

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Case No. 1:26-cv-20552-JB

Axel Yonatan Ramos Ramirez,
Petitioner,

v.

Kristi Noem, in her official capacity as
Secretary of Department of Homeland
Security, *et al.*,
Respondent(s).

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RESPONSE TO ORDER TO SHOW CAUSE

Respondents¹, by and through the undersigned Assistant United States Attorney, hereby respond to the Court's Order to Show Cause (ECF No. 6).

Petitioner Axel Yonatan Ramos Ramirez ("Petitioner") challenges his detention by U.S. Immigration and Customs Enforcement ("ICE"). On January 28, 2026, Petitioner filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241 (ECF No. 1). On January 30, 2026, Petitioner filed an amended petition for habeas corpus pursuant to 28 U.S.C. § 2241 (ECF No. 5). The Court has ordered the government to show cause why the petition should not be granted.

¹ The Amended Petition named Respondents as the Secretary of Department of Homeland Security, the United States Attorney General, the Acting Director of Immigration and Customs Enforcement, and the Warden where Petitioner is detained (ECF No. 5). The proper respondent in the instant case is the custodian of the Broward Transitional Center, Assistant Field Office Director Carlos R. Nunez in his official capacity, *see* 28 U.S.C. § 2243; *Rumsfeld v. Padilla*, 542 U.S. 426, 438 (2004). The remaining Respondents should be dismissed as parties to the instant action. *See Doe v. Garland*, 109 F.4th 1188, 1197 (9th Cir. 2024). "In challenges to present physical confinement...the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Padilla*, 542 U.S. at 435-40, 439; *see also Diaz v. United States*, 580 Fed. Appx. 716, 717 (11th Cir. 2014) (stating the Eleventh Circuit "emphasized that there was not a single case in which it had deviated from the rule that a habeas petitioner challenging his present physical custody was required to name his immediate custodian as respondent and file his petition in the district of his confinement.")

The government has carefully reviewed this petition and determined that the legal issues presented concern the statutory authority for Petitioner's detention 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 response to the Court's Order to Show Cause in lieu of a formal responsive memorandum of law to preserve the legal issues, to conserve judicial and party resources, and to expedite the Court's consideration of this matter. If the Court prefers to receive a formal memorandum of law, the government will submit one 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 further Iraheta Morales v. Noem*, et al., Case No. 25-62598-CIV-SINGHAL (concluding that petitioners are "applicants for admission" as contemplated by 8 USC 1225(b) and are subject to section 1225's mandatory detention and removal scheme). However, the government acknowledges that Judges in this District have reached the opposite conclusion. *See, e.g., Aguilar Merino v. Ripa*, Case No. 25-23845-CIV-MARTINEZ, 2025 WL 2941609, at *3, 8 (S.D. Fla. Oct. 15, 2025) ("§ 1226(a), not § 1225(b)(2), governs Petitioner's detention"); *Gil-Paulino v. Sec'y of the U.S. Dep't of Homeland Sec.*, 25-24292-CIV-WILLIAMS, ECF No. 41, (S.D. Fla. Oct. 10, 2025) ("§ 1226 governs Petitioner's detention"); *Hernandez Alvarez v. Acting Warden Roger Morris*, et al., Case No. 25-24806-CIV-WILLIAMS, ECF No. 6 (S.D. Fla. Oct. 27, 2025) (agreeing with petitioner that "detention is governed by 8 U.S.C. § 1226(a), which allows for the release of noncitizens on bond . . . not § 1225(b)(2), applicable to noncitizen "applicant[s] for admission" to the United States.);

Cerro Perez v. Parra, et al., Case No. 25-24820-CIV-WILLIAMS, ECF No. 9 (S.D. Fla. Oct. 27, 2025) (same); *Alvarez Puga v. Assistant Field Office Director Krome*, et al., Case No. 25-24535-CIV-ALTONAGA (S.D. Fla. Oct. 15, 2025) (concluding that “prudential exhaustion requirements are excused for futility” and finding that “section 1226(a) and its implementing regulations govern Petitioner’s detention, not section 1225(b)(2)(A)”); *Zamora Policarpo v. Parra*, Case No. 25-25236-CIV-COHN, ECF No. 8 (S.D. Fla. Dec. 22, 2025) (finding good cause to excuse Petitioner’s failure to exhaust administrative remedies where it is evident the BIA will reject Petitioner’s request for a bond hearing or release and that Petitioner is subject to detention under § 1226(a) and entitled to a bond hearing before an immigration judge); *Penagos Quintero v. Ripa*, et al., Case No. 25-25746-CIV-BECERRA, ECF NO.14 (Jan. 5, 2026) (concluding that jurisdiction is not barred by 8 U.S.C. § 1252, exhaustion was not required, and that the petitioner’s detention is governed by 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b)(2)); *Martinez v. Field Off. Dir.*, Case No. 25-26026-CIV-LEIBOWITZ, ECF No. 7 (S.D. Fla. Jan. 14, 2026) (“Pending the Eleventh Circuit’s resolution of this issue, the Court continues to side with the clear weight of existing authority in finding that Petitioner here is entitled to a prompt, individualized bond hearing under 8 U.S.C. § 1226(a)”); *Espinal Encarnacion v. ICE Field Office Director*, et al., No. 25-61898-CIV-DAMIAN, ECF No. 29 (Dec. 23, 2025) (“This Court finds that 8 U.S.C. § 1226(a) and its implementing regulations govern Petitioner’s detention, and not Section 1225(b).”); *Ocegueda Gonzalez v. Noem*, et al., Case No. 25-62261-CIV-MIDDLEBROOKS/AGUSTIN-BIRCH, ECF No. 25 (Dec. 23, 2025) (“Having concluded that Petitioner’s detention is governed by 8 U.S.C. § 1226(a), Petitioner is entitled to an individualized bond hearing before an immigration judge.”); *Acosta v. Ripa*, et al., Case No. 25-62360-CIV-DIMITROULEAS, ECF No. 19 at 7 (S.D. Fla. Dec. 26, 2025) (“§ 1226(a) and its implementing regulations govern Petitioner’s detention, not § 1225(b)(2)(A).”);

and *Fuentes Granados v. Secretary of Homeland Security*, Case No. 26-60020-CIV-SMITH, ECF No. 7 (S.D. Fla. Jan. 27, 2026) (“Petitioner is being unlawfully detained due to his improper classification as “an alien who is an applicant for admission” pursuant to 8 U.S.C. § 1225(b)(2)(A)[;] . . .Petitioner’s proper classification is a detainee pursuant to 8 U.S.C. § 1226(a)”).

The government is appealing the judgment that 8 U.S.C. § 1226(a), rather than 8 U.S.C. § 1225(b), governs detention under the facts presented in the cases above to the Eleventh Circuit in *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, et al., No. 25-14065 (11th Cir.), and *Cerro Perez v. Assistant Field Office Director*, et al., No. 25-14075 (11th Cir.). Until the foregoing appeals are resolved, however, the government acknowledges that this Court’s recent decision in *Penagos Quintero v. Ripa*, et al., Case No. 25-25746-CIV-BECERRA, ECF NO.14 (Jan. 5, 2026) would control the result here if the Court adheres to that decision, as the underlying legal arguments are not materially distinguishable for purposes of the Court’s decision on the legal issue of 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, in order 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 *Penagos Quintero v. Ripa*, et al., Case No. 25-25746-CIV-BECERRA, (Jan. 5, 2026) as well as the legal arguments the government presented to the Eleventh Circuit in *Hernandez Alvarez* and *Cerro Perez*, and the Court can decide this issue without further briefing. However, as noted above, should the Court prefer to receive a formal opposition brief in this matter, the government will file such a brief upon the Court’s request².

² Respondents include with this Response “all documents and transcripts necessary for resolution of the Petition,” as required by the Court’s Order to Show Cause (ECF No. 6) (citing 28 U.S.C. § 2243).

FACTUAL BACKGROUND

Petitioner is a native and citizen of Guatemala who illegally entered the United States on an unknown date and at an unknown location. *See* Exh. A, Form I-213, Record of Deportable/Inadmissible Alien, dated February 8, 2023. On August 2, 2021, Customs and Border Patrol (CBP) Border Patrol Agents, encountered Petitioner. *Id.* Petitioner was subsequently processed as a voluntary return. *Id.* On August 9, 2021, and August 21, 2021, Petitioner attempted to re-enter the United States and was again encountered by Border Patrol Agents. *Id.* On each of these occasions, Petitioner was processed as a voluntary return. *Id.*

Petitioner subsequently re-entered the United States on an unknown date and at an unknown location. *Id.* On February 8, 2023, Immigration and Customs Enforcement (ICE) Stuart Fugitive Operations, encountered Petitioner during a vehicle stop. *Id.* During the stop, Petitioner admitted to ICE officers that he had illegally entered the United States and did not have any legal status. *Id.* Petitioner was then taken into ICE custody and transported to the Stuart sub-office for processing. *Id. See also*, Exh. E, Form I-200, Warrant for Arrest of Alien, dated February 8, 2023.

On February 8, 2023, Enforcement and Removal Operations (ERO) issued and served Petitioner a Notice to Appear (NTA), pursuant to section 240 of the Immigration and Nationality Act (INA). *See* Exh. C, NTA, dated February 8, 2023. The NTA charged Petitioner with inadmissibility under section 212(a)(6)(A)(i) of the INA, as an alien present in the United States without being admitted or paroled, or who arrived in the United States at any time or place other than as designated by the Attorney General. *Id.* On the same day, Petitioner was released on his

Respondents note that the Order to Show Cause additionally requires Respondents to include “a copy of the full record in removal proceedings, a transcript of the digital audio recording for those proceedings, and all other records bearing upon the ‘true cause of the [petitioners’] detention.’” 28 U.S.C. § 2243. Respondents include herewith the records available to them at the time of filing that bear upon the true cause of Petitioner’s detention. If the Court requires any additional documentation, Respondents will submit the same upon order to do so.

own recognizance. *See* Exh. D, Form I-220A Order of Release on Recognizance, dated February 8, 2023.

On August 21, 2025, Petitioner attended his initial master calendar hearing before the Miami Immigration Court. *See* Exh. C. The matter was reset to January 25, 2029, on the merits of Petitioner's application for relief. *See* Exh. F, Notice of In-Person Hearing, dated, August 21, 2025.

On December 28, 2025, Florida Highway Patrol (FHP) encountered Petitioner during a vehicle stop for a traffic violation. *See* Exh. B, Form I-213, Record of Deportable/Inadmissible Alien, dated December 28, 2025. FHP then transported Petitioner to the West Palm Beach Border Patrol Station, where Border Patrol Agents assumed custody over Petitioner. *Id.* On December 31, 2025, Petitioner was transferred to the custody of ERO, and he was transferred to the Florida Soft-Sided Facility-South (FSSFS) located in Ochopee, Florida. *See* Exh. G, Detention History. On January 27, 2026, the venue of removal proceedings was changed to the Krome Immigration Court. *See* Exh. H, Order of the Immigration Judge, dated January 27, 2026.

On January 30, 2026, Petitioner was transferred to the Broward Transitional Center (BTC) located in Pompano Beach, Florida, where he remains today, as an applicant for admission who is seeking admission, pursuant to section 235(b)(2)(A) of the INA. *See* Exh. G.

CONCLUSION

For the reasons set forth above, the Petition for Writ of Habeas Corpus should be denied.

Respectfully submitted,

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UNITED STATES ATTORNEY

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CERTIFICATE OF COMPLIANCE

I certify that on February 2, 2026, I uploaded the attached document to the Court's PACER system.

By: /s/ John Ghannam
John Ghannam
Assistant United States Attorney

APPENDIX

Exh. A, Form I-213, Record of Deportable/Inadmissible Alien, dated February 8, 2023.

Exh. B, Form I-213, Record of Deportable/Inadmissible Alien, dated December 28, 2025.

Exh. C, NTA, dated February 8, 2023.

Exh. D, Form I-220A Order of Release on Recognizance, dated February 8, 2023.

Exh. E, Form I-200, Warrant for Arrest of Alien, dated February 8, 2023.

Exh. F, Notice of In-Person Hearing, dated August 21, 2025.

Exh. G, Detention History.

Exh. H, Order of the Immigration Judge, dated January 27, 2026.