No. 1, Exh. 2.

“Section 1226(a) creates a default rule for [non-citizens already present in the U.S.] by permitting—but not requiring—the Attorney General to issue warrants for their arrest and detention pending removal proceedings. Section 1226(a) also permits the Attorney General to release those aliens on bond.” *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018). As an “alien already present in the United States,” who was arrested pursuant to a warrant (*see* Government’s Response, ECF No. 6, Exh. 1, at *4), Petitioner is being detained under Section 1226(a), and is not subject to mandatory detention under Section 1225. *See Cetino v. Glades Detention Facility*, 2:25-cv-01037, ECF No. 12 (M.D. Fla. Dec. 12, 2025); *Garcia Riquis v. Warden of Florida Soft Side South (Collier County)*, No. 2:25-cv-01028, ECF No. 8 (M.D. Fla. Dec. 5, 2025); *Patel v. Parra*, 2:25-cv-00870, ECF No. 22 (M.D. Fla. Dec. 1, 2025). *see also Kostak v. Trump*, No. CV 3:25-1093, 2025 WL 2472136 (W.D. La. Aug. 27, 2025).

C. Respondents Continue to Violate Petitioner's Due Process Rights, Therefore his Immediate Release is the Appropriate Remedy.

Despite being detained for an entire month already, Petitioner has not received a Notice to Appear (NTA) informing him of the charges against him and there are no hearings scheduled for Petitioner in Immigration Court.

Respondents released Petitioner following his initial detention as an unaccompanied child (UAC) when he entered the U.S. in 2024. Since then, there have been no material changes to Petitioner's circumstances that would deem him a danger or a flight risk. Petitioner has no criminal record and has a pending, timely filed application for Asylum, Withholding of Removal and protection under the Convention Against Torture ("CAT"). Petitioner is being erroneously deprived of his interest in his freedom, and no government interest is being served by Petitioner's continued detention. *See Rosabal Blanco v. Bondi*, No. 2:26-cv-00051, ECF. No. 9, at *8 (M.D. Fla. Jan. 28, 2026) (ordering the release of a noncitizen who was re-detained years after entering the U.S. and a border patrol agent found him eligible for release pending his immigration hearing). As a result, Petitioner's immediate release is an appropriate remedy for Respondents' violation of Petitioner's Due Process rights. *Id.*

III. CONCLUSION

Respondents ask the Court to endorse an interpretation of § 1225 that would dramatically expand mandatory detention, erase the bond framework Congress preserved in § 1226 and violate Petitioner's Due Process Rights. Courts in this District have rejected that interpretation and *Jennings* forbids it as to this Petitioner. Therefore, this Court should grant the Petition for Writ of Habeas Corpus.

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Respectfully submitted,

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CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing was electronically filed with the CM/ECF e-Filing Portal on February 5, 2026.

By: /s/ Rolando Grillo
Rolando Grillo, Esq.