

UNITED STATES DISTRICT COURT FOR
THE SOUTHERN DISTRICT OF FLORIDA

FERNANDO EFRAIN LEZCANO-ORDAZ)

Petitioner,)

Case No. 26-cv-21040-LEIBOWITZ

v.)

E.K. Carlton, in his official capacity as)

Warden of the Miami Federal Detention)

Center.)

REPLY TO THE RESPONDENT’S RESPONSE TO THE PETITION

Petitioner, by and through undersigned counsel, hereby responds to the Respondent’s Response to his Petition for Writ of Habeas Corpus. [ECF No. 6].

In its Order to Show Cause, this Court expressly stated that it is inclined to grant Petitioner’s request for an individualized bond hearing pursuant to 8 U.S.C. § 1226(a), on an expedited basis. [ECF No. 5 at p. 2]. The Court further observed that in prior cases involving “essentially indistinguishable facts,” Respondent’s position that similarly situated immigrants are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) has repeatedly been rejected. *Id.* The Court specifically cited *Martinez v. Field Office Director*, No. 1:25-cv-26026-DSL (S.D. Fla. Jan. 14, 2026), along with other Southern District decisions, noting that the Government’s position on this issue has been, “generally speaking, a losing one.” *Id.*

Respondent acknowledges that this Court's decision in *Martinez v. Field Office Director*, No. 25-26026-CIV-LEIBOWITZ (S.D. Fla. Jan. 14, 2026) would control the statutory analysis because the legal arguments are "not materially distinguishable." Petitioner agrees.

In *Martinez*, this Court concluded that detention under these circumstances is governed by 8 U.S.C. § 1226(a). The same reasoning applies here. Because Petitioner's statutory posture is materially identical, he is likewise entitled to an individualized bond hearing.

Respondents' Response does not identify a statutory provision that unequivocally mandates detention in Petitioner's circumstances. Instead, Respondent relies on the same legal theory that this Court has repeatedly rejected in cases involving materially indistinguishable facts.

Here, Petitioner has exhausted all available remedies. Petitioner has been detained since November 2025, under custody of ICE ERO. Petitioner requested a custody redetermination hearing before an Immigration Judge, to which was denied due to lack of jurisdiction. The Court has already recognized the increasing number of cases presenting materially indistinguishable facts and legal arguments. [ECF No. 5 at p. 2]. Consistent application of this Court's reasoning in *Martinez* and related decisions promotes judicial economy and uniformity in adjudication.

Because Petitioner's detention is governed by 8 U.S.C. § 1226(a), and because Respondent has failed to demonstrate that any mandatory detention provision applies, the Court should:

1. Grant the Petition for Writ of Habeas Corpus;
2. Order that Petitioner receive an individualized bond hearing before an Immigration Judge within a reasonable period; and

3. Maintain the administrative stay and prohibition on transfer pending compliance with the Court's order.

Dated this 27th day of February, 2026.

Respectfully submitted,

/s/ Avelino J. Gonzalez

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