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

MAURICIO SANCHEZ HERNANDEZ,)	
)	Case No. 26-CV-60438-MD
Petitioner,)	
)	PETITIONERS REPLY
v.)	
)	
WARDEN et al.)	
)	
Respondents.)	
_____)	

INTRODUCTION

The government's Response confirms what Petitioner argued: he is entitled to a bond hearing under 8 U.S.C. § 1226(a). The government acknowledges this Court's prior decision in *Espinal Encarnacion v. ICE Field Office Director*, Case No. 25-61898-CIV-DAMIAN (S.D. Fla. Dec. 23, 2025), and concedes the legal arguments here are "not materially distinguishable." ECF No. 7 at 5. The government states the Court "can decide this issue without further briefing." *Id.*

Petitioner asks this Court to (1) order an immediate bond hearing, and (2) stay removal pending Petitioner's appeal before the Board of Immigration Appeals and the adjudication of his wife's I-130 petition. The government conceded the first issue. The government said nothing about the second, even though removal will permanently destroy Petitioner's statutory eligibility to adjust status as the paroled spouse of a United States citizen.

I. THE GOVERNMENT CONCEDES PETITIONER IS ENTITLED TO A BOND HEARING

The government's position can be summarized simply: it believes it should win under Fifth Circuit precedent, but it acknowledges this Court has already ruled against it, and it is not asking the Court to revisit that ruling. ECF No. 7 at 4-5.

The government cites *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026), for the proposition that individuals present without admission are subject to mandatory detention under § 1225(b)(2). ECF No. 7 at 2-3. But the government then lists nearly a dozen decisions from judges in this District holding the opposite, including this Court's decision in *Espinal Encarnacion*. ECF No. 7 at 3-4.

The government expressly acknowledges that *Espinal Encarnacion* "would control the result here if the Court adheres to that decision, as the legal arguments are not materially distinguishable." ECF No. 7 at 5. The government incorporates its prior briefing "by reference" and states the Court "can decide this issue without further briefing." *Id.*

This is a concession.

A. The Immigration Judge Denied Bond Without a Hearing

On February 13, 2026, Immigration Judge Stuart A. Siegel denied Petitioner's request for a custody redetermination. The order states:

Denied, because Based on his manner of entry (entering without inspection), the Court lacks jurisdiction. see Matter of Yajure Hurtado, 29 I&N Dec. 216 (BIA 2025). Even if Court had jurisdiction, Respondent entered by boat and, as an irregular maritime arrival, the Court finds Respondent ineligible for a bond. see Matter of D-J-, 23 I&N Dec. 572 (A.G. 2003). Respondent does not appear to be a suitable bail risk. see Matter of Guera [sic].

The Immigration Judge did not conduct an evidentiary hearing. He did not hear testimony from Petitioner. He did not hear from Petitioner's wife. He did not consider Petitioner's marriage to a United States citizen, his pending I-130, his three years of continuous employment, his perfect compliance with immigration check-ins, his lack of any criminal history, or any factor relevant to flight risk or danger.

The Immigration Judge's primary holding was that he lacked jurisdiction based on Petitioner's "manner of entry." This is precisely the legal error this Court rejected in *Espinal Encarnacion*.

The Immigration Judge applied § 1225(b)(2) rather than § 1226(a), which would entitle Petitioner to a bond hearing. The government now concedes this Court's prior ruling controls.

The Immigration Judge's alternative holdings fare no better. *Matter of D-J-*, 23 I&N Dec. 572 (A.G. 2003), addressed a mass maritime migration event requiring a coordinated policy response.

It did not establish a categorical bar on bond for any person who arrived by boat, regardless of individual circumstances or the passage of three years. And the conclusory statement that Petitioner "does not appear to be a suitable bail risk" was made without hearing any evidence.


This Court should follow its own precedent and order an immediate bond hearing at which Petitioner may present evidence and the Immigration Judge must make an individualized determination.

II. REMOVAL SHOULD BE STAYED PENDING THE BIA APPEAL AND I-130 ADJUDICATION

A. Petitioner Has Appealed the Removal Order

On February 25, 2026, Immigration Judge Siegel issued a final order of removal to Ecuador. Petitioner has appealed that order to the Board of Immigration Appeals. The appeal remains pending.

B. Petitioner's Wife Has Filed an I-130 Petition

On February 17, 2026, Petitioner's wife, Jenny Clifford, a United States citizen, filed Form I-130, Petition for Alien Relative, with USCIS. Receipt Number  The petition classifies Petitioner as the "Husband or wife of U.S. Citizen" under INA § 201(b). The I-130 is pending now.

As a parolee married to a United States citizen, Petitioner is eligible to adjust status to lawful permanent resident under INA § 245(a) upon approval of the I-130. This is not discretionary relief. It is the statutory pathway Congress created for people in exactly Petitioner's circumstances.

C. Removal Will Cause Irreparable Harm

Removal to Ecuador will permanently destroy Petitioner's eligibility to adjust status:

- a. Adjustment under § 245(a) requires physical presence in the United States. A removed person cannot adjust.
- b. The I-130 becomes worthless if Petitioner is in Ecuador.
- c. There is no mechanism to restore adjustment eligibility after removal.
- d. Petitioner would face a 10-year bar on reentry under INA § 212(a)(9)(A)(ii).

This harm cannot be undone. The BIA cannot restore Petitioner's adjustment eligibility if he is removed while the appeal is pending. Only this Court can prevent that outcome.

The Supreme Court has recognized that removal causes irreparable injury. *Nken v. Holder*, 556 U.S. 418, 435 (2009). Removal "can result in the loss of all that makes life worth living." *Ng Fung Ho v. White*, 259 U.S. 276, 284 (1922).

D. The Government Did Not Oppose a Stay

Petitioner's Emergency Petition requested a stay of removal pending adjudication of the I-130. ECF No. 1 at 36. The government's Response does not address this request. The government offers no argument why removal should proceed while the BIA appeal and I-130 remain pending.

E. The Balance of Harms Favors a Stay

1. **Likelihood of success:** Petitioner has a pending BIA appeal and a viable pathway to lawful permanent residence through his U.S. citizen wife.
2. **Irreparable harm:** Removal will permanently destroy Petitioner's adjustment eligibility. This harm cannot be remedied.
3. **Harm to the government:** Minimal. A brief delay in removal while the BIA appeal and I-130 are adjudicated. Petitioner poses no flight risk given his pending I-130 and no danger given his complete lack of criminal history.
4. **Public interest:** The public interest favors keeping families together and allowing individuals with valid pathways to legal status to pursue them.

III. THE PROPER RESPONDENT ARGUMENT

The government argues only the Warden is a proper respondent under *Rumsfeld v. Padilla*, 542 U.S. 426 (2004). ECF No. 7 at 1 n.1. This Court may dismiss the additional respondents and proceed on the merits against the Warden. The technical respondent issue does not affect Petitioner's entitlement to relief.

CONCLUSION

The government has conceded Petitioner is entitled to a bond hearing. The Immigration Judge denied bond solely on jurisdictional grounds that this Court has already rejected, without conducting any evidentiary hearing. This Court should order an immediate bond hearing.

The government has not opposed a stay of removal. Removal will permanently destroy Petitioner's statutory pathway to adjust status as the spouse of a United States citizen. This Court should stay removal pending the BIA appeal and the adjudication of the I-130.

REQUESTED RELIEF

Petitioner respectfully requests that this Court:

1. **Order a bond hearing immediately** before an immigration judge, at which the government bears the burden of proving by clear and convincing evidence that continued detention is necessary; or release him from custody.
2. **Stay Petitioner's removal to Ecuador** pending:
 - (a) Resolution of Petitioner's appeal before the Board of Immigration Appeals; and
 - (b) Adjudication of the I-130 petition filed by Petitioner's United States citizen spouse.

Respectfully Submitted
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CERTIFICATE OF SERVICE

I hereby certify that on March 2, 2026, I electronically filed the foregoing with the Clerk of the Court using the CM/ECF system, which will send notification to all counsel of record.

Respectfully Submitted
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