UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF GEORGIA
WAYCROSS DIVISION

ALVARO NEGRETE-CHAGOLLA, [redacted] Petitioner, vs. TONY NORMAND, *in his official capacity as Warden of Folkston D. Ray 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.	)	CASE NO.: 5:26-cv-00093-LGW-BWC

PETITIONER'S REPLY TO RESPONSE TO ORDER TO SHOW CAUSE

The Petitioner, Alvaro NEGRETE CHAGOLLA, by and through undersigned counsel, respectfully submits this Reply in support of his immediate release. Due to his unlawful arrest without a warrant, that remedy is more suitable to the situation at hand than a bond hearing.

I. The Court Retains Jurisdiction Over Petitioner's Habeas.

The government contends that this Court lacks jurisdiction over Petitioner's habeas petition, citing 8 U.S.C. § 1252(g), which it claims strips federal district courts of jurisdiction over challenges to an alien's detention arising from the Attorney General's decision to commence proceedings, adjudicate cases, or execute removal orders. The government points to Eleventh Circuit interpretations of this provision, such as *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013), and *Alvarez v. U.S. Immigr. & Customs Enf't*, 818 F.3d 1194, 1203 (11th Cir. 2016), to support its

assertion that challenges to detention during removal proceedings fall within the scope of "commencing proceedings" and are therefore barred. This interpretation, however, is overly broad and inconsistent with the Supreme Court's narrow construction of § 1252(g).[1]

The Supreme Court has consistently held that § 1252(g) applies only to "three discrete actions" by the Attorney General: "the decision or action to commence proceedings, adjudicate cases, or execute removal orders." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). This narrow construction was reaffirmed in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), where the Court clarified that the phrase "arising from" in § 1252(g) does not "sweep in any claim that can technically be said to arise from" the three listed actions, but rather refers "only to those three specific actions themselves." *Kong v. United States*, 62 F.4th 608, 613 (1st Cir. 2023). Consequently, challenges to the legality of a noncitizen's detention, particularly those asserting constitutional violations, are generally considered "collateral" to removal proceedings and do not fall within the jurisdictional bar of § 1252(g).

The Supreme Court's decision in *I.N.S. v. St. Cyr*, 533 U.S. 289 (2001), is particularly instructive. The Court emphasized that Congress must make a "clear and unambiguous statement" of intent to repeal habeas jurisdiction under 28 U.S.C. § 2241. *Id.*, 308-314. Absent such an explicit repeal, federal courts retain jurisdiction to review pure questions of law in habeas petitions. The Court also highlighted the constitutional concerns under the Suspension Clause, which

[1] Here, however, Petitioner does not ask this Court to review or enjoin the Attorney General's *discretionary* decision to commence removal proceedings by issuing a Notice to Appear, to adjudicate the merits of those proceedings, or to execute any removal order. He challenges only the legal authority and procedures governing his civil immigration custody—including his warrantless arrest, Respondents' misclassification of him as an "applicant for admission" under § 1225, and their refusal to provide the procedures mandated by the INA and its regulations. Detention claims of this sort are collateral to "commencing proceedings," even as that phrase is used in *Gupta* and *Alvarez*, because they do not seek to restrain or second-guess the initiation or prosecution of removal proceedings themselves. And in *Jennings v. Rodriguez*, 583 U.S. 281 (2018), the Supreme Court adjudicated statutory and constitutional challenges to detention under §§ 1225 and 1226 in a § 2241 habeas action, without suggesting that § 1252(g) stripped the district court of jurisdiction over those claims.

"unquestionably requires some judicial intervention in deportation cases." *Id.*, 300. This Court already has already decided that similar cases are not barred by § 1252(g) and the Court's reasoning is persuasive. *See Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025), *report and recommendation adopted*, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025). As the Supreme Court stated in *Jennings*, § 1226 applies to "certain aliens ***already in the country***." 583 U.S. 281, 303-305 (emphasis added).

II. Petitioner's Detention is Unlawful Under § 1225.

Respondents' detention of Petitioner is unlawful. First, as Respondents concede (ECF No. 7 at 2), this Court's recent decisions in *Villa v. Normand*, No. 5:25-cv-89, 2025 WL 3095969 (S.D. Ga. Nov. 4, 2025), *report and recommendation adopted*, 2025 WL 3188406 (S.D. Ga. Nov. 14, 2025), which rejected the government's novel detention theory under 8 U.S.C. § 1225(b)(2), is controlling. See ECF No. 7 "Respondent recognizes this Court's prior ruling in Villa concerning a similar challenge to the detention authority at issue here and acknowledges that, if the Court adheres to its legal reasoning in *Villa*, it will control the result in this case.").

Despite this admission, the government erroneously continues to assert that Petitioner is an "applicant for admission" because he entered the United States illegally and has not demonstrated entitlement to admission. Consequently, the government argues he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) throughout his removal proceedings, subject only to discretionary parole by DHS. This legal theory has been also repudiated by a tidal wave of HUNDREDS of recent district court decisions nationwide, all rejecting Respondents' position. These courts consistently find that applying the "arriving alien" framework of § 1225 to interior apprehensions defies the statute's plain language.

Respondents rely heavily on 8 U.S.C. § 1225(a)(1), which provides that "an alien present

in the United States who has not been admitted … shall be deemed for purposes of this chapter an applicant for admission." That definitional deeming clause, however, does not itself trigger mandatory detention. Detention authority comes from § 1225(b)(2)(A), which applies "in the case of an alien who is an applicant for admission" only "if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted," in which event "the alien shall be detained for a proceeding under section 1229a." Read in context, § 1225(a)(1) identifies who is treated as an "applicant for admission" for purposes of the chapter, while § 1225(b) governs the inspection and detention process at the border and other points of entry when an "examining immigration officer" is inspecting an alien "seeking admission." Nothing in that structure supports extending § 1225(b)(2)(A) to someone like Petitioner—arrested in the interior decades after entry—who is plainly no longer in the act of "seeking admission" before an examining officer (who is only available at a port of entry or border crossing). Construing § 1225(b)(2)(A) to cover all present-without-admission noncitizens in the interior would largely read § 1226(a) out of the statute for that entire class and is irreconcilable with the regulatory regime and with this Court's own analysis in *Villa*. Congress has already provided the detention tool for interior civil immigration arrests in 8 U.S.C. § 1226(a), which authorizes arrest and detention only **"[o]n a warrant** issued by the Attorney General" "pending a decision on whether the alien is to be removed from the United States." This warrant-based scheme is the mechanism Congress chose for noncitizens already in the country, including those present without admission.

Petitioner, Alvaro Negrete-Chagolla, is a 46-year-old noncitizen who has resided in the United States since approximately 2003. He is the father of three U.S. citizen children, ages 21, 19 and 14. ECF No. 1. Petitioner has significant and community ties as he has lived in the same

community for over two decades now and has built a family of U.S. citizens. *Id.* It is beyond illogical for Respondents to continue to allege that an individual like Petitioner is someone "seeking admission" under § 1225 because the plain meaning of the phrase "seeking admission" "implies action—something that is currently occurring, and ... would most logically occur at the border upon inspection." *Villa v. Normand*, 2025 WL 3188406, at *6.

Respondents continue to fundamentally misrepresent the holdings from *Jennings v. Rodriguez*, 583 U.S. 281 (2018) which held that there are two separate detention statutes, one that applies to noncitizens apprehended at or near the border upon entry, and the other one for people like Petitioner, who are apprehended within the U.S. years after they entered, who are governed by 8 U.S.C. § 1226(a). "In sum, U.S. immigration law authorizes the Government to detain certain aliens ***seeking*** admission into the country under §§ 1225(b)(1) and (b)(2). It also authorizes the Government to detain certain aliens ***already in the country*** pending the outcome of removal proceedings under §§ 1226(a) and (c).") (emphasis added). *Id.* at 289.

As seeking admission requires an active attempt to enter—not mere presence—a noncitizen like Petitioner apprehended in the interior of the United States, years after entry, cannot be seeking admission. *Giron Lopez v. Corecivic Cimmaron Correctional Facility, et al.*, No. CIV-25-1175-SLP, 2026 WL 165490, at *5-6 (W.D. Okla. Jan. 21, 2026) ("seeking admission" requires something more than merely residing in the country."); *Hernandez v. Baltazar*, No. 1:25-CV-03094-CNS, 2025 WL 2996643, at *5 (D. Colo. Oct. 24, 2025) ("For a noncitizen to be deemed 'seeking admission' they must currently be taking active steps or some kind of present-tense action to seek lawful entry into the U.S."); *Issahaku v. Olson*, No. CV 25-180-DLB, 2025 WL 3539290, at *4 (E.D. Ky. Dec. 10, 2025) ("The use of the present progressive term 'seeking' 'implies action.'") (gathering cases); *Echevarria v. Bondi*, No. CV-25-3252, 2025 WL 2821282,

at *6 (D. Ariz. Oct. 3, 2025) ("The word 'seeking' is the present participle of the verb 'seek.' It thus has a temporal element—Petitioner must have been in the process of seeking admission at the time of the inspection.") (cleaned up and citations omitted). Thus, Petitioner is not subject to mandatory detention under 8 U.S.C. § 1225. Respondents' reliance on *Matter of Yajure Hurtado*, 29 I. & N. Dec. 216 (BIA 2025), and *Matter of Q. Li*, 29 I. & N. Dec. 66 (BIA 2025), does not change this conclusion: those Board decisions cannot override the text and structure of §§ 1225 and 1226 as interpreted by this Court in *Villa*, and to the extent they purport to extend § 1225(b)(2) to long-term interior residents like Petitioner, they are inconsistent with both the statute's plain meaning and the nationwide declaratory judgment in *Maldonado Bautista v. Santacruz* and are not entitled to deference in this Article III court.

Additionally, a nationwide class in *Maldonado Bautista v. Santacruz* now has been certified, become final, and granted declaratory relief to all class members—including Petitioner—, holding that they are being detained without a bond hearing unlawfully and providing an independent, additional basis for treating Petitioner's detention as governed by 8 U.S.C. § 1226(a) rather than § 1225(b)(2).[2] Furthermore, the judgement, which is final and binding on Respondents until it is reversed or stayed by a court of appeals, **VACATED** the July

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[2] On November 25, 2025, in *Maldonado Bautista v. Santacruz*, the U.S. District Court for the Central District of California certified a Bond Eligible Class, comprised of the following individuals:

> All noncitizens in the United States without lawful status who (1) have entered or will enter the United States without inspection; (2) were not or will not be apprehended upon arrival; and (3) are not or will not be subject to detention under 8 U.S.C. § 1226(c), § 1225(b)(1), or § 1231 at the time the Department of Homeland Security makes an initial custody determination.

*2 --- F.R.D. ----, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3288403, at *9 (C.D. Cal. Nov. 25, 2025); *see Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3289861 (C.D. Cal. Nov. 20, 2025). The court declared unlawful under the APA the Administration's July 8, 2025 "Interim Guidance Regarding Detention Authority for Applicants for Admission" notice that required anyone arrested in the U.S. and being charged as inadmissible as being subject to mandatory detention under 8 U.S.C. § 1225. The *Maldonado Bautista* court then **granted declaratory relief to members of the Bond Eligible Class** and **vacated the Department of Homeland Security policy** requiring ICE agents to treat every person who entered the United States without inspection as "seeking admission" under 8 U.S.C. § 1225(b)(2) and thereby subject to mandatory detention. *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3713987, at *1, *32 (C.D. Cal. Dec. 18, 2025), judgment entered sub nom. *Maldonado Bautista v. Noem*, No. 5:25-CV-01873-SSS-BFM, 2025 WL 3678485 (C.D. Cal. Dec. 18, 2025).

2025 ICE memo as unlawful under the Administrative Procedures Act (APA). Thus, the government cannot detain Petitioner based on a policy that has been declared a legal nullity. This is a stand-alone reason for immediate release.

Moreover, as a member of the *Maldonado Bautista* class, Petitioner is entitled to the same relief. *See Mohammadi v. Larose*, No. 3:25-CV-3450-JES-BJW, 2025 WL 3731737, at *2 (S.D. Cal. Dec. 26, 2025) ("To the extent that Petitioner's detention was due to application of this [new DHS policy] notice, this case gives independent support for why Petitioner cannot be subject to mandatory detention in these circumstances."); *Perez-Regalado v. Feeley, et al.,* No. 2:25-CV-02409-RFB-EJY, 2026 WL 36112, at *1 (D. Nev. Jan. 6, 2026) ("Outside of the Court's own analysis, the Court also recognizes that Petitioner is a member of the class certified in *Bautista v. Santacruz*, [ ], and that the District Court's Order in *Bautista* has recently become final, extending declaratory relief to the class."); *Mendes v. Hyde*, No. 25-CV-627-JJM-AEM, 2025 WL 3496546, at *3 (D.R.I. Dec. 5, 2025) (The *Bautista* "relief is a declaratory judgment holding that class members are detained under Section 1226(a) rather than Section 1225(b)(2)."). Contrary to Respondents' claim, the government's appeal (which did not include a stay) does not affect the applicability or availability of this declaratory relief. Thus, regardless of how the Court resolves the abstract statutory question under § 1225, Maldonado Bautista confirms that Petitioner must be treated as a § 1226(a) detainee and that his continued custody without any lawful basis is not cured by offering a belated bond hearing of the sort Respondents propose in ECF 5.

III. Petitioner's Detention is Unlawful Under § 1226(a) Due to a Warrantless Arrest, and Failure to Properly Revoke his Order of Supervision, Mandating Immediate Release.

Even assuming, arguendo, that Petitioner's detention falls under 8 U.S.C. § 1226(a), his continued detention is unlawful because he was arrested without a warrant, a statutory precondition for detention under this section. 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 prolonged 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.[3]

Similarly, again assuming, arguendo, that Petitioner's detention falls under 8 U.S.C. § 1226(a), his initial detention was unlawful as it occurred without a warrant as mandated by 8 U.S.C. § 1357(a)(2). Furthermore, his continued detention is unlawful under 8 U.S.C. § 1226(a), because Respondents failed to provide him with a bond hearing. Thus, the Court should find this fact uncontested for purposes of this petition. As such, the only appropriate remedy for Respondents' additional egregious failure to follow their own regulations or abide by due process is to order Petitioner's immediate and unconditional release. *See* ECF No. 1.

IV. 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

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[3] *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).

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 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. In *Hamama v. Adducci*, 912 F.3d 869 (6th Cir. 2018), the court emphasized that the Suspension Clause historically protects habeas as a vehicle to secure release from unlawful custody and does not extend to suits seeking only stays of removal or other injunctive relief that does not challenge present physical detention. Petitioner here is squarely seeking that core habeas remedy—release from an unlawful civil immigration confinement—rather than using habeas to obtain nontraditional injunctive relief, underscoring why immediate release is the appropriate disposition.

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.

Respondents' alternative request in ECF No. 5 for seven days to arrange a § 1226(a) bond hearing therefore does not cure the defect here. Their proposal would merely extend an illegal confinement and give the government a second opportunity to justify a detention it had no statutory authority to initiate. 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.[4]

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[4] **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, 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. <u>There is no evidence</u> 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).

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 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.

V. All Named Government Respondents Are Necessary Parties to Afford Complete and Final Relief.

Respondents improperly disregarded the federal Respondents beyond the warden. *See* ECF No. 5. Retaining all named Respondents—including those beyond the immediate habeas

custodian—is essential for this Court to grant complete and effective relief.[5] While the "immediate custodian" rule from *Rumsfeld v. Padilla*, 542 U.S. 426 (2004) is true for core habeas claims, it does not control the distinct claims for declaratory and injunctive relief that are vital to securing a meaningful remedy.

This distinction between core habeas and broader equitable relief is confirmed by the Ninth Circuit's decision in *Rodriguez v. Hayes*, 591 F.3d 1105 (9th Cir. 2010). There, the court rejected the argument that *Padilla* barred class-wide habeas and injunctive relief in an immigration-detention case merely because class members were confined in different facilities under different wardens, emphasizing that *Padilla* had expressly reserved the question of who the proper respondent is for "an alien detained pending deportation." The court held that nothing in Padilla prevents federal courts from granting systemic or class habeas relief where Rule 23 and jurisdictional requirements are met, and that the presence of multiple immediate custodians does not itself create a jurisdictional defect.

The Supreme Court's holding in *Rumsfeld v. Padilla* was created to address the specific jurisdictional requirements of the habeas statute and prevent forum shopping in challenges to physical custody. It does not, however, foreclose naming other federal officials as respondents in parallel claims for prospective equitable relief brought under the Administrative Procedure Act, 5 U.S.C. § 702, and the Declaratory Judgment Act, 28 U.S.C. §§ 2201–2202 and declaratory and injunctive orders under 28 U.S.C. § 1331. For these distinct non-habeas claims, the proper defendants are the officials who exercise the "legal reality of control" over the policies and actions

[5] Petitioner acknowledges that under *Rumsfeld v. Padilla*, the proper respondent to the habeas claim is the immediate custodian (Respondent Normand). *See* ECF 1, Complaint. To the extent the Court deems them other listed Respondents improper on the habeas count, Petitioner respectfully requests that any dismissal be limited to that claim and without prejudice to their continued status as Respondents-Defendants on the non-core claims, so that effective, agency-directed relief can issue to the officials with authority to implement it.

at issue. *See Padilla v. Rumsfeld*, 352 F.3d 695, 707 (2d Cir. 2003), *rev'd on other grounds*, 542 U.S. 426 (2004). An injunction must bind the party with the actual power to act. Here, the immediate custodian at Folkston Annex Detention Center is merely an agent acting at the direction of ICE and DHS. The non-habeas Respondents—the Secretary of Homeland Security and the ICE Field Office Director—are the officials with the exclusive legal authority to order Petitioner's release, implement bond orders, and set conditions of supervision pursuant to federal regulations. *See* 8 C.F.R. §§ 236.1, 1003.19. To dismiss the officials in control would render any prospective order from this Court a nullity.

Furthermore, retaining these policymaking officials Respondents is critical to prevent the government from frustrating judicial review and providing a final, complete remedy. First, dismissing the non-habeas Respondents creates a significant risk that the government could moot this litigation by simply transferring Petitioner to a different facility outside this district—a tactic that would create serious jurisdictional hurdles. The *Padilla* litigation itself highlights this exact danger. *See Rumsfeld*, 542 U.S. at 441 (noting *Padilla* was moved before the petition was filed). Keeping the officials with national and regional transfer authority as parties ensures the Court's power to adjudicate the claims and provide "complete relief," consistent with the principles of FRCP 19. Keeping the DHS and ICE leadership in the case both prevents gamesmanship through transfers that would otherwise frustrate effective habeas review and ensures that any final order—including one forbidding re-detention under the vacated Bautista policy—binds the officials who actually control transfers, releases, and alternative-to-detention conditions.

Second, the necessity of retaining the federal Respondents extends beyond preventing the mooting of this litigation. Even if this Court grants the writ and orders Petitioner's immediate release, that order would be hollow if the non-habeas Respondents are not bound by a

corresponding injunction. Having been dismissed from the action, these officials—who wield the ultimate authority to detain—would be free to re-detain Petitioner under the same unlawful interpretation of their authority the moment he is released. This would nullify the Court's ruling and force Petitioner to begin this entire process anew, transforming the Great Writ into a revolving door of litigation. The prospective declaratory and injunctive relief sought is therefore not ancillary but essential to ensure any remedy is both meaningful and final. Only by keeping the officials with the power to detain as parties can the Court enjoin them from re-detaining Petitioner without due process and prevent such a perverse outcome. In dozens of other district court decisions cited in the Complaint, which have uniformly retained non-habeas federal officials to ensure their orders could be effectively implemented. None of these courts dismissed the non-habeas Respondents. Therefore, Petitioner respectfully requests that the Court to confirm in its final order that all named government Respondents/Defendants remain in this action. While the Warden is the proper Respondent for the § 2241 challenge to current physical custody under *Rumsfeld v. Padilla*, the non-habeas Respondents are necessary and proper defendants for the claims seeking prospective declaratory and injunctive relief, which are essential to ensuring that any remedy afforded is both complete and final.

In conclusion, Petitioner seeks an order granting him immediate and unconditional release from custody, as a result of Respondents' unlawful detention of Petitioner.

Respectfully Submitted,

This 2nd of February, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on this 2nd day of February, 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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