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**IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF SOUTH FLORIDA
FORT LAUDERDALE DIVISION**

YANKIEL MARTINEZ ALFONSO)	Case No. 0:26-cv-60257-AHS
Petitioner,)	
)	PETITION FOR WRIT OF
v.)	HABEAS CORPUS
)	
WARDEN, et. al.)	
Respondents.)	
_____)	

**PETITIONER’S REPLY TO RESPONDENTS’ RESPONSE TO ORDER
TO SHOW CAUSE**

Petitioner Yankiel Martinez Alfonso, through undersigned counsel, respectfully submits this Reply to Respondents’ Response to the February 2, 2026 Order to Show Cause (ECF No. 5) filed on February 5, 2026 (ECF No. 10), after which this Honorable Court ordered the Petitioner to Reply by February 13, 2026 (ECF. No. 11). Respondents’ Response fails to meet their burden under 28 U.S.C. § 2241 to justify Petitioner’s continued civil detention. Respondents’ opposition fails to rebut the core statutory and constitutional defects identified in the Petition and already recognized by this Court in its prior Order granting emergency relief (ECF No. 7). Critically, Respondents ignore that this Court has already found Petitioner

has a substantial likelihood of success on the merits because he applied for asylum on December 5, 2022 and has been present in the United States continuously for more than two years. Nothing in Respondents' Response alters that conclusion.

The Petition for Writ of Habeas Corpus (ECF No. 1) and the Court's Order to Show Cause are incorporated herein by reference.

I. INTRODUCTION AND PROCEDURAL POSTURE

1. An Order to Show Cause requires the Government to affirmatively demonstrate why detention is lawful. 28 U.S.C. § 2241; *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001). Once detention becomes prolonged, the Government must establish both (1) a valid statutory basis and (2) compliance with the Fifth Amendment's Due Process Clause. *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1213-14 (11th Cir. 2016). Respondents' Response falls short on both fronts.

2. This case challenges Petitioner's unlawful arrest, detention, and continued custody under the Immigration and Nationality Act ("INA") and the Fifth Amendment. As set forth in the Petition, DHS arrested Petitioner without statutory authority, detained him under an inapplicable detention statute, and continues to hold him without a bond hearing or individualized determination of flight risk or danger.

3. After reviewing the Petition and the record, this Court granted emergency relief and expressly found that Petitioner demonstrated a substantial likelihood of success on the merits. See Order Granting Emergency Motion for Temporary

Restraining Order ("TRO Order") (ECF No. 7). Respondents now attempt to relitigate issues already resolved by the Court, while failing to address the controlling case law and factual record before this Court.

II. LEGAL ARGUMENTS

A. RESPONDENTS FAIL TO OVERCOME THE COURT'S FINDING OF A SUBSTANTIAL LIKELIHOOD OF SUCCESS

4. Respondents' Response largely repeats arguments rejected—explicitly or implicitly—by this Court when it issued the TRO. The Court's finding of a substantial likelihood of success is not a preliminary observation; it is a legal determination based on the governing statutes, constitutional principles, and persuasive district court authority.

5. Respondents do not identify any intervening change in law, newly discovered facts, or legal error that would warrant revisiting that conclusion. Their disagreement with the Court's analysis is not a basis for continued detention.

B. PETITIONER IS NOT SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225

6. Respondents contend that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b). That position is legally untenable.

7. As explained in the Petition, § 1225 applies only to individuals who are "arriving aliens" or who are actively "seeking admission." Petitioner was already present in the United States at the time of his arrest on January 27, 2026 while at the immigration court when he appeared for his Master Calendar Hearing and

was not encountered at the border or during an admission process. Under the plain statutory text, Supreme Court precedent, and a growing body of district court authority, detention in these circumstances is governed by 8 U.S.C. § 1226(a), not § 1225.

8. Numerous courts—including courts within this Circuit and across the country—have rejected ICE’s attempt to expansively apply § 1225 to long-present noncitizens arrested in the interior. See, e.g., *Carmona v. Ripa* (M.D. Fla. 2025) (ordering immediate release where ICE misapplied § 1225 to a noncitizen arrested after dismissal of proceedings).

9. Respondents’ reliance on agency interpretations cannot overcome the statute’s plain meaning or the Constitution. Agency interpretations that result in mandatory, indefinite detention without a bond hearing raise serious due process concerns and are not entitled to deference.

10. Over 300 district courts have also rejected this position and have granted habeas petitions for petitioners like Mr. Toledo Pantaleon. See, e.g., *Rodriguez Vazquez v. Bostock*, Civ. No. 3:25-cv-05240, 779 F. Supp. 3d 1239 (W.D. Wash. 2025); *Gomes v. Hyde*, Civ. No. 1:25-cv-11571, 2025 WL 1869299 (D. Mass. July 7, 2025), *Garcia v. Hyde*, Civ. No. 25-11513 (D. Mass. July 14, 2025); *Rosado v. Bondi*, Civ. No. 25-02157, 2025 WL 2337099 (D. Ariz. Aug. 11, 2025); *Lopez-Benitez v. Francis*, Civ. No. 25-5937, 2025 WL 2371588, ---F. Supp.3d ---- (S.D.N.Y. Aug. 13, 2025); *Dos Santos v. Lyons*, Civ. No. 1:25-cv-12052, 2025 WL 2370988 (D. Mass. Aug. 14, 2025);

Aguilar Maldonado v. Olson, Civ. No. 25-cv-3142, 2025 WL 2374411 (D. Minn. Aug. 15, 2025); *Escalante v. Bondi*, Civ. No. 25-cv-3051, 2025 WL 2212104 (D. Minn. July 31, 2025); *O.E. v. Bondi*, Civ. No. 25-cv-3051, 2025 WL 2235056 (D. Minn. Aug. 3, 2025); *Arrazola-Gonzalez v. Noem*, Civ. No. 5:25-cv-01789, 2025 WL 2379285 (C.D. Cal. Aug. 15, 2025); *Garcia Jimenez v. Kramer*, Civ. No. 25-cv-3162, 2025 WL 2374223 (D. Neb. Aug. 15, 2025); *Mayo Anicasio v. Kramer*, Civ. No. 4:25-cv-3158, 2025 WL 2374224 (D. Neb. Aug 14, 2025); *Rodriguez de Oliveira v. Joyce*, Civ. No. 2:25-cv-00291, 2025 WL 1826118 (D. Me. July 2, 2025); *Leal-Hernandez v. Noem*, Civ. No. 1:25-cv-02428, 2025 WL 2430025 (D. Md. Aug. 24, 2025); *Lopez-Campos*, Civ. No. 2:25-cv-12486, 2025 WL 2496379 (E.D. Mich. Aug. 29, 2025); *Romero v. Hyde*, Civ. No. 25-11631, --- F. Supp. 3d ----, 2025 WL 2403827 (D. Mass. Aug. 19, 2025); *Doe v. Moniz*, Civ. No. 1:25-cv-12094, 2025 WL 2576819 (D. Mass. Sept. 5, 2025); *Herrera Torralba*, Civ. No. 2:25-cv-01366, 2025 WL 2581792 (D. Nev. Sept. 5, 2025); *Kostak v. Trump*, Civ. No. 3:25-1093, 2025 WL 2473136 (W.D. La. Aug. 27, 2025); *Simpiao v. Hyde*, Civ. No. 1:25-cv-11981-JEK, 2025 WL 2607925 (D. Mass Sept. 9, 2024); *Garcia Cortes v. Noem*, Civ. No. 1:25-cv-02677, 2025 WL 2652990 (D. Colo. Sept. 16, 2026); *Jimenez v. Warden*, Civ. No. 25-cv-326, 2025 WL 2639390 (D.N.H. Sept. 8, 2025); *Cuevas Guzman v. Andrews*, Civ. No. 1:25-cv-01015, 2025 WL 2617256 (E.D. Cal. Sept. 9, 2025); *Velasquez Salazar v. Dedos*, Civ. No. 1:25-cv-00835, 2025 WL 2676729 (D.N.M. Sept., 17, 2025); *Hasan v. Crawford*, 1:25-cv-1408, 2025 WL 2682255 (E.D. Va., Sept. 19, 2025);); *Singh v. Lewis*, Civ. No. 4:25-cv-96, 2025 WL 2699219

(W.D.Ky., Sept. 22, 2025); *Beltran Barrera v. Tindall*, Civ. No. 3:25-cv-541, 2025 WL 2690565 (W.D.Ky., Sept. 19, 2025); *Choglo Chafra v. Scott*, 2025 WL 2688541, (D.Me., Sept. 21, 2025); *Chiliquina Yumbillo v. Stamper*, Civ. No. 2:25-cv-00479 (D.Me., Sept. 19, 2025).

11. This approach is consistent with Eleventh Circuit precedent. In *Ortiz-Bouchet v. U.S. Attorney General*, 714 F.3d 1353 (11th Cir. 2013), the court held that noncitizens already present in the United States seeking to adjust status were not “applicants for admission.” The Supreme Court has likewise recognized that mandatory detention under § 1225(b) applies “at the Nation’s borders and ports of entry, where the Government must determine whether an alien seeking to enter the country is inadmissible.” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018).

12. Therefore, the mandatory detention provisions of § 1225(b)(2) do not apply to Mr. Martinez Alfonso, who was apprehended within the United States years after his initial entry and thousands of miles from the border. He is therefore detained under § 1226(a).

C. EVEN IF § 1226 APPLIES, DUE PROCESS REQUIRES A BOND HEARING

13. Even assuming arguendo that Petitioner is detained under § 1226(a), Respondents still cannot justify his continued detention without a bond hearing.

14. Prolonged civil immigration detention without an individualized hearing violates the Due Process Clause. See *Zadvydas v. Davis*, 533 U.S. 678 (2001); *Jennings*

v. Rodriguez, 583 U.S. 281 (2018). While Jennings foreclosed certain statutory arguments, it reaffirmed that constitutional challenges to prolonged detention remain viable.

15. Here, Petitioner has been detained without any meaningful opportunity to contest his custody, despite strong equities, lack of dangerousness, and absence of flight risk. Respondents offer no individualized justification for continued detention—only categorical assertions that have repeatedly been rejected by district courts.

D. RESPONDENTS FAIL TO ADDRESS THE ILLEGALITY OF PETITIONER'S ARREST AND RE-DETENTION

16. As detailed in the Petition, Petitioner's arrest and detention also violate governing regulations and ICE's own policies. Respondents do not meaningfully address the lack of proper warrant authority, the failure to comply with regulatory requirements governing arrest and custody, or the absence of any lawful revocation of Petitioner's prior release by DHS.

17. Courts have consistently held that re-detention in violation of governing regulations and without procedural safeguards is unlawful and warrants habeas relief. See, e.g., *Villanueva Herrera v. Tate* (S.D. Tex. 2025); *Tenemasa-Lema v. Hyde* (D. Mass. 2025).

E. THIS COURT HAS SUBJECT MATTER JURISDICTION OVER PETITIONER'S HABEAS CLAIMS - HABEAS RELIEF IS PROPER AND NECESSARY

18. Respondents argue that this Court lacks jurisdiction under 8 U.S.C. § 1252(g). That argument is foreclosed by Supreme Court precedent, Eleventh Circuit authority, and directly on-point district court decisions, including the Southern District of Georgia's consolidated decision in *Aguirre Villa v. Normand*, Case No. 5:25-cv-89 (S.D. Ga. Nov. 14, 2025).

19. Section 1252(g) strips jurisdiction only over three discrete actions: the decision or action to (1) commence proceedings, (2) adjudicate cases, or (3) execute removal orders. *Reno v. American-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999); *Jennings v. Rodriguez*, 583 U.S. 281, 294 (2018). It does not bar habeas jurisdiction over challenges to the legal authority for detention itself.

20. In *Aguirre Villa*, the Southern District of Georgia squarely rejected DHS's identical jurisdictional argument in consolidated § 2241 habeas cases challenging unlawful detention under § 1225. The court held that § 1252(g) does not strip jurisdiction where petitioners "seek to challenge the underlying legal bases of their detention," rather than any discretionary decision to commence proceedings, adjudicate a case, or execute a removal order. *Aguirre Villa v. Normand*, Order at 11-13 (S.D. Ga. Nov. 14, 2025).

21. The *Aguirre Villa* court distinguished Eleventh Circuit cases such as *Alvarez v. U.S. Immigration & Customs Enforcement*, 818 F.3d 1194 (11th Cir. 2016), explaining that *Alvarez* involved a challenge arising directly from execution of a removal order, whereas habeas petitions challenging unlawful detention under §

2241 do not “arise from” any of the three actions enumerated in § 1252(g). *Id.* at 11-12. The court emphasized that § 1252(g) “does not strip this Court of jurisdiction to adjudicate these Petitioners’ habeas claims.” *Id.* at 13.

22. That reasoning applies with full force here. Petitioner does not challenge the commencement of removal proceedings, the adjudication of his immigration case, or the execution of a removal order. He challenges ICE’s statutory and constitutional authority to detain him without a bond hearing. Such claims lie at the core of habeas corpus and fall squarely within this Court’s jurisdiction under 28 U.S.C. § 2241.

23. Accordingly, Respondents’ jurisdictional argument fails as a matter of law and provides no basis to deny habeas relief.

24. Respondents suggest that this Court lacks jurisdiction or should defer to the agency. That argument is foreclosed by Supreme Court and Eleventh Circuit precedent recognizing habeas jurisdiction over challenges to the legality of immigration detention. *See Zadvydas*, 533 U.S. at 687; see also *Madu v. U.S. Att’y Gen.*, 470 F.3d 1362 (11th Cir. 2006).

25. This Petition does not challenge the commencement of removal proceedings or the execution of a removal order. It challenges unlawful detention. That claim lies at the heart of habeas corpus.

F. DHS’S RELIANCE ON EXPEDITED REMOVAL AUTHORITY IS CONTRARY TO ITS OWN REGULATIONS

26. Respondents' apparent reliance on expedited removal principles further underscores the unlawfulness of Petitioner's detention. DHS's own regulations expressly limit the circumstances under which expedited removal and its attendant detention framework apply.

27. Under 8 C.F.R. § 235.3(b)(1)(ii), "an alien who was not inspected and admitted or paroled into the United States but who establishes that he or she has been continuously physically present in the United States for the two-year period immediately prior to the date of determination of inadmissibility shall be detained in accordance with section 235(b)(2) of the Act for a proceeding under section 240 of the Act." (emphasis added).

28. By regulation, once a noncitizen establishes two years of continuous physical presence, DHS is required to place the individual into full removal proceedings under INA § 240, rather than expedited removal. Critically, detention under § 235(b)(2) in that context is tied to § 240 proceedings and does not eliminate constitutional due process protections or foreclose habeas review of unlawful detention.

29. Here, Petitioner has established continuous physical presence well in excess of two years prior to DHS's determination of inadmissibility. Accordingly, DHS cannot invoke expedited removal authority—either directly or indirectly—to justify mandatory detention or to evade judicial review. Any attempt to bootstrap

expedited removal concepts into this case is inconsistent with DHS's own regulatory framework.

G. THE COURT'S EXPEDITED ORDER CONFIRMS JURISDICTION AND THE PROPRIETY OF HABEAS REVIEW AND HIGHLIGHTS DEFICIENCIES IN THE IMMIGRATION COURT RECORD

30. This Court's February 2, 2026 Order expediting Respondents' response to the Petition for Writ of Habeas Corpus and Motion for Preliminary Injunction further confirms that jurisdiction is proper and that habeas review is warranted. In that Order, the Court required Respondents to respond on an expedited basis, directed the parties to provide a copy of the immigration court docket, and ordered the parties to keep the Court apprised of immigration court proceedings. Such directives are incompatible with Respondents' assertion that this Court lacks jurisdiction and reflect the Court's recognition that the legality of Petitioner's detention is properly before it under 28 U.S.C. § 2241.

31. The Court's request for the immigration court docket is particularly significant here. Respondents have submitted an immigration court order granting DHS's motion to dismiss, which summarily states that Petitioner was provided notice, afforded an opportunity to respond, and did not oppose the motion. That order, however, contains no factual findings, no legal analysis, and no explanation of the grounds for dismissal beyond the bare assertion that DHS moved to dismiss.

32. Critically, the order does not attach any proof of service, notice of hearing, or written notice reflecting that Petitioner—who was proceeding *pro se* at the

time – was actually informed of the motion, understood its consequences, or had a meaningful opportunity to respond. There is likewise no indication that the immigration court made any inquiry into whether Petitioner knowingly waived opposition or understood the procedural posture of the case.

33. These omissions are not trivial. At the time of the immigration court proceedings, Petitioner was unrepresented and lacked the legal training necessary to appreciate the implications of a motion to dismiss filed by DHS. The summary nature of the order, combined with the absence of any supporting documentation, raises serious questions as to whether the proceeding comported with basic due process.

34. Moreover, Petitioner currently lacks access to the full immigration court record because the case has been closed. As a result, he is unable to independently verify what notices, if any, were issued, what filings were made, or what representations were placed on the record. Counsel has formally requested a copy of the immigration court proceedings and docket from the immigration court but has not yet received them.

35. In this context, the Court's directive that the parties provide the immigration court docket is essential to meaningful judicial review. It underscores that Respondents cannot rely on conclusory assertions in a truncated order to defeat habeas jurisdiction or justify continued detention. Where the administrative

record is incomplete, opaque, or unavailable to a detained pro se noncitizen, habeas review serves as the critical safeguard against unlawful detention.

III. CONCLUSION

36. Respondents have failed to rebut the Petition's legal and factual showing or this Court's prior finding that Petitioner has a substantial likelihood of success on the merits. Continued detention under these circumstances violates the INA and the Fifth Amendment.

37. For these reasons, Petitioner respectfully requests that the Court grant the Petition for Writ of Habeas Corpus and order his immediate release, or, in the alternative, order a prompt constitutionally adequate bond hearing before a neutral adjudicator wherein DHS has the burden of proving with clear and convincing evidence why bond should not be granted and where DHS is required to provide a status to this Court with the justification of any decision by an immigration judge if he is not approved to be released.

Dated: February 09, 2026

Respectfully submitted,

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