

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JOSE ALFONSO MENDOZA JEREZ,

Petitioner,

vs.

Case no. 2:26-cv-157-JES-DNF

GARRETT RIPA, et al.,

Respondents.

RESPONSE TO HABEAS CORPUS PETITION

Federal Respondents (the “government”) in this habeas corpus action hereby respond to the petition for habeas corpus filed by Jose Alfonzo Mendoza Jerez (“Petitioner”).

Petitioner challenges his detention by U.S. Immigration and Customs Enforcement (“ICE”). On January 26, 2026, Petitioner filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241. Dkt. No. 1. On January 27, 2026, the Court ordered the government to show cause why the petition should not be granted, with a response due by February 6, 2026. Dkt. No. 3.

Factual Background

The Petitioner, Jose Mendoza Jerez, is a twenty year-old male who is a national and citizen of Venezuela. See I-213 attached. On June 12, 2021, the Petitioner, then 15 years old, unlawfully entered the U.S. with his mother and

was encountered by Customs and Border Protection near the border at Andrade, California. That same day, he was placed on removal proceedings with the issuance of a Notice to Appear alleging two charges of inadmissibility in violation of INA 212(a)(6)(A)(i) and INA 212(a)(7)(A)(I). DHS failed to prosecute his case. Id. On January 4, 2026, the Petitioner was arrested for Criminal Mischief (F.S. 806.13.1B3) and Theft by an Employee (F.S. 509.162.4) and was detained at Brevard County Jail. Id. On January 7, 2026, DHS took custody of the Petitioner and issued a new NTA with the same inadmissibility charges and initiated expedited removal proceedings under INA 235. See NTA attached. He remains in custody at the Florida Soft-Sided Facility-South. He has been detained for 28 days.

Legal Argument

The government has carefully reviewed this petition and determined that the legal issues presented concern the statutory authority for ICE's detention of Petitioner under 8 U.S.C. §§ 1225(b)(2)(A) or 1226(a), whether Petitioner is entitled to a bond hearing, and if so, whether Petitioner must first exhaust his administrative remedies. While reserving all rights, including the right to appeal, the government respectfully submits this abbreviated memorandum of law to preserve the legal issues, conserve judicial and party resources, and to expedite the Court's consideration of this matter. If the Court prefers to receive

a further briefing on any issue, the government will be happy to submit whatever is needed upon request.

It is the government's position that Petitioner is subject to mandatory detention under § 1225(b), because he was present in the United States without being admitted or paroled. *See Matter of Yajure Hurtado*, 29 I. & N. Dec. 216, 228 (BIA 2025); *see also Iraheta Morales v. Noem*, No. 25-62598-CIV-SINGHAL, 2026 WL 236307, at *3-9 (S.D. Fla. Jan. 29, 2029); *Diaz Lopez v. ICE*, No. 3:25-cv-1313-JEP-SJH (M.D. Fla. Jan. 26, 2026).¹ However, the government

¹ *E.g.*, *Perez Ramirez v. Holt*, No. 2:25-cv-00156-SCM, 2026 WL 226964, at *2-7 (E.D. Ky. Jan. 28, 2026); *Vidal Alvacora v. Olson*, No. 0:26-cv-00675-DMT-SGE, 2026 WL 220417, at *1-3 (D. Minn. Jan. 28, 2026); *Qiwei Weng v. Genalo*, No. 25 Civ. 09595 (JHR), 2026 WL 194248, at *3-6 (S.D.N.Y. Jan. 25, 2026); *Hernandez v. Olson*, No. 25-cv-1670-bhl, 2026 WL 161509, at *3-7 (E.D. Wis. Jan. 21, 2026); *Singh v. Albarran*, No. 1:26-cv-00244-WBS-CSK, 2026 WL 124881, at *1-2 (E.D. Cal. Jan. 16, 2026); *J.E.P.M. v. Wofford*, No. 1:26-cv-00316-WBS-CKD, 2026 WL 125270, at *1 (E.D. Cal. Jan. 16, 2026); *Martinez v. Villegas*, No. 1:25-CV-256-H, 2026 WL 114418, at *3-8 (N.D. Tex. Jan. 15, 2026); *Sargsyan v. Bondi*, No. 1:26-cv-00259-WBS-CKD, 2026 WL 114665, at *1-2 (E.D. Cal. Jan. 15, 2026); *Cutiopala v. Noem*, No. 1:25-cv-00211-MAL, 2026 WL 113567, at *2-5 (E.D. Mo. Jan. 15, 2026); *Chen v. Almodovar*, No. 25 Civ. 9670 (JPC), 2026 WL 100761, at *7-14 (S.D.N.Y. Jan. 14, 2026); *Choudhary v. Albarran*, No. 1:26-cv-00119-WBS-CKD, 2026 WL 102708, at *2 (E.D. Cal. Jan. 14, 2026); *Singh v. Noem*, No. 1:26-cv-00224 WBS CSK, 2026 WL 91787, at *2 (E.D. Cal. Jan. 13, 2026); *Singh v. Noem*, No. 2:25-cv-00157-SCM, 2026 WL 74558, at *3-7 (E.D. Ky. Jan. 9, 2026); *Garibay-Robledo v. Noem*, No. 1:25-cv-00177-H, 2026 WL 81679, at *3-9 (N.D. Tex. Jan. 9, 2026); *Rodriguez v. Olson*, No. 1:25-cv-12961, 2026 WL 63613, at *5-8 (N.D. Ill. Jan. 8, 2026); *Gutierrez Sosa v. Holt*, No. CIV-25-1257-PRW, 2026 WL 36344, at *3-5 (W.D. Okla. Jan. 6, 2026); *Gomez Hernandez v. Lyons*, No. 1:25-CV-216-H, 2026 WL 31775, at *2-8 (N.D. Tex. Jan. 6, 2026); *Ugarte-Arenas v. Olson*, No. 25-C-1721, 2025 WL 3514451, at *1-4 (E.D. Wis. Dec. 8, 2025); *Suarez v. Noem*, No. 1:25-cv-00202-JMD, 2025 WL 3312168, at *2-3 (E.D. Mo. Nov. 28, 2025); *Manzo Valencia v. Chestnut*, No. 1:25-cv-01550 WBS JDP, 2025 WL 3205133, at *1-4 (E.D. Cal. Nov. 17, 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-

acknowledges that this Court has reached the opposite conclusion in *Patel v. Hardin*, No. 2:25-CV-870-JES-NPM, 2025 WL 3442706, at *1 (M.D. Fla. Dec. 1, 2025).² In that case, the petitioner entered the United States without admission or parole and was placed into removal proceedings. *Id.* at *1. He was ordered removed *in absentia* and years later detained by ICE. Following his detention, however, the petitioner successfully reopened removal proceedings, vacating his prior order of removal. *Id.* In a decision issued on December 1, 2025, this Court, following the rationale of other courts that have addressed the issue, concluded that the petitioner's detention was governed by 8 U.S.C. § 1226, rendering him eligible for bond. *Id.* at *5.

Specifically, the *Patel* Court stated that “courts in this District and around

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); *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); *Pipa-Aquise v. Bondi*, No. 1:25-cv-01094-MSN-WBP, 2025 WL 2490657, at *1-2 (E.D. Va. Aug. 5, 2025).

² Courts have struggled with the interpretive question of applying § 1225(b)(2) or § 1226(a) in these instances. Even courts disagreeing with Respondents note this “statutory-interpretation issue is difficult and close.” *Ahmed v. Bondi*, No. 25-cv-4711 (ECT/SGE), 2026 WL 25627, at *1 (D. Minn. Jan. 5, 2026).

the country have rejected [ICE's] new interpretation of the INA.” *Id.* at *4. The Court reasoned that the statutory text of Section 1225 reflects its applicability to incoming noncitizens rather than those already present in the United States and that reading the statute consistent with the government’s position would render Section 1226 superfluous. *Id.* at *5. Moreover, because the petitioner had not received a bond hearing, the Court ordered that petitioner provided with the statutory process allowed under Section 1226, to include a bond hearing. *Id.* at *6.

On the legal issue of which statute governs Petitioner’s detention here—8 U.S.C. § 1226(a) or 8 U.S.C. § 1225(b)—the government acknowledges that this Court’s decision in *Patel* would control the result here if the Court adheres to that decision, as the facts are not materially distinguishable for purposes of the Court’s decision concerning which statutory provision authorizes Petitioner’s detention.

Thus, while the government does not consent to issuance of the writ and reserves all rights, including the right to appeal, it desires to conserve judicial and party resources while expediting the Court’s consideration of this case. The government hereby relies upon, and incorporates by reference, the legal

arguments it presented in *Patel v. Parra*,³ and invites the Court to decide this issue without further briefing.⁴

Finally, although the government believes that this matter can be decided without the need for a hearing, obviously the government will attend any hearings called on the matter and (as stated above) provide further briefing on questions that the Court may have on any issue.

Respectfully submitted,

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³ Specifically, the government incorporates by reference all arguments raised in its opposition brief in *Patel v. Parra*. See *Patel v. Parra*, No. 25-CV-870-JES-NPM, Dkt. No. 15 (M.D. Fla. filed Oct. 22, 2025). 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.

⁴ Petitioner also challenges his detention citing violation of his Due Process rights and certain federal regulations. Should the Court grant the petition, it should decline to address these additional arguments. *INS v. Bagamasbad*, 429 U.S. 24, 25 (1976) (“As a general rule courts and agencies are not required to make findings on issues the decision of which is unnecessary to the results they reach.”).

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Certificate of Service

I HEREBY CERTIFY that on February 6, 2026, I caused a true copy of the foregoing to be filed using the Court's CM/ECF filing system, which will send an electronic notice of filing to all counsel of record.

/s/ Lacy R. Harwell, Jr.

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