

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

MARCOS JOSE BARBOSA
VALLENILLA,

Petitioner,

v.

Case No. 3:26-cv-144-JEP-PDB

Warden of Florida Baker Detention
Center,¹ U.S. Immigration and Customs
Enforcement; and, U.S. Department of
Homeland Security,

Respondents.

Supplemental Response to Habeas Petition

In response to the Court's Order (Doc. 10), Federal Respondents hereby address the contents of the documents attached to Marcos Jose Barbosa Vallenilla's Petition (Doc. 1).

Introduction

Prior to the issuance of the Court's Order, Federal Respondents did not know any documents were attached to Barbosa Vallenilla's Petition. Per the Court's January 27, 2026, order (Doc. 2) the Clerk of Court emailed a copy of the Court's

¹ The individual having physical custody of a petitioner 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 within the power of the immediate custodian 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).

order and Petition to the United States Attorney for the Middle District of Florida. However, the Clerk of Court did not include attachments to the Petition in the email. As such—and because Petitioner did not reference the attached documents in his Petition—Federal Respondents did not know any documents were attached to the Petition or that the Clerk of Court did not provide a copy of the entire pleading. However, now having received and reviewed the attachments to the Petition, Federal Respondents submit this supplement to their Response.

Discussion

I. Petitioner's 2002 final order of removal was executed when he was removed to Venezuela on March 20, 2002, and is no longer operative. Petitioner is not subject to a current final order of removal.

On March 5, 2002, after he waived his right to appeal, Petitioner became subject to a final order of removal. The 2002 order of removal was executed on March 20, 2002, when Petitioner was removed from the United States and returned to Venezuela. Doc. 7-1 at pg. 4. After his 2002 removal, Petitioner left Venezuela on July 25, 2019, and journeyed to the United States where he applied for admission and requested asylum at the Camino Real International Bridge Port of Entry in Eagle Pass, TX on August 19, 2019. *Id.* at pg. 2; Doc. 9-3 at pg. 14. At that time, Petitioner was processed by Enforcement Removal Operations and was deemed inadmissible due to his prior conviction and time served in the United States for an aggravated crime involving a firearm. Doc. 7-1 at pgs. 2 and 5. An asylum officer completed Petitioner's credible fear review on or about March 20, 2020, and determined that Petitioner did not establish a reasonable fear of persecution and he was ordered

removed pursuant to INA §235(b)(1), as amended, 8 U.S.C. § 1225(b)(1). Doc. 9-3 at pgs. 5-7. Petitioner appealed the asylum officer's determination to an immigration judge, who granted a deferral of removal under Article III of the Convention Against Torture, but denied withholding of Petitioner's removal. Doc. 1-1 at pgs. 13-14. Thereafter, Petitioner appealed the Immigration Judge's Order, and that appeal is still pending. BIA Status Page visited March 27, 2026, at pg. 2. Petitioner remains in removal proceedings until the BIA adjudicates his appeal. Thus, Petitioner does not have a final order of removal.

Conclusion

Accordingly, Petitioner is properly detained under the mandatory detention provisions of 8 U.S.C. § 1225(b)(1), his detention is lawful, and the Court should deny his Petition for Writ of Habeas Corpus.

Date: March 27, 2026

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

/s/ Kyesha Mapp

KYESHA MAPP
Assistant United States Attorney
Florida Bar No. 0113006
300 North Hogan Street, Suite 700
Jacksonville, FL 32202-4270
Telephone No. (904) 301-6254/6300
Facsimile No. (904) 301-6240
Email: Kyesha.Mapp@usdoj.gov
Attorneys for Federal Respondents

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 27, 2026, I electronically filed the foregoing document with the Clerk of Court using the CM/ECF system. I further certify that a copy of the foregoing document will be sent to the below non-CM/ECF participant via U.S. Mail.

Marcos Jose Barbosa Vallenilla
Baker County Detention Center
20706 US Highway 90
Sanderson, FL 32087

/s/ Kyesha Mapp
KYESHA MAPP
Assistant United States Attorney