

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
ORLANDO DIVISION

FANDERSON JESUS UZCATEGUI
RODRIGUEZ,

Petitioner,

v.

Case No. 6:26-cv-00183-RBD-DCI

QUINONES et al.
(ORANGE COUNTY),¹

Respondents.

Response to Petition for Writ of Habeas Corpus

Petitioner Fanderson Jesus Uzcategui Rodriguez challenges his detention by U.S. Department of Homeland Security (“DHS”) and Immigration and Customs Enforcement (“ICE”), arguing he is entitled to immediate release. This is a standard § 1225 v. § 1226 case without detention at the border.

Federal Respondents acknowledge that the Court has very recently considered these issues in a similar case, *Daniela Emilia Guaiquire v. Quinones*, case 6:26-cv-00169-RBD-RMN, which concluded with an order granting the writ of habeas corpus.

¹ The Warden is the only appropriate Respondent. 8 U.S.C. § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 434-36 (2004); *Vandersnick v. Sec’y, Fla. Dep’t of Corr.*, No. 5:18-cv-603-SPC-PRL, 2021 WL 1020914, at *1 n.3 (M.D. Fla. Mar. 17, 2021). Any relief the Court awards should be fashioned to that within the power of the immediate custodian (i.e., the Warden) or ICE/DHS. See, e.g., *Mirando Bravo v. Noem*, No. 2:25-cv-1046-SPC-DNF, Doc. 8 at *3 (M.D. Fla. Dec. 5, 2025) (ordering ICE *either* to bring petitioner for a bond hearing or release by a specific date).

Indeed, the Court's TRO entered by endorsed order states that it is based on the reasons stated in the *Guaquire* TRO. Doc. 4. In light of this, we submit this abbreviated brief in lieu of exhaustive, duplicative briefing on the § 1225(b)(2) v. § 1226 issue. The Court will see that this memorandum is substantially similar to the Government's response in *Guaquire* case, insofar as the petition in that matter is the same as the Petition before the Court here, outside of the petitioner's names and supporting exhibits. Should the Court prefer a fulsome discussion or entertain reconsidering its rulings on § 1226, Respondents request leave to submit additional briefing.

Background

Fanderson Jesus Uzcategui Rodriguez is a citizen and national of Venezuela. Doc. 1, pg. 10. On or about September 19, 2022, he unlawfully entered the United States. *Id.* He was arrested by Border Patrol and thereafter released on parole under 8 U.S.C. § 1182(d)(5)(A), until November 22, 2022. *Id.* On January 22, 2026, he was reencountered and taken back into DHS custody. Doc. 1, § 14.

Certified Habeas Return

ICE is detaining Fanderson Jesus Uzcategui Rodriguez under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). *See* 28 U.S.C. § 2243 ("The person to whom the writ or order is directed shall make a return certifying the true cause of the detention."). Fanderson Jesus Uzcategui Rodriguez bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec'y of State*, 853 F. App'x 327, 329 (11th

Cir. 2021).

Discussion

The Court's Temporary Restraining Order (importing the reasoning of the TRO in *Guaquire*) concludes that detention authority under 8 U.S.C. § 1225 can only apply to aliens intercepted at the border. *See Guaquire*, Doc. 4. Respectfully, and as a means of preserving the argument for any appeal in this matter, Respondents explain how § 1225 can and should apply to Petitioner's circumstances.

In *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), the Board of Immigration Appeals ("BIA") examined the plain language of § 1225, the Immigration and Nationality Act's ("INA") statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996, and ICE's prior practices. The BIA held that "under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), immigration judges lack authority to hear bond requests or to grant bond to aliens, like the respondent, who are present in the United States without admission." 29 I&N Dec. at 225. This Court should rule the same.

Here, the Government's position is consistent with the BIA precedent in *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), a case that binds immigration judges at the administrative level, preventing any immigration judge from determining that Petitioner was bond-eligible under his unique circumstances. Further, under *Thuraissigiam* and the statutory scheme at 8 U.S.C. § 1225(a), "An alien present in the

United States who has not been admitted . . . shall be deemed for purposes of this chapter an applicant for admission.” 8 U.S.C. § 1225(a)(1); *DHS v. Thuraissigiam*, 591 U.S. 103, 140 (2020). Such aliens are applicants for admission whether they arrived at a designated port of arrival or not. 8 U.S.C. § 1225(a)(1). Applicants for admission are subject to mandatory detention until certain immigration proceedings have concluded. *Jennings v. Rodriguez*, 583 U.S. 281, 297 (2018); *Matter of Yajure Hurtado*, 29 I&N Dec. at 224. The emphasis is thus on the manner in which an alien enters the United States, not the duration of time for which he has remained here, a position supported by legislative intent. 8 U.S.C. § 1225(a)-(b); *see also* H.R. Rep. No. 104-469, pt. 1, at 225 (1996). This supports ICE’s position here. The existence of a BIA decision binding on immigration courts nationwide supports ICE’s custody determination consistent with that decision and supports the Government’s position in this case.

Unsettled issues such as the interpretation of Sections 1225 and 1226 presented here give the Government leeway in presenting its argument. *See Kuratapi v. USCIS*, 700 F. App’x 974, 975 (11th Cir. 2017). By analogy, in *Kuratapi*, the Eleventh Circuit concluded the appropriateness of EAJA fees where the Government’s position on an issue that—at the time of briefing—was “sufficiently unsettled” to be justified. *Id.* at 976. Here, the government timely appealed early unfavorable decisions on this issue in the Eleventh Circuit and those appeals remain pending. *See Hernandez Alvarez v. Warden, Federal Detention Center Miami, et al.*, 11th Cir. No. 25-14065 and *Cerro Perez v. Assistant Field Office Director, Krome North Service Processing Center, et al.*, 11th Cir. No.

25-14075. Whether to apply Section 1225 or 1226 to aliens like Petitioner is a novel issue, with districts ruling both for and against the Government. In fact, several days ago Judge Pratt accepted the Government's arguments in a case pending before him in the Jacksonville division of this Court. *See* attached Exhibit 1. In addition, courts in the Western District of Louisiana, the Eastern District of Wisconsin, the Northern District of Texas, Southern District of Texas, Eastern District of Missouri, and the Eastern District of California have adopted positions favorable to the Government's statutory interpretation. *See e.g., Silva Oliveira v. Patterson*, No. 25-1463, 2025 WL 3095972, at *3-*6 (W.D. La. Nov. 4, 2025); *Barrios Sandoval v. Acuna*, No. 25-1467, 2025 WL 3048926, at *3-*6 (W.D. La. Oct. 31, 2025); *Kum v. Ross*, No. 25-451, at *1-2 (W.D. La. Oct. 22, 2025), R&R adopted *Montoya Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331, at *3-7 (S.D. Tex. Nov. 13, 2025); *Olalde v. Noem*, No. 1:25-cv-00168-JMD, 2025 WL 3131942, at *2-5 (E.D. Mo. Nov. 10, 2025); *Rojas v. Olson*, No. 25-cv-1437-bhl, 2025 WL 3033967, at *2-10 (E.D. Wis. Oct. 30, 2025); *Cf. Garibay-Robledo v. Noem*, No. 1:25-cv-00177-H, (Doc. 9), (N.D. Tex. Oct. 24, 2025); *Cirrus Rojas v. Olson*, No. 25-1437, 2025 WL 3033967, at *3-14 (E.D. Wis. Oct. 30, 2025); *Rene Garibay-Robledo v. Noem*, No. 25-177 (N.D. Tex. Oct. 24, 2025); *Villanueva v. Chestnut*, No. 25-1218, 2025 WL 2996559, at *2-4 (E.D. Cal. Oct. 24, 2025). As Judge Pratt observed in *Lopez*, the Government's position is a minority view, but the disagreement allows the conclusion that reasonable minds could differ on this issue. *Lopez*, at 1-2 and 15 of slip op., *see also Rosciszewski v. Adducci*, 983 F. Supp. 2d 910,

917 (E.D. Mich. 2013) (concluding that the Government’s “position, while incorrect, was not substantially unjustified” because of an “absence of a definitive decision from the Sixth Circuit Court of Appeals” on the statute at issue “as well as the fact that courts across the country cannot agree on this issue”). Until the Eleventh Circuit or Supreme Court speaks on the issue the government’s position—although unpopular—is justifiable.

Respondents acknowledge that questions of law in this case substantially overlap with *Patel v. Hardin*, No. 2:25-cv-870-JES-NPM, 2025 WL 3442706 (M.D. Fla. Dec. 1, 2025). It should be noted, however, that many courts recently ruled in Respondents’ favor on this issue. *Manzo Valencia v. Chestnut*, No. 1:25-cv-01550 WBS JDP, 2025 WL 3205133, at *1-4 (E.D. Cal. Nov. 17, 2025).² A countrywide district split is developing on applying § 1225 or § 1226 in these instances. At least five circuits—as noted above, including the Eleventh Circuit—have active appeals on the

² See also *Suarez v. Noem*, No. 1:25-cv-00202-JMD, 2025 WL 3312168, at *2-3 (E.D. Mo. Nov. 28, 2025); *Cortes Alonzo v. Noem*, No. 1:25-cv-01519 WBS SCR, 2025 WL 3208284, at *1-5 (E.D. Cal. Nov. 17, 2025); *Altamirano Ramos v. Lyons*, No. 2:25-cv-09785-SVW-AJR, 2025 WL 3199872, at *4-9 (C.D. Cal. Nov. 12, 2025); *Montoya Cabanas v. Bondi*, No. 4:25-cv-04830, 2025 WL 3171331, at *3-7 (S.D. Tex. Nov. 13, 2025); *Olalde v. Noem*, No. 1:25-CV-00168-JMD, 2025 WL 3131942, at *2-5 (E.D. Mo. Nov. 10, 2025); *Oliveira v. Patterson*, No. 6:25-cv-01463-DCJ-DJA, 2025 WL 3095972, at *2-6 (W.D. La. Nov. 4, 2025); *Sandoval v. Acuna*, No. 6:25-cv-01467, 2025 WL 3048926, *2-6 (W.D. La. Oct. 31, 2025); *Rojas v. Olson*, No. 25-cv-1437-bhl, 2025 WL 3033967, at *2-10 (E.D. Wis. Oct. 30, 2025); *Garibay-Robledo v. Noem*, No. 1:25-cv-00177-H (Doc. 9) (N.D. Tex. Oct. 24, 2025); *Kum v. Ross*, No. 6:25-cv-00451-DCJ-CBW, 2025 WL 3113646, at *1-2 (W.D. La. Oct. 22, 2025); *Vargas v. Lopez*, No. 25-CV-526, 2025 WL 2780351, at *4-9 (D. Neb. Sept. 30, 2025); *Chavez v. Noem*, No. 25-CV-23250CAB-SBC, 2025 WL 2730228 at *4-5 (S.D. Cal. Sept. 24, 2025).

matter. *Martinez v. Hyde*, No. 25-1902 (1st Cir.); *Buenrostro-Mendez v. Bondi*, No. 25-20496 (5th Cir.); *Pizzaro Reyes v. ERO*, No. 25-1982 (6th Cir.); *Cortes Alonzo v. Noem*, No. 25-7348 (9th Cir.); *Hernandez Alvarez v. Warden*, No. 25-14065 (11th Cir.). The Eleventh Circuit cases have been consolidated and are proceeding on an expedited timetable. Oral argument has been scheduled in a Fifth Circuit case on this issue.³

Respondents respectfully disagree with the Court's decision in *Patel* and believe appeals will resolve these issues in their favor. That said and acknowledging the Court's prior consideration of them in the *Guaquire* case, Respondents make the following arguments for preservation purposes:

1. 8 U.S.C. § 1252(g) bars review of Fanderson Jesus Uzcategui Rodriguez's claims. *Patel*, No. 2:25-cv-870-JES-NPM (Doc. 15 at 4-7) (M.D. Fla.).⁴
2. 8 U.S.C. § 1252(b)(9) bars review of these claims. *Id.* at 7-8.
3. Fanderson Jesus Uzcategui Rodriguez failed to exhaust administrative remedies. *Id.* at 8-9.
4. Fanderson Jesus Uzcategui Rodriguez is properly detained under 8

³ *Buenrostro-Mendez v. Bondi*, No. H-25-3726, 2025 WL 2886346 (S.D. Tex. Oct. 7, 2025); *Martinez v. Hyde*, 792 F. Supp. 3d 211 (D. Mass. 2025); *Cortes Alonzo*, 2025 WL 3208284; *Pizzaro Reyes v. ERO*, No. 25-cv-12546, 2025 WL 2609425 (E.D. Mich. Sept. 9, 2025) *Alvarez v. Morris*, No. 0:25-cv-24806, Doc. 6 (S.D. Fla. Oct. 27, 2024).

⁴ Respondents acknowledge Local Rule 3.01(h) prohibits incorporation by reference of any other motion, legal memorandum, or brief. To achieve the purpose of efficiency, Respondents respectfully request the Court to suspend application of the rule in this instance. See M.D. Fla. Local R. 1.01(a)-(b); Fed. R. Civ. P. 1.

U.S.C. § 1225. *Id.* at 10-16.

Should the Court determine Fanderson Jesus Uzcategui Rodriguez's detention is subject to § 1226, the only appropriate remedy is to begin the process for a bond hearing—not outright release—during which an immigration judge can determine whether Fanderson Jesus Uzcategui Rodriguez is a flight risk or danger to the community. *See, e.g., Raya v. Dir., Enft & Removal Operations*, No. 2:25-CV-1109-KCD-DNF, 2025 WL 3706510, at *1 (M.D. Fla. Dec. 22, 2025); *Vasquez Carcamo*, No.: 2:25-cv-00922-SPC-NPM, 2025 WL 3119263, at *5-6 (M.D. Fla. Nov. 7, 2025).

Conclusion

Fanderson Jesus Uzcategui Rodriguez's Petition for Writ of Habeas Corpus should be denied. Nonetheless, if the Court grants relief, such relief should be limited to providing for the statutory process under 8 U.S.C. § 1226.

Date: January 29, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on January 29, 2026, I electronically filed the foregoing document with the Clerk of the Court using the CM/ECF system, which will send notice of the filing to the following CM/ECF participant:

Phillip Arroyo, Esq.

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