UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

FREDDY ANTONIO TELLEZ LOPEZ,
Petitioner,

Civil Action No. 26-CV-60206-DMM

v.

MARCOS CHARLES, Immigration and Customs Enforcement (ICE) Enforcement and Removal Operations (ERO) Acting Executive Associate Director.
JUAN AGUDELO, Interim Miami Field Office Director.
CHARLES WALL, Principal Legal Advisor for ICE's Office of the Principal Legal Advisor.
PAMELA BONDI, U.S. Attorney General,
KRISTI NOEM, U.S. Secretary of the Department of Homeland Security,
TODD M. LYONS, Senior Official Performing the Duties of the Director of US Immigration and Customs Enforcement.
Respondents.
_____/

PETITIONER'S RESPONSE TO RESPONDENTS' OBJECTIONS TO REPORT AND RECOMMENDATION

COMES NOW, Petitioner FREDDY ANTONIO TELLEZ LOPEZ, by and through the undersigned counsel, hereby respectfully submits this Response to Respondents' Objections to the Magistrate Judge's Report and Recommendation ("R&R") [D.E. 11].

For the reasons set forth below, the objections should be overruled and the R&R adopted in full, and the Petitioner should be released immediately.

I. *BUENROSTRO-MENDEZ* IS NOT BINDING AND DOES NOT CONTROL THIS CASE

Respondents' objections rest almost entirely on a recent Fifth Circuit decision, *Buenrostro-Mendez v. Bondi*, 2026 WL 323330 (5th Cir. Feb. 6, 2026). That reliance is misplaced for three (3) independent reasons.

A. The Fifth Circuit Is Not Binding in This District

Buenrostro-Mendez is a Fifth Circuit decision. This Court sits within the Eleventh Circuit. It is well established that decisions from other circuits are persuasive authority at most and are not binding. The Magistrate Judge correctly recognized this principle.

The R&R properly applied the statutory framework of the INA and the weight of authority within this District. Respondents' disagreement with that analysis does not transform non-binding authority into controlling precedent.

B. The Fifth Circuit's Decision Conflicts with the Prior Weight of Authority in This District

While Respondent's opposition points to two (2) decisions from this District Court, it omits the numerous other cases in which this same District Court has ruled in favor of Petitioners.

Before *Buenrostro-Mendez*, courts in this District repeatedly held that noncitizens apprehended in the interior after years of residence are detained pursuant to 8 U.S.C. § 1226(a), not § 1225(b). See, e.g.:

- *Aguilar Merino v. Ripa*, No. 25-23845, 2025 WL 2941609, (S.D. Fla. Oct. 15, 2025).
- *Cerro Perez v. Parra,* No. 1:25-cv-24820, 2025 WL 2938369, (S.D. Fla. Oct. 27, 2025).
- *Alvarez Puga v. Assistant Field Office Director,* No. 25-24535, 2025 WL 2938369, (S.D. Fla. Oct. 15, 2025).
- *Encarnación v. Lyons*, No. 25-61898-CIV-DAMIAN/Valle, 2025 WL 512544 (S.D. Fla. Dec. 22, 2025).

- *Gonzalez v. Noem*, No. 25-62261-CV-MIDDLEBROOKS/Augustin-Birch, 2026 WL 115211 (S.D. Fla. Jan. 15, 2026).

Those decisions carefully analyzed the structure of the INA and concluded that § 1226(a) serves as the default detention statute for individuals already present in the United States and placed in § 1229a proceedings.

Buenrostro-Mendez does not eliminate that reasoning. At most, it creates an inter-circuit disagreement. That disagreement does not require this Court to abandon its own statutory analysis.

C. Buenrostro-Mendez Is Factually Distinguishable

Even if considered persuasive, *Buenrostro-Mendez* does not control this case and is factually distinguishable from the matter at hand. Mr. Tellez Lopez:

1. Entered the United States in April 2021 and was not apprehended at the border, remaining at liberty in the interior for years before DHS initiated removal proceedings.
2. Filed affirmative asylum with USCIS.
3. Was later arrested while attending a scheduled asylum interview.
4. Was placed into full removal proceedings under 8 U.S.C. § 1229a.

Critically, the Immigration Judge vacated earlier expedited removal determinations, and DHS initiated regular removal proceedings. Once removal proceeds under § 1229a, detention authority shifts to § 1226(a). The Fifth Circuit did not address this procedural transition in the manner presented here.

Respondents' position would allow DHS to:

- Release an individual into the interior,
- Allow years of residence,
- Initiate § 1229a proceedings,
- And still impose mandatory detention under § 1225 indefinitely.

That reading collapses the statutory distinction between § 1225 and § 1226 and renders § 1226(a) superfluous for a broad category of interior detainees precisely the structural flaw identified by the R&R.

Furthermore, the non-citizens in *Buenrostro-Mendez* conceded that they were "applicants for admission." This is a crucial distinction that makes *Buenrostro-Mendez* inapplicable here, as it addressed a fundamentally different factual scenario.

D. Matter of *Yajure-Hurtado* Has Been Formally Vacated

On February 18, 2026, the United States District Court for the Central District of California formally VACATED Matter of *Yajure-Hurtado*, 29 I&N Dec. 216 (BIA 2025), as contrary to law under the Administrative Procedure Act. See *Maldonado Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, Dkt. No. 116 (C.D. Cal. Feb. 18, 2026). The Court found that Respondents' continued reliance on *Yajure-Hurtado* to deny bond hearings to Bond Eligible Class members constituted a direct violation of its Final Judgment and an affront to separation of powers. *Id.* at 15-16. Because the sole legal basis for denying Mr. Tellez release on bond was Matter of *Yajure-Hurtado*, which has now been vacated, Mr Tellez should be released immediately.

II. *JENNINGS* DOES NOT RESOLVE THE STATUTORY CLASSIFICATION QUESTION

Respondents rely on language from *Jennings v. Rodriguez*, 583 U.S. 281 (2018). *Jennings* did not decide which noncitizens fall under § 1225 versus § 1226. It addressed whether courts could impose a six-month bond hearing requirement through constitutional avoidance.

Jennings expressly declined to resolve the precise scope of each detention provision. The R&R therefore correctly performed an independent statutory analysis.

III. THE MAGISTRATE JUDGE CORRECTLY APPLIED THE STRUCTURE OF THE INA

The INA separates:

- Inspection and admission authority (§ 1225); and
- Post-arrest detention pending removal proceedings (§ 1226).

Section 1226(a) expressly governs detention "pending a decision on whether the alien is to be removed." That is Mr. Tellez Lopez's posture today.

He is not an arriving alien at a port of entry. He is a long-term interior resident in § 1229a proceedings. The R&R's conclusion that § 1226(a) governs his detention is consistent with the statutory text, structure, and this District's prior analysis.

IV. THE GOVERNMENT'S POLICY CONCERNS DO NOT ALTER THE STATUTORY FRAMEWORK

Respondents argue that some judges within this District have adopted the Fifth Circuit's reasoning in other cases. Even if true, disagreement among district judges does not render the R&R erroneous. This Court must independently interpret the statute. The R&R did so correctly.

V. THE COURT SHOULD ADOPT THE R&R

The Magistrate Judge's recommendation is:

- Legally sound,
- Consistent with the INA's structure,
- Supported by substantial authority within this District, and
- Faithful to the limited role of habeas review.

Respondents' objections identify no clear error. They simply ask this Court to adopt the Fifth Circuit's reasoning instead. This Court is not required to do so.

VI. CONCLUSION

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

1. Overrule Respondents' Objections;
2. Adopt the Report and Recommendation in full; and
3. Order Respondents to release Petitioner immediately.

Dated: February 23, 2026

Respectfully submitted,

/s/ Matthew P. Meyers, Esq.
FBN: 76250
Major Case Law Group
2100 W. Flagler Street
Miami, FL 33135
Tel: (305) 322-6164
matthew@majorcaselawgroup.com
info@majorcaselawgroup.com

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing was filed via the CM/ECF portal on this 23rd day of February, 2026.

Respectfully submitted,

/s/ Matthew P. Meyers, Esq.
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