

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

Marbell A. Sandino Rodriguez,

Petitioner,

v.

Warden, Broward Transitional Center, *et al.*,

Respondents.

Case No. 0:26-cv-60281-MD

**REPLY TO RESPONDENTS' RETURN/
RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner, Marbell A. Sandino Rodriguez, through the undersigned counsel submits this reply to Respondents' response to her petition for writ of habeas corpus.

I. INTRODUCTION

Respondents¹ continue to detain Petitioner without a bond hearing due to their misinterpretation of the detention authorities of Sections 1225 and 1226 of the Immigration and Nationality Act (INA) and in violation of her rights under the Fifth Amendment Due Process Clause. Contrary to Respondents' arguments in their response, Petitioner was not required to

¹ Respondent Warden of the Broward Transitional Center has immediate custody over Petitioner. However, "[f]ederal immigration detainees are detained 'pursuant to the power and authority of the federal government' and not the warden of the non-federal facility where they are detained." *Masingene v. Martin*, 424 F. Supp. 3d 1298, 1302 (S.D. Fla. 2020) (quoting *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1186 (N.D. Cal. 2017)). Respondents Kristi Noem, as Secretary of the Department of Homeland Security and Pamela Bondi, as the U.S. Attorney General, exercise custody over Petitioner, as they oversee Immigration and Customs Enforcement and the Executive Office for Immigration Review, respectively, two agencies that are responsible for Petitioner's continued mandatory detention without a bond hearing.

exhaust other administrative remedies, Petitioner is eligible for release on bond under § 1226(a) and her detention without a bond hearing violates her due process rights.

II. ARGUMENT

A. Administrative Exhaustion Would be Futile.

Only “[w]here Congress specifically mandates, exhaustion is required.” *McCarthy v. Madigan*, 503 U.S. 140 (1992). Here, no statute applicable to Petitioner’s claim requires administrative exhaustion, thus Petitioner was not required to exhaust other administrative remedies prior to filing this petition.

Moreover, “exhaustion is not required where no genuine opportunity for adequate relief exists or an administrative appeal would be futile.” *Puga v. Assistant Field Office Dir.*, No. 25-24535-CIV, 2025 U.S. Dist. LEXIS 203222, at *6 (S.D. Fla. Oct. 15, 2025) (quoting *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982)). Any request by Petitioner for a bond hearing before an Immigration Judge “and any subsequent bond appeal to the BIA is nearly a foregone conclusion after *Matter of Yajure Hurtado*.” *Id.* (citing *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)). Therefore, it would have been futile for Petitioner to exhaust her administrative remedies before filing her petition for writ of habeas corpus.

B. Petitioner is Eligible for Release on Bond Under § 1226(a).

Respondents cite² the Fifth Circuit Court of Appeals decision in *Buenrostro-Mendez*, in support of their argument that petitioner is subject to mandatory detention under 28 U.S.C. § 1225(b)(2). See *Buenrostro-Mendez v. Bondi*, No. 25-20496, 25-40701, ___ F. 4th ___, 2026 U.S. App. LEXIS 3899 (5th Cir. Feb. 6, 2026). However, *Buenrostro-Mendez* conflicts with this

² While Respondents also cite to the Board of Immigration Appeal’s (BIA) analysis of Sections 1225 and 1226 of the INA in *Matter of Yajure Hurtado* as “instructive”, that decision was recently vacated by the Central District of California in *Maldonado Bautista v. Santaacruz*, No. 5:25-cv-01873-SSS-BFM, ECF No. 116, at *16 (C.D. Cal. Feb. 18, 2026).

Court's interpretation of the detention authorities of the INA, finding that "the statutory text, context, and scheme of Section 1225 do not support a finding that a noncitizen is 'seeking admission' when he never sought to do so." *Arcia Alfonso v. GEO Group, Inc.*, 26-60286-CIV-DAMIAN, ECF No. 9, at *3 (S.D. Fla. Feb. 17, 2026) (quoting *Puga v. Assistant Field Office Director, Krome North Service Processing Center*, No. 25-24535-CIV, 2025 WL 2938369, at *5, 2025 U.S. Dist. LEXIS 203222, at *13 (S.D. Fla. Oct. 15, 2025)). And courts in this Circuit "are bound by [Eleventh] Circuit precedent, not by [other] Circuit[s]' precedent." *Hamilton v. Sec'y, Fla. Dep't of Corr.*, 793 F.3d 1261, 1266 (11th Cir. 2015) (citing *OSI, Inc. v. United States*, 285 F.3d 947, 952 n.3 (11th Cir. 2002)).

Section 1225(b)(2), which makes detention mandatory, is limited to noncitizens who, unlike Petitioner, are "seeking admission into the United States." *Puga*, 2025 U.S. Dist. LEXIS 203222, at *8. Conversely, Section 1226(a) "'creates a default rule' that 'applies to aliens already present in the United States.'" *Id.* (citing *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018)). Section 1226(a) also permits the Attorney General to release those aliens on bond." *Jennings*, 583 U.S. at 303.

Petitioner entered the U.S. in 2022 and has lived here ever since, thus she was not "seeking admission" when she was detained inside the U.S. last month. *See Gonzalez Ramon v. Lyons*, No. 0:26-CV-60064-DAMIAN, ECF No. 8 (S.D. Fla. Feb. 6, 2026); *Rorres Arevalo v. Noem*, No. 0:26-CV-60155-DAMIAN, ECF No. 7 (S.D. Fla. Feb. 9, 2026); *Torres-Martinez v. Assistant Dir.*, No. 0:26-CV-60166-DAMIAN, ECF No. 9 (S.D. Fla. Feb. 11, 2026); *see also Cetino v. Glades Detention Facility*, No. 2:25-cv-01037, ECF No. 12 (M.D. Fla. Dec. 12, 2025); *Garcia Riquis v. Warden of Florida Soft Side South (Collier County)*, No. 2:25-cv-01028, ECF

No. 8 (M.D. Fla. Dec. 5, 2025); *Patel v. Parra*, 2:25-cv-00870, ECF No. 22 (M.D. Fla. Dec. 1, 2025).

C. Respondents Continue to Violate Petitioner's Rights Under the Due Process Clause.

Respondents released Petitioner on parole when she was first detained on May 25, 2022. Response, ECF No. 5, Exh. 1, at ¶7. “[A]liens released on their own recognizance are entitled to due process protections under the Fifth Amendment before their recognizance may be revoked and they are redetained.” *Arellano v. Ripa*, No. 1:26-CV-20044-CMA, ECF No. 10, at *7 (S.D. Fla. Jan. 23, 2026). Courts in this Circuit have determined that all three factors outlined in *Mathews v. Eldridge* weigh in favor of the noncitizen detainee in cases similar to Petitioner's. *Arellano*, No. 1:26-CV-20044-CMA, ECF No. 10, at *8-12 (citing *Mathews v. Eldridge*, 424 U.S. 319 (1976)); *see also Sanchez Figueroa v. Bondi*, No. 0:25-cv-62707-WPD, ECF No. 14, at *13 (S.D. Fla. Jan. 14, 2026).

Respondent has a private interest in her liberty and in remaining out of custody. *Arellano*, No. 1:26-CV-20044-CMA, ECF No. 10, at *8. The government's decision to release Petitioner on parole in 2022, “reflects a determination by the government that [Petitioner] is not a danger to the community or a flight risk.” *Saravia v. Sessions*, 280 F. Supp. 3d 1168, 1176 (N.D. Cal. 2017), *aff'd* 905 F.3d 1137 (9th Cir. 2018); 8 C.F.R. § 1236.1(c)(8). Respondents do not allege that any circumstances have changed for Petitioner that would make her a danger or a flight risk. Therefore, without a bond hearing, Petitioner risks the continued erroneous deprivation of her liberty. *Arellano*, No. 1:26-CV-20044-CMA, ECF No. 10, at *11. And any government interest in preventing danger to the community and ensuring Petitioner's presence at her removal

proceedings could be resolved by an individualized bond hearing. *See Sanchez Figueroa v. Bondi*, No. 0:25-cv-62707-WPD, ECF No. 14 at *13 (S.D. Fla. Jan. 14, 2026).

III. CONCLUSION

Respondents ask the Court to endorse an interpretation of § 1225 that would dramatically expand mandatory detention, erase the bond framework Congress preserved in § 1226 and violate Petitioner's due process rights. This Court has rejected that interpretation, *Jennings* forbids it and it does not comport with the Due Process Clause. Therefore, this Court should grant the Petition for Writ of Habeas Corpus.

DATED: February 20, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I CERTIFY that a true and correct copy of the foregoing was electronically filed with the CM/ECF e-Filing Portal on February 20, 2026.

By: /s/ Rolando Grillo
Rolando Grillo, Esq.