

**UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF MISSISSIPPI**

**ALVAREZ JUAREZ**, Edvin Misael  
Petitioner,

v.

**Rafael Vergara**  
Respondent

Case No.: 5-26-cv-030- DCB-BWR

**PETITIONER’S REPLY TO  
RESPONSE IN OPPOSITION TO  
WRIT OF HABEAS CORPUS**

Petitioner, Edvin Misael Alvarez Juarez (hereinafter “Petitioner”), through undersigned counsel, respectfully submits this Reply to Respondent’s Response in Opposition.

**I. INTRODUCTION**

This case presents a focused statutory question: whether Petitioner’s detention is governed by 8 U.S.C. § 1225(b)(2), as Respondent contends, or by 8 U.S.C. § 1226(a), which provides access to bond consideration before an Immigration Judge.

The Government Respondent characterizes this matter as routine mandatory detention under § 1225(b)(2). However, that characterization does not account for the legal context in which Petitioner sought custody review.

Petitioner was detained in Massachusetts at the time he requested bond. During that detention, the United States District Court for the District of Massachusetts had entered declaratory relief in *Guerrero Orellana v. Moniz*, No. 25-cv-12664-PBS (D. Mass. Dec. 19, 2025), holding that similarly situated interior noncitizens are detained under § 1226(a) and are entitled to bond consideration notwithstanding subsequent transfer.

Petitioner’s custody hearing was scheduled while he was detained in Massachusetts. It was vacated following his transfer.

This Court is not bound by *Guerrero Orellana*. But the statutory issue is neither settled nationally nor immune from judicial review. The Court must independently determine the governing detention authority.

## **II. EXHAUSTION DOES NOT BAR HABEAS REVIEW**

The Respondent argues that Petitioner failed to exhaust the administrative remedies because his request for bond “remains pending.” However, the record reflects that Petitioner requested a custody redetermination while detained in Massachusetts and that the Immigration Court scheduled a bond hearing. Before that hearing occurred, DHS transferred him and filed a Form I-830 changing custody location. The Immigration Court thereafter vacated the hearing. There is presently no pending custody redetermination hearing.

Exhaustion in § 2241 proceedings is prudential rather than jurisdictional. See, e.g., *Fuller v. Rich*, 11 F.3d 61, 62 (5th Cir. 1994). Courts excuse exhaustion where administrative remedies are unavailable or rendered ineffective. Here, once the scheduled custody hearing was vacated, Petitioner lacked an operative administrative mechanism to pursue bond review. Under these circumstances, habeas review is appropriate.

## **III. QUERRERO ORELLANA DIRECTLY ADDRESSES THE STATUTORY QUESTION PRESENTED**

In *Guerrero Orellana v. Moniz*, No. 25-cv-12664-PBS (D. Mass. Dec. 19, 2025), the District of Massachusetts certified a class of noncitizens apprehended in the interior of the United States and detained under 8 U.S.C. § 1225(b)(2).

The court entered a declaratory judgment holding that such individuals are detained pursuant to 8 U.S.C. § 1226(a), not § 1225(b)(2), and are entitled to bond consideration before immigration judges.

The declaratory judgment provided that class members “are detained pursuant to 8 U.S.C. § 1226(a), including access to consideration for release on bond and/or conditions before immigration officers and Immigration Judges, notwithstanding any subsequent change in their location or facility of detention.” *Guerrero Orellana*, No. 25-cv-12664-PBS, Declaratory Judgment (D. Mass. Dec. 19, 2025).

Two features of *Guerrero Orellana* are especially relevant here. First, the court rejected the Government’s position that long-term interior noncitizens who entered without inspection are categorically “applicants for admission” subject to § 1225(b)(2) mandatory detention. Second, the court expressly addressed transfer, clarifying that the governing detention statute does not shift based solely on subsequent relocation.

Petitioner was detained in Massachusetts at the time he invoked custody review. His circumstances fall squarely within the class definition in *Guerrero Orellana* at that time. This Court is not bound by that judgment. But it is persuasive authority addressing the precise statutory issue before this Court.

#### **IV. PETITIONER’S CLASS MEMBERSHIP AROSE FROM HIS DETENTION IN MASSACHUSETTS**

Petitioner’s class membership under *Guerrero Orellana* derived from where he was detained and the legal framework in effect in that district at the time he sought custody review.

Class membership is determined by the satisfaction of class criteria. Petitioner satisfied those criteria while detained in Massachusetts and while invoking bond review in that jurisdiction. The subsequent transfer does not retroactively alter the legal posture in which the custody request arose.

This Court need not determine the preclusive scope of *Guerrero Orellana*. It is sufficient to recognize that Petitioner's detention arose within a legal framework that had already been judicially interpreted to require § 1226(a) bond eligibility.

**V. THE STATUTORY CLASSIFICATION ISSUE IS SUBJECT TO INTER-JURISDICTIONAL DISAGREEMENT**

The Government relies heavily on *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). Petitioner acknowledges that *Buenrostro-Mendez* reflects the Fifth Circuit's interpretation of § 1225(b)(2). However, other federal courts have reached different conclusions.

In addition to *Guerrero Orellana*, the United States District Court for the Central District of California in *Maldonado-Bautista v. Santacruz Jr.*, No. 2:25-cv-01873 (C.D. Cal.), vacated *Matter of Yajure Hurtado*, rejecting the categorical application of § 1225(b)(2) to interior noncitizens.

*Maldonado-Bautista* reflects judicial disagreement with the administrative interpretation adopted in *Matter of Yajure Hurtado* and confirms that the statutory classification issue remains actively contested. The existence of this divergence underscores that the governing detention statute presents a legal question appropriate for judicial determination.

**VI. THE STATUTORY QUESTION SHOULD BE RESOLVED BY JUDICIAL DETERMINATION**

Regardless of how this Court ultimately resolves the statutory question, one procedural fact remains: no Immigration Judge has conducted a custody redetermination hearing for Petitioner.

If § 1226(a) governs, Petitioner is entitled to, at a minimum, bond consideration. If § 1225(b)(2) governs, this Court may so declare. But the statutory issue should be resolved by adjudication, not solely by transfer.

**VII. ANCILLIARY RELIEF IS PROPERLY BEFORE THIS COURT**

The Respondents contend that transfer-related and property-related requests are not cognizable under § 2241.

Petitioner clarifies that any request concerning transfer is jurisdiction-preserving in nature during the pendency of habeas review. Courts retain equitable authority to preserve jurisdiction and effectuate relief. Similarly, any request regarding the return of identity documents is ancillary to the effective implementation of a release order, should one issue.

**VIII. CONCLUSION**

This case presents a statutory classification question on which federal courts have reached differing conclusions. Petitioner was detained in Massachusetts when he invoked custody review. At that time, the District of Massachusetts had declared that similarly situated noncitizens are governed by § 1226(a) and entitled to bond consideration.

This Court must independently determine the governing detention statute. In doing so, it should consider the persuasive authority of Guerrero Orellana and Maldonado-Bautista. For these reasons, Petitioner respectfully requests that this Court:

1. Determine that his detention is governed by § 1226(a) and order a prompt custody redetermination hearing; or
2. In the alternative, independently determine the governing detention statute and grant appropriate relief consistent with that determination; and
3. Grant such further relief as the Court deems just and proper.

Respectfully Submitted,  
Edvin Misael Alvarez Juarez  
Through Counsel

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Date:3/4/2026

#### **CERTIFICATE OF SERVICE**

I hereby certify that on this 4th day of March, 2026, I electronically filed the foregoing Reply to Response in Opposition with the Clerk of Court using the CM/ECF system, which sent notification of such filing to all counsel of record.

/s/ Brandon H. Riches  
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