

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

JULIA ISABEL CARPIO USEDÁ,

A# 

Petitioner,

vs.

JASON STREEVAL, in his official capacity as

Warden of Stewart Detention center; and

LADÉON 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.

CASE NO.:

4.26-cv-124

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

The Petitioner, Julia Isabe Carpio Useda 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. Furthermore, there is a disturbing new trend that immigration judges now deny bonds across the board or set extraordinarily high bonds for people as a way to continue their unlawful detention. In order for the Court to grant full relief, so that Petitioner would not need to come back to Court, Petitioner respectfully pleads that the only remedy for this unlawful detention is immediate and unconditional release.

I. Petitioner’s Detention is Unlawful Due to a Warrantless Arrest that Lacked Any Statutory Authority

Petitioner’s detention is unlawful from its inception because his arrest by ICE violated the clear and restrictive statutory framework Congress established for civil immigration arrests. The primary authority, 8 U.S.C. § 1226(a), explicitly conditions such arrests on a warrant, stating: “[o]n a warrant issued by the Attorney General, an alien may be arrested and detained.” Respondents have offered no evidence that any such warrant was ever issued for Petitioner’s arrest, despite his detailed factual allegations to the contrary.

The Immigration and Nationality Act provides only one narrow exception to this warrant requirement. Under 8 U.S.C. § 1357(a)(2), an ICE officer may make a warrantless arrest only if the officer has reason to believe the individual is in the United States unlawfully and “is likely to escape before a warrant can be obtained for his arrest.” This flight-risk determination is not “mere verbiage” but a mandatory prerequisite that courts consistently enforce. In *United States v. Pacheco-Alvarez*, 227 F. Supp. 3d 863, 888–89 (S.D. Ohio 2016), the court held an arrest violated § 1357(a)(2) where the government introduced no evidence of escape risk. Similarly, in *Creedle v. Miami-Dade Cnty.*, 349 F. Supp. 3d 1276, 1297 (S.D. Fla. 2018), the court found that ICE exceeds its statutory authority by issuing a detainer without an “individualized assessment of ... risk of flight.” Here, it was a factual impossibility for Petitioner to pose such a risk, as he was already secured in local law enforcement custody when ICE assumed control. Without a warrant under § 1226(a) or the required exigency under § 1357(a)(2), there is no statutory hook for Petitioner’s arrest.

Because the statutory precondition for detention—a lawful arrest—was not met, the government lacks any authority to detain Petitioner. As the court in *Florida v. United States*, 660 F. Supp. 3d 1239 (N.D. Fla. 2023) held, if the arrest is not on a warrant, the subsequent provisions

authorizing detention or release are not triggered. 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 that presupposes a lawful initial seizure.

The government's abbreviated response is wholly devoid of any evidence or argument to rebut this conclusion. In this habeas proceeding, the government was ordered to file a return "certifying the true cause of the detention." 28 U.S.C. § 2243. By failing to produce a warrant or allege any facts supporting a "likely to escape" determination, Respondents have failed to meet their most basic burden. This Court is therefore required to "summarily hear and determine the facts, and dispose of the matter as law and justice require." 28 U.S.C. § 2243. On this unrebuted record, law and justice demand Petitioner's immediate release.¹

II. The Court Should Order Petitioner's Immediate Release, Not a Bond Hearing

Respondents' attempt to confine the remedy to a bond hearing misconstrues both the law and the fundamental nature of Petitioner's claim. A bond hearing under 8 U.S.C. § 1226(a) is the proper remedy for potentially prolonged, but otherwise lawful, detention. That is the central issue addressed in cases like this Court's order in *J.A.M. v. Streeval* and the Third Circuit's decision in *Adel G. v. Warden*, where courts assume a valid statutory basis for custody and ask only when due

¹ 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) ("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).

process requires a hearing. This case is fundamentally different. Petitioner is not merely challenging the length of his detention; he is challenging its legality from the moment of seizure. The unrebuted record shows the government failed to secure the arrest warrant required by § 1226(a) and cannot meet the narrow exigency exception of 8 U.S.C. § 1357(a)(2). Instead, they detained Petitioner under the wrong statute, § 1225(b), without a warrant, based on a policy memorandum which was **vacated** based on the APA by a federal court. The question before this Court is not when to hold a hearing, but what is the proper habeas remedy when the government never had statutory authority to arrest or detain this person in the first place.

Where detention is void *ab initio*, the only adequate remedy is to restore the liberty that was unlawfully taken. Federal courts have consistently recognized this distinction, exercising their equitable power to grant outright release. For example, in *Javier De Jesus Aguilar v. English*, No. 3:25-CV-898 DRL-SJF, 2025 WL 3280219 (N.D. Ind., Nov. 25, 2025), a court confronted with a petitioner detained under § 1225(b) without a warrant declined to “give the government a pass” and ordered immediate release instead of a bond hearing. That court correctly found that where the government “has not established a lawful basis for detention,” it must “live by the rules that Congress has instituted.” Unlike other cases, where the court found the petition primarily sought a bond hearing, Petitioner here has, from the outset, expressly requested immediate and unconditional release as the primary remedy.

In this habeas proceeding, Respondents were ordered to “certify the true cause of the detention.” 28 U.S.C. § 2243. Their abbreviated return fails entirely to do so; it contains no warrant, alleges no facts supporting a “likely to escape” finding, and thus fails to meet their basic burden of production to show a lawful basis for custody. This Court is therefore required by statute to “summarily hear and determine the facts, and dispose of the matter as law and justice require.” 28

U.S.C. § 2243. On this un rebutted factual record, ordering a bond hearing would improperly treat an illegal seizure as if it were lawful, prolonging an unconstitutional detention.

As an additional equitable matter, Respondents have also failed to produce a single shred of evidence that Petitioner poses a danger or flight risk. His many years of residence and strong community ties weigh heavily in favor of release. This lack of individualized justification further demonstrates that his detention is arbitrary and punitive, not a legitimate exercise of civil authority. To prevent a perfunctory hearing that would only compound the harm, should this Court order a hearing as an alternative to release, that order must require the government to prove by clear and convincing evidence that detention is necessary, consistent with this Court's reasoning in cases like *J.G. v. Warden, Irwin Cnty. Det. Ctr.*, 501 F. Supp. 3d 1331 (M.D. Ga. 2020). However, because Petitioner's detention is premised on a void arrest, the only remedy consistent with law and justice is his immediate and unconditional release.

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.²

² **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).

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. This would not prohibit Respondents from redetaining Petitioner in the future if they do so *lawfully*, based on a new violation of a state or federal law, etc.

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

Respectfully Submitted,

This 28th day of January, 2026

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CERTIFICATE OF SERVICE

I hereby certify that on this 28th 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

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