

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

ROBERTO LUIS CIVICO MORALES,

Petitioner,

Case No. 2:26-cv-155-JES-DNF

A No. 

Cuba

v.

WARDEN, FLORIDA SOFT SIDE
SOUTH DETENTION CENTER, et al. (all
official capacity),

Respondents.

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Reply to Response to Petition for Writ of Habeas Corpus

Introduction

Petitioner Roberto Luis Civico Morales, through undersigned counsel, submits this reply to Respondents' Response to the Petition for Writ of Habeas Corpus. Petitioner respectfully asserts that his detention under 8 U.S.C. § 1225(b)(2) is unlawful and that he is entitled to a bond hearing. Respondents' arguments fail to address the fundamental legal and factual issues raised in the Petition, and their reliance on inapplicable case law and misinterpretation of statutory provisions should not preclude the relief sought by Petitioner.

Factual Background

1. Petitioner is a citizen and national of Cuba who entered the United States without inspection, admission, or parole on or about April 18, 2022.

2. Upon entry, Petitioner was detained by Border Patrol and subsequently released on an Order of Recognizance (Form I-220A) pending removal proceedings. ,.
3. On November 25, 2025, Petitioner was re-detained by Immigration and Customs Enforcement (ICE) during a targeted operation in Miami, Florida, and has since been held in custody at the Florida Soft Side South Detention Center. ,.
4. Petitioner has no criminal history, no gang affiliation, and no medical issues, and he has consistently complied with all conditions of his release.

Legal Argument

I. Petitioner Is Entitled to a Bond Hearing Respondents erroneously assert that Petitioner's detention is governed by 8 U.S.C. § 1225(b)(2), which mandates detention without bond for certain categories of noncitizens. However, Petitioner's circumstances fall squarely within the scope of 8 U.S.C. § 1226, which provides for discretionary detention and the possibility of a bond hearing.

1. Petitioner Was Not Apprehended at the Border or Port of Entry

Petitioner was apprehended in Miami, Florida, more than three years after his initial entry into the United States. This fact distinguishes his case from those governed by § 1225(b)(2), which applies to individuals apprehended at or near the border during their initial entry. Courts have consistently held that § 1226 applies to individuals who have been present in the United States for an extended period before being re-detained.

2. Petitioner's Continued Detention Without a Bond Hearing Violates Due Process

The Fifth Amendment guarantees due process to all individuals within the United States, including noncitizens. Prolonged detention without an individualized bond hearing violates this fundamental right. Petitioner has been detained for several months without any opportunity to challenge the necessity of his detention, despite his lack of criminal history and compliance with prior release conditions.

II. Respondents' Reliance on Maldonado Bautista Is Misplaced

Respondents argue that Petitioner is not entitled to relief based on the class action in Bautista-Santiago v. Noem, No. 25-cv-03209-DMS-DDL, 2025 U.S. Dist. LEXIS 232835 (S.D. Cal. Nov. 26, 2025), 2025 WL 3288403 (C. D. Cal. Dec. 18, 2025), because he does not meet the class definition. However, Petitioner does not rely on *Maldonado Bautista* for his claim. Instead, Petitioner asserts his individual right to a bond hearing under § 1226, independent of any class action litigation.

III. Respondents' Procedural Arguments Lack Merit

1. Exhaustion of Administrative Remedies

Respondents contend that Petitioner failed to exhaust administrative remedies. However, exhaustion is not required where it would be futile or where the administrative process cannot provide the relief sought. Here, ICE and immigration judges lack the authority to grant the relief Petitioner seeks—a bond hearing under § 1226.

2. Jurisdictional Challenges Under 8 U.S.C. § 1252

Respondents' assertion that 8 U.S.C. §§ 1252(g) and 1252(b)(9) bar judicial review is incorrect. These provisions do not preclude habeas review of detention claims.

IV. Matter of Yajure Hurtado Does Not Support Mandatory Detention

Respondents' reliance on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), is misplaced and contradicts established statutory interpretation. The Board of Immigration Appeals' decision in *Yajure Hurtado* incorrectly concluded that all persons present in the

United States without admission are seeking admission and therefore not entitled to bond hearings. This interpretation directly contradicts the INA's framework, which distinguishes between noncitizens seeking admission at the border and those already present in the United States.

1. Federal Courts Have Rejected Yajure Hurtado's Interpretation

Multiple federal courts have rejected the Yajure Hurtado interpretation as inconsistent with statutory language and Supreme Court precedent. In Vargas-Murillo v. Bondi, No. CV-25-03396-PHX-MTL (CDB), 2025 U.S. Dist. LEXIS 231307 (D. Ariz. Nov. 25, 2025), the court concluded that people present in the United States without inspection are not applicants for admission under Section 1225(b)(2)(A) and must receive a bond hearing without application of Matter of Yajure Hurtado. Similarly, in Rodriguez-Acurio v. Almodovar, No. 2:25-cv-6065 (NJC), 2025 U.S. Dist. LEXIS 233224 (E.D.N.Y. Nov. 28, 2025), the court found that a person in petitioner's situation is not detained under Section 1225(b)(2)(A) and that Matter of Yajure Hurtado's conclusion is incorrect.

2. Statutory Language Contradicts Yajure Hurtado

Section 1225(b) applies to people arriving at U.S. ports of entry or who very recently entered the United States. The statute's framework is premised on inspections at the border of people who are seeking admission to the United States. As the Supreme Court has explained, immigration laws have long made a distinction between those [noncitizens] who have come to our shores seeking admission and those who are within the united states after an entry,

irrespective of its legality. The mandatory detention provision of Section 1225(b)(2) does not apply to someone such as petitioner, who has already entered and has been residing in the United States at the time he was apprehended.

Relief Requested

For the foregoing reasons, Petitioner respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus;
2. Order Respondents to provide Petitioner with a bond hearing under 8 U.S.C. § 1226 within seven (7) days; and
3. Grant any other relief the Court deems just and proper.

Respectfully submitted,

DATED: February 9, 2026

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 9, 2026, the foregoing response was electronically filed with the clerk of Court using CM/ECF. I also certify that the foregoing document is being served this day on all counsel of record or pro se parties identified in the manner specified, either via transmission of Notices of Electronic Filing generated by CM/ECF or in some other authorized manner for those counsel or parties who are not authorized to receive electronically Notices of Electronic Filing.

Respectfully submitted
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