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Lead Counsel

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

FRANCISCO GARNELO-REYES,

Petitioner,

v.

**WARDEN, Baker Correctional Institution;
FIELD OFFICE DIRECTOR,
Enforcement and Removal Operations,
U.S. Immigration and Customs
Enforcement, Jacksonville Field Office; US
Department of Homeland Security (DHS);**

Case No.: Case: 3:26-cv-155-WWB-LLL



Respondents.

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE

Petitioner, through undersigned counsel, replies as follows:

I. MISSTATEMENT OF THE RECORD

Respondents' response relies on a material mischaracterization of the Immigration Judge's decision.

Respondents assert that bond was denied because Petitioner is a flight risk. That is incorrect. The Immigration Judge denied bond for lack of jurisdiction pursuant to Matter of Yajure-Hurtado. There was no individualized custody determination and no finding that Petitioner is a flight risk or danger. (See exhibit A)

Petitioner was not denied bond after consideration of the merits—he was denied access to any bond hearing at all. This distinction is central to the issues before this Court.

II. EXHAUSTION IS EXCUSED

Respondents argue that the Petition should be denied for failure to exhaust administrative remedies. That argument does not apply under these circumstances.

Where an Immigration Judge determines that he lacks jurisdiction to conduct a bond hearing, there is no meaningful administrative remedy to exhaust. Any appeal to the BIA would not alter the legal framework applied and would only result in delay.

Because Petitioner was denied access to a custody determination altogether, exhaustion is excused.

III. PETITIONER IS DETAINED WITHOUT ANY INDIVIDUALIZED CUSTODY DETERMINATION

Petitioner remains detained without ever receiving an individualized custody determination.

Regardless of Respondents' statutory arguments, due process requires a meaningful opportunity to challenge detention. Here, Petitioner has had no such opportunity.

Detention without access to a bond hearing raises serious constitutional concerns that this Court has authority to address.

IV. RESPONDENTS' RELIANCE ON 8 U.S.C. § 1225 DOES NOT RESOLVE THE CONSTITUTIONAL ISSUE

Respondents rely on 8 U.S.C. § 1225(b)(2) to justify detention. However, the application of that provision in cases like this is actively litigated, and Respondents acknowledge the existing split in authority.

Even if § 1225 applies, it does not eliminate constitutional protections. The Government cannot detain an individual without providing any opportunity for an individualized custody determination.

V. PETITIONER'S MEDICAL CONDITION

Petitioner suffers from a chronic back condition that causes ongoing and significant pain. He requires medical evaluation and treatment that he is not adequately receiving while detained.

While not immediately life-threatening, the condition is persistent and affects him on a daily basis. Continued detention under these circumstances, without access to a custody determination, further supports the need for relief.

VI. RELIEF REQUESTED

For the reasons stated above, Petitioner respectfully requests that this Court:

A- Grant the Petition for Writ of Habeas Corpus.

B- Order Respondents to provide Petitioner with a prompt individualized bond hearing; or

C- In the alternative, order Petitioner's release from custody.

Respectfully submitted,

/s/ Raquel Tinker

Lead Counsel for Petitioner

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this 25th day of March 2026, a copy of the foregoing was filed through the CM/ECF system, which will send notice to all counsel of record.

/s/Lorena Brasil

Lorena Brasil, Esq.

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/s/ Raquel Tinker

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