

**UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF FLORIDA**

**CASE NO. 26-20673-CIV-ALTONAGA**

**JULIO CESAR ESCALONA NARANJO,**

Petitioner,

v.

**MIAMI IMMIGRATION AND CUSTOMS  
ENFORCEMENT FIELD OFFICE DIRECTOR,  
et al.**

Respondents.

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**RESPONDENTS' RESPONSE TO ORDER TO SHOW CAUSE**

Respondents, through the Undersigned Assistant United States Attorney, respectfully submit this Response to this Court's Order to Show Cause (ECF No. 3). Petitioner Julio Cesar Escalona Naranjo ("Petitioner") challenges his detention by U.S. Immigration and Customs Enforcement ("ICE"). On February 2, 2026, Petitioner filed a petition for habeas corpus pursuant to 28 U.S.C. § 2241. The Court has ordered the government to show cause why the petition should not be granted.

The government has carefully reviewed this petition<sup>1</sup> and determined that the legal issues presented concern the statutory authority for U.S. Immigration and Customs Enforcement's ("ICE") detention of Petitioner 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

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<sup>1</sup> The Petition was filed on February 2, 2026. The following day, an Immigration Judge issued an order of removal, and Petitioner reserved appeal.

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)(2), 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); *Morales v. Noem, et al.*, No. 25-62598-CIV SINGHAL, ECF No. 10 (S.D. Fla. Jan. 29, 2026) (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, including the Chief Judge to whom this matter is assigned, have reached the opposite conclusion. See, e.g., *Alvarez Puga v. Assistant Field Office Director Krome, et al.*, 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)"); *Aguilar Merino v. Ripa*, 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. Secy of the U.S. Dept 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); *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); *Duvallon Boffill, et al.*, Case No. 25-25179-CIV-BECERRA, ECF No.9 (Nov. 20, 2025) (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)); *Ocampo Fernandez v. Ripa*, No. 25-24981-CIV-LEIBOWITZ, ECF No. 17 (S.D. Fla. Nov. 25, 2025) (declining to follow BIA order in *Hurtado* and holding that "Petitioner is detained pursuant to Section 1226 and is therefore entitled to a bond hearing"); *Espinal Encarnacion v. ICE Field Office Director, et al.*, Case 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)(2), governs detention under the facts presented in the cases above appealing 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 *Alvarez Puga v. Assistant Field Office Director Krome*, et al., No. 25-24535-CIV-ALTONAGA (S.D. Fla. Oct. 15, 2025), decision would control the result here if the Court adheres to that decision, as the 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, and 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 *Alvarez Puga*, No. 25-24535-CIV-ALTONAGA,<sup>2</sup> 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 request.

Respectfully submitted,

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<sup>2</sup> Specifically, the government incorporates by reference all arguments raised in its opposition brief in *Alvarez Puga*, No. 25-24535-CIV-ALTONAGA.