UNITED STATES DISTRICT COURT

FOR THE SOUTHERN DISTRICT OF FLORIDA

RENE DAVID ALARCON-GONZALEZ
Petitioner,

v. Case No.: 26-60455-CV-DIMITROULEAS

WARDEN, BROWARD TRANSITIONAL CENTER FDC;
DIRECTOR, U.S. IMMIGRATION AND CUSTOMS ENFORCEMENT;
SECRETARY, U.S. DEPARTMENT OF HOMELAND SECURITY;
ATTORNEY GENERAL OF THE UNITED STATES,
Respondents.

PETITIONER'S REPLY TO RESPONDENTS' RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS

I. INTRODUCTION.

Petitioner Rene David Alarcon-Gonzalez respectfully submits this Reply in support of his Petition for Writ of Habeas Corpus under 28 U.S.C. §2241.

Respondents' response does not resolve the central constitutional problem presented in this case: the Government seeks to detain Petitioner indefinitely without any individualized custody hearing based on an overly expansive interpretation of 8 U.S.C. §1225(b).

Neither the Immigration and Nationality Act nor the Constitution permits such detention.

II. THIS COURT HAS HABEAS JURISDICTION.

Respondents argue that this Court lacks jurisdiction under 8 U.S.C. §§1252(g) and 1252(b)(9). That argument is incorrect.

Petitioner does not challenge the decision to commence removal proceedings or execute a removal order. Instead, he challenges the legal basis for his ongoing civil detention.

The Supreme Court has repeatedly confirmed that habeas jurisdiction remains available to review immigration detention.

See:

- *Jennings v. Rodriguez*, 583 U.S. 281 (2018)
- *Zadvydas v. Davis*, 533 U.S. 678 (2001)

These cases confirm that federal courts retain authority to determine whether detention is authorized by statute and consistent with due process.

Petitioner's claim therefore falls squarely within this Court's jurisdiction under 28 U.S.C. §2241.

Federal courts within the Eleventh Circuit have repeatedly exercised habeas jurisdiction to review

the statutory basis of immigration detention. See Jennings v. Rodriguez, 583 U.S. 281 (2018); Zadvydas v. Davis, 533 U.S. 678 (2001); see also Demore v. Kim, 538 U.S. 510 (2003) (recognizing judicial review of immigration detention through habeas corpus).

III. PETITIONER IS NOT SUBJECT TO MANDATORY DETENTION UNDER §1225.

Respondents argue that Petitioner is an "applicant for admission" subject to mandatory detention under 8 U.S.C. §1225(b)(2).

That interpretation ignores the statutory structure Congress enacted.

The Immigration and Nationality Act establishes two distinct detention frameworks:

• §1225 – governing inspection and processing of individuals at the border

• §1226 – governing detention of noncitizens pending removal proceedings

Petitioner's detention is governed by §1226(a), not §1225.

The record shows:

- Petitioner entered the United States in 2023 and has been placed in removal proceedings.
- DHS issued a Notice to Appear charging him under INA §212(a)(6)(A)(i).
- ICE later detained him after an encounter with local authorities.

These facts demonstrate that Petitioner is not being processed at the border, but rather is an individual already inside the United States whose removability is being adjudicated.

That situation is governed by §1226(a).

Numerous courts within this District have reached the same conclusion and held that individuals in Petitioner's position are entitled to bond hearings before an immigration judge.

Examples include:

- *Aguilar Merino v. Ripa*
- *Gil-Paulino v. Secretary DHS*
- *Penagos Quintero v. Ripa*
- *Zamora Policarpo v. Parra*

These decisions recognize that interpreting §1225 to apply indefinitely to individuals inside the United States would effectively create permanent mandatory detention, a result unsupported by the statute.

Interpreting §1225 to authorize indefinite detention of individuals already inside the United States would effectively eliminate the statutory bond framework Congress created in §1226(a), a result inconsistent with the structure of the Immigration and Nationality Act.

IV. RESPONDENTS' RELIANCE ON MATTER OF YAJURE HURTADO IS MISPLACED

Respondents' argument relies heavily on the Board of Immigration Appeals' decision in Matter of Yajure Hurtado. That reliance is misplaced. Matter of Yajure Hurtado has been vacated and is no longer controlling authority. The interpretation of detention authority advanced in that decision has been repeatedly rejected by federal courts reviewing the Government's recent detention policies.

In that litigation, the federal district court confirmed that the Government's interpretation of the Immigration and Nationality Act—mirroring the reasoning relied upon in Matter of Yajure Hurtado—was inconsistent with the statutory framework governing immigration detention and resulted in unlawful detention practices. Courts have therefore rejected the Government's attempt to treat individuals already present inside the United States as indefinitely subject to mandatory detention under §1225.

Courts have recognized that the interpretation of detention authority adopted in that decision cannot support continued mandatory detention of individuals who are already physically present in the United States and placed into removal proceedings.

Federal courts have repeatedly rejected the Government's attempt to expand 8 U.S.C. §1225(b) into a mechanism for indefinite detention without bond hearings. Instead, courts have concluded that individuals in removal proceedings who are already inside the United States fall under the detention framework of 8 U.S.C. §1226(a), which expressly provides for individualized custody determinations.

Indeed, in recent nationwide litigation addressing the Government's detention policies, federal courts have confirmed that the Government's interpretation of the statute—premised on the same reasoning advanced in *Matter of Yajure Hurtado*—is inconsistent with the structure of the Immigration and Nationality Act. See, e.g., Lazaro Maldonado Bautista v. Santacruz, No. 5:25-cv-01873 (C.D. Cal. Feb. 18, 2026) (granting enforcement of judgment and reiterating that the Government's interpretation of detention authority is unlawful).

As that court explained, the Government's detention policy—mirroring the reasoning of *Yajure Hurtado*—had already been invalidated through multiple federal court orders, and the underlying legal interpretation supporting mandatory detention had been rejected.

Accordingly, Respondents cannot rely on Matter of Yajure Hurtado as binding authority to justify Petitioner's continued detention.

V. RESPONDENTS' RELIANCE ON BUENROSTRO-MENDEZ IS MISPLACED.

Respondents rely heavily on the Fifth Circuit's decision in *Buenrostro-Mendez v. Bondi*.

That decision does not control this Court.

First, Fifth Circuit precedent is not binding in the Eleventh Circuit.

Second, even Respondents acknowledge that courts within the Southern District of Florida have repeatedly rejected the Government's interpretation and concluded that §1226(a) governs detention for similarly situated individuals.

Third, the Government's reading would allow ICE to detain any undocumented individual in the interior of the United States without bond at any time, regardless of how long they have lived here. Nothing in the statutory text suggests Congress intended such sweeping authority.

VI. PROLONGED DETENTION WITHOUT A BOND HEARING VIOLATES DUE PROCESS.

Even if §1225 were deemed applicable, prolonged civil detention without meaningful review violates the Fifth Amendment.

Petitioner has now been detained for more than four months while removal proceedings continue. Civil detention is permissible only when reasonably related to legitimate governmental purposes such as:

- ensuring appearance at hearings
- protecting the community

There is no evidence that Petitioner presents a danger or serious flight risk.

When civil immigration detention becomes prolonged without meaningful procedural safeguards, it ceases to serve its regulatory purpose and instead becomes punitive, raising serious constitutional concerns under the Fifth Amendment.

See:

- *Zadvydas v. Davis*, 533 U.S. 678 (2001)
- *Demore v. Kim*, 538 U.S. 510 (2003)

At minimum, due process requires an individualized custody hearing where the Government bears the burden of proving that detention is necessary.

The Government's theory would effectively permit DHS to detain a noncitizen indefinitely as an "applicant for admission," even after placing that individual in full removal proceedings under 8 U.S.C. §1229a. Once the Government elects to pursue removal before an Immigration Judge, detention authority arises under 8 U.S.C. §1226, which contemplates individualized custody determinations by a neutral decisionmaker. Any interpretation of the statute that would allow prolonged civil immigration detention without access to a bond hearing would raise serious constitutional concerns under the Fifth Amendment's guarantee of due process.

VII. PETITIONER'S DETENTION CANNOT BE JUSTIFIED BY UNSETTLED OR VACATED AUTHORITY.

Taken together, Respondents' position rests on two legal premises:

1. An interpretation of detention authority derived from Matter of Yajure Hurtado, which has been vacated and rejected by federal courts; and
2. A removal framework involving third-country transfer policies that remain subject to ongoing federal litigation and judicial reversal.

Neither premise can support the Government's attempt to detain Petitioner indefinitely without an individualized custody hearing.

The statutory structure of the Immigration and Nationality Act makes clear that individuals placed in removal proceedings within the United States are detained under 8 U.S.C. §1226(a), not §1225(b).

Under §1226(a), Congress expressly provided for bond hearings before an immigration judge.

Respondents' interpretation would effectively eliminate that statutory safeguard and authorize indefinite mandatory detention for any undocumented individual encountered inside the United States, a result inconsistent with both the statute and the Constitution.

VII.A THE IMMIGRATION JUDGE ORDER DOES NOT CREATE FINAL POST-ORDER DETENTION.

Respondents reference an Immigration Judge decision issued on February 12, 2026 ordering removal. That order does not alter the statutory detention framework applicable in this case.

Under the Immigration and Nationality Act, a removal order does not become administratively final until the time to appeal to the Board of Immigration Appeals has expired or the appeal has been adjudicated. See 8 U.S.C. §1101(a)(47)(B).

Here, the Government's own declaration confirms that Petitioner reserved appeal and has until March 16, 2026 to file an appeal before the Board of Immigration Appeals.

Because the appeal period has not expired and the removal order is not yet administratively final, Petitioner remains in pre-final-order detention governed by 8 U.S.C. §1226, not post-order detention under 8 U.S.C. §1231.

Federal courts have repeatedly recognized that detention remains governed by §1226 while administrative review remains available or pending.

Accordingly, the existence of the Immigration Judge decision does not provide statutory authority for continued mandatory detention and does not alter Petitioner's entitlement to an individualized custody determination.

VII.B THIRD-COUNTRY REMOVAL POLICIES REMAIN SUBJECT TO ONGOING FEDERAL LITIGATION.

Respondents also rely on the Immigration Judge's determination referencing a safe-third-country removal framework.

However, the legality of recent third-country removal policies remains the subject of ongoing federal litigation and judicial review across multiple jurisdictions. Federal courts have repeatedly intervened to examine whether such policies comply with the Immigration and Nationality Act and the United States' obligations under domestic and international refugee protections.

The continuing litigation surrounding third-country transfer policies underscores that the Government's removal framework remains unsettled. Courts have repeatedly reversed or enjoined removal decisions premised on those policies while challenges remain pending.

Importantly, even where removal orders are contested or subject to judicial review, the legality of immigration detention remains a separate constitutional inquiry. Civil immigration detention must comply with statutory limits and due process protections regardless of the Government's ultimate removal authority.

VIII. CONCLUSION.

For the foregoing reasons, Petitioner respectfully requests that this Court grant the Petition for Writ of Habeas Corpus and order Respondents to provide Petitioner with a prompt individualized custody hearing before an Immigration Judge.

In the alternative, Petitioner respectfully requests that the Court order his immediate release, or require that an individualized bond hearing be conducted within seven (7) days, with the Government bearing the burden of demonstrating that continued detention is necessary.

IX. RELIEF REQUESTED.

Because Petitioner's detention is governed by 8 U.S.C. §1226(a) and because prolonged detention without individualized review violates the Constitution, Petitioner respectfully requests that this Court:

1. Grant the Petition for Writ of Habeas Corpus;
2. Order the Government to provide Petitioner with a prompt individualized bond hearing before an Immigration Judge; or
3. Order Petitioner's release under appropriate conditions of supervision.

Respectfully submitted,

CERTIFICATION OF COUNSEL

I, **Maheen Mizan-Iqbal, Esq.,** counsel for Petitioner, certify that the foregoing Petition is submitted based upon information and belief, communications with Petitioner, and review of available records. Petitioner is presently detained and unavailable to execute a personal declaration

at the time of filing. Counsel will promptly supplement the record with Petitioner's sworn declaration if and when it becomes available.

Date: March 4, 2026

By:

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY, through undersigned counsel, that on March 4, 2026, a true and correct copy of this **PETITIONER'S REPLY TO RESPONDENTS' RESPONSE IN OPPOSITION TO PETITION FOR WRIT OF HABEAS CORPUS** was served by **U.S. Mail and/or CM/ECF electronic filing** upon the following parties:

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I declare under penalty of perjury that the foregoing is true and correct.
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