

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
WEST PALM BEACH DIVISION

CASE NO. 0:26-cv-60208-EA

Benito Hernandez Rochas,

Petitioner,

v.

**Kristi Noem,
Pamela Bondi,
Todd M. Lyons,
Warden, Broward Transitional Center,
Garret Ripa,**
Respondents.

_____ /

PETITIONER'S REPLY RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE

**I. The Court Has Subject-Matter Jurisdiction Under 28 U.S.C. § 2241 Notwithstanding 8
U.S.C. §§ 1252(g) and 1252(b)(9)**

A. Section 1252(g) Does Not Bar This Detention Authority Challenge

The Government's reliance on 8 U.S.C. § 1252(g) to strip jurisdiction fails because this provision is "similarly narrow" and does not cover all claims arising from removal proceedings. Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 591 U.S. 1, 140 S. Ct. 1891 (2020). The Supreme Court has "previously rejected as 'implausible' the Government's suggestion that § 1252(g) covers 'all claims arising from deportation proceedings' or imposes 'a general jurisdictional limitation.'" Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 591 U.S. 1, 140 S. Ct. 1891 (2020).

Petitioner's challenge to his classification under the wrong detention statute is fundamentally different from the covered decisions "to commence proceedings, adjudicate cases, or execute

removal orders". Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 591 U.S. 1, 140 S. Ct. 1891 (2020). This case does not challenge the Government's decision to initiate removal proceedings against Petitioner, but rather challenges the legal authority under which he is being detained while those proceedings are pending. . The petition seeks reclassification from mandatory detention under § 1225(b)(2)(A) to discretionary detention under § 1226(a), which would entitle Petitioner to a bond hearing. .

The Government's argument that detention "arises from" the decision to commence proceedings improperly expands § 1252(g) beyond its narrow scope. Such an interpretation would effectively bar all detention challenges, contrary to the Supreme Court's rejection of broad readings of this jurisdictional limitation. Dep't of Homeland Sec. v. Regents of the Univ. of Cal., 591 U.S. 1, 140 S. Ct. 1891 (2020).

B. Section 1252(b)(9) Does Not Channel This Collateral Detention Challenge

The "zipper clause" in 8 U.S.C. § 1252(b)(9) "only affects cases that involve review of an order of removal". Canal A Media Holding, LLC v. United States Citizenship & Immigration Servs., 964 F.3d 1250 (11th Cir. 2020). Here, no final order of removal exists, and Petitioner's removal proceedings remain pending. .

Petitioner's challenge is collateral to the removal proceedings and concerns the statutory framework governing his detention, not the merits of his removability. The petition does not seek review of any immigration judge's decision or challenge the underlying removal charges, but rather seeks determination of the proper detention statute that applies to his circumstances. .

This distinction is critical because § 1252(b)(9) channels review of removal-related decisions to

the courts of appeals, but does not preclude district court jurisdiction over collateral challenges to detention authority that are independent of the removal proceedings themselves.

II. Habeas Corpus Remains Available for Pure Detention Authority Challenges

The Supreme Court and all courts established by Act of Congress may issue all writs necessary or appropriate in aid of their respective jurisdictions. 28 USCS § 1651. Petitioner's challenge to his detention classification presents a pure question of statutory interpretation regarding which detention provision applies to long-term residents apprehended in the interior.

This type of challenge has been consistently recognized as appropriate for habeas review because it does not require adjudication of removal proceedings but rather determination of the legal framework governing detention pending those proceedings. .

III. Exhaustion Is Either Satisfied or Excused as Futile

A. Petitioner Has Attempted to Exhaust Available Remedies

The record demonstrates that Petitioner has sought custody determinations through available administrative channels. On December 17, 2025, Petitioner requested a custody hearing, and on January 23, 2026, he again requested a custody hearing. The immigration judges' responses-withdrawal noted and "no action" taken-reflect the systemic unavailability of meaningful review under the Government's mandatory detention theory.

B. Further Exhaustion Would Be Futile

Exhaustion is excused where administrative remedies would be futile. Here, the Government's position is that Petitioner is subject to mandatory detention under § 1225(b)(2)(A) with no possibility of bond. Under this theory, immigration judges lack authority to grant bond hearings to

applicants for admission, making further administrative proceedings pointless.

The Government cannot simultaneously argue that Petitioner is subject to mandatory detention without possibility of administrative relief and then fault him for failing to pursue that unavailable relief. The futility exception applies precisely to these circumstances where the agency's legal position forecloses the possibility of meaningful administrative review.

IV. The Proper Remedy for Misjoinder Is Dismissal of Improper Parties, Not the Entire Petition

A. Only the Immediate Custodian Is the Proper Respondent

Under Rumsfeld v. Padilla, 542 U.S. 426, 124 S. Ct. 2711 (2004), the immediate custodian is the proper respondent in habeas proceedings. Here, the Warden of Broward Transitional Center is Petitioner's immediate custodian.,.

B. Misjoinder Does Not Require Dismissal of the Petition

"Misjoinder of parties is not a ground for dismissing an action". USCS Fed Rules Civ Proc R 21.

"On motion or on its own, the court may at any time, on just terms, add or drop a party". USCS Fed Rules Civ Proc R 21. The appropriate remedy is to dismiss the improperly joined supervisory officials while maintaining the petition against the proper respondent.

The Government's request for complete dismissal based on misjoinder lacks legal support and would improperly penalize Petitioner for a procedural error that can be easily corrected. USCS Fed Rules Civ Proc R 21.

V. Recent Southern District of Florida Authority Supports Jurisdiction

Multiple recent decisions from this District have recognized jurisdiction over similar challenges

by long-term residents detained under the Government's § 1225(b)(2)(A) theory. . These cases consistently find that such challenges are appropriate for habeas review and that exhaustion requirements are excused where the administrative process cannot provide meaningful relief. The Government's citation to contrary authority does not establish binding precedent, and the weight of recent authority in this District supports the availability of habeas review for detention classification challenges.

VI. Conclusion and Requested Relief

For the foregoing reasons, this Court has jurisdiction to consider Petitioner's challenge to his detention classification. The Government's motion to dismiss should be denied. Alternatively, if the Court finds that supervisory officials were improperly joined, the appropriate remedy is dismissal of those parties while maintaining the petition against the Warden of Broward Transitional Center.

Petitioner respectfully requests that the Court: (1) deny the Government's motion to dismiss for lack of jurisdiction; (2) alternatively, dismiss improper parties while maintaining the petition against the proper respondent; and (3) order that Petitioner receive a prompt individualized bond hearing under the appropriate detention statute.

Respectfully submitted
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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on February 13, 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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