

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

**CASE No. 0:26-cv-60346-MIDDLEBROOKS**

**MAURA C. SALES-MENDEZ,**

Petitioner,

v.

**ASSISTANT DIRECTOR, U.S. DHS  
ICE ERO Miami Field Office, et al.,**

Respondents.

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**PETITIONER'S REPLY TO RESPONDENTS'  
RESPONSE TO ORDER TO SHOW CAUSE (ECF No. [7])**

NOW COMES Petitioner Maura C. Sales-Mendez, by and through undersigned counsel, and hereby files the instant Reply to Respondent's Response to Order to Show Cause ("Response"), and respectfully states as follows:

**ARGUMENT**

In their Response, Respondents argued *inter alia* that this Court should dismiss Respondent Field Office Director as a party to the instant action. *See* ECF No. [7], at \*1, n.1. Further, Respondents argued that this Court should find that Ms. Sales-Mendez is subject to mandatory detention pursuant to 8 U.S.C. § 1225(b)(2). *Id.* at \*2.

Regarding the proper parties, a writ of habeas corpus must "be directed to the person having custody of the person detained," 28 U.S.C. § 2243, which, in cases involving present physical

confinement, means the “immediate custodian, not a supervisory official who exercises legal control,” *see Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004). For that reason, Respondents assert that the proper Respondent in this case is the Assistant Field Office Director in his official capacity. *See, e.g., Masingene v. Martin*, 424 F. Supp. 3d 1298, 1302–03 (S.D. Fla. 2020) (“[T]he Court finds that the proper respondent to the Petition is Jim Martin, the Director of the Miami Field Office for ICE.”). Accordingly, should, this Honorable Court find that only the Assistant Field Office Director is the proper Respondent, the Petitioner respectfully requests that the Court dismiss the Field Office Director as a Respondent without dismissing the instant Petition. *See, e.g., Mayorga v. Meade*, No. 24-CV-22131, 2024 WL 4298815, at \*3 (S.D. Fla. Sept. 26, 2024) (substituting as Respondent the Assistant Field Director of facility where Petitioner was detained because denial of a habeas petition for failure to name proper respondent would give an unreasonably narrow reading to habeas corpus statute).

Moreover, Respondents noted that the U.S. Court of Appeals for the Fifth Circuit recently issued a decision in which it agreed with Respondents’ interpretation of the INA to find that petitioners that entered without inspection were subject to mandatory detention. *See* ECF No. [7], at \*2 (citing *Buenrostro-Mendez v. Bondi*, , --- F.4th ----, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026)). Respondents also noted that some Courts within this District have adopted the Fifth Circuit’s analysis. *See* ECF No. [7]. at \*2 (citing *Perez Morales v. Noem*, No. 26-60251-CIV DIMITROULEAS, ECF No. [15] (S.D. Fla. Feb. 9, 2026)). Respondents further acknowledged that other Courts, including this Honorable Court, “have reached the opposite conclusion.” ECF No. [7], at \*\*2-4, 5 (citations omitted).

Ms. Sales-Mendez respectfully asks the Court to adopt the reasoning that some Courts within the Middle District of Florida have adopted in “respectfully disagree[ing]” with the Fifth

Circuit's decision. See *Malikov v. Bondi*, Case No. 2:26-cv-00172-SPC-NPM, 2026 WL 395296, at \*1 n.1 (M.D. Fla. Feb. 12, 2026) (noting that the Fifth Circuit's decision in *Buenrostro-Mendez* "is not binding here, and it contradicts the vast majority of district court opinions addressing the issue", rejecting majority's reasoning and finding dissent more persuasive, and noting that a circuit split is likely based on a preliminary decision in *Castanon-Nava v. U.S. Dept. of Homeland Sec.*, 161 F.4th 1048, 1060-63 (7th Cir. 2025)); see also *Vasquez Lopez v. Warden, Glades County Detention Center*, Case No. 2:26-cv-147-JEM-NPM, 2026 WL 369362, at \*2 (M.D. Fla. Feb. 10, 2026) (citing *Buenrostro-Mendez* and noting that it is the only circuit court decision to have addressed the issue and its holding "is contrary to the overwhelming majority of district court judges to have considered the issue" and that the "Court respectfully disagrees with the Fifth Circuit's analysis and notes that it is not binding precedent in this Court"). Moreover, other Courts within the Southern District of Florida have continued to grant habeas petitions that challenge the Respondents' position regarding mandatory detention despite the Fifth Circuit's decision earlier this month. See, e.g., *Erazo Figuera v. Ripa*, Case No. 26-cv-20307-JB, 2026 WL 467569 (S.D. Fla. Feb. 19, 2026); *Torres-Martinez v. Assistant Dir.*, Case No. 26-60166-CIV-DAMIAN/Valle, ECF No. [9] (S.D. Fla. Feb. 11, 2026); see also *Loper Bright Enters. v. Raimondo*, 603 U.S. 369, 402 (2024) (administrative decision like that in *Yajure-Hurtado* carries only the "power to persuade" and is not binding on Court).

### **CONCLUSION**

Accordingly, Ms. Sales-Mendez respectfully requests that this Honorable Court issue a Writ of Habeas Corpus requiring that Respondents release her from custody and produce her. Alternatively, Ms. Sales-Mendez requests that this Honorable Court issue an order requiring

Respondents to conduct a bond hearing where the Respondents bear the burden of establishing her continued detention by clear and convincing evidence.

Respectfully submitted this 19th day of February, 2026,

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**CERTIFICATE OF SERVICE**

I HEREBY CERTIFY that I electronically filed the foregoing document with the Court Clerk and to the best of my knowledge a true and correct copy of the foregoing, along with a Notice of Electronic Filing, will be served through the Court's ECF system to all counsel of record this 19th day of February, 2026.

Respectfully submitted,

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