

UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION

LUIS ALBERTO BEJERANO AMADOR,

Petitioner,

Case No. 2:26-cv-619-JES-NPM

v.

WARDEN, FLORIDA SOFT SIDE SOUTH  
et al.,

Respondents.

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**RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Luis Alberto Bejerano Amador challenges his detention by U.S. Immigration and Customs Enforcement (ICE) at Florida Soft-Sided Facility South, arguing violations of the Fourth and Fifth Amendments to the United States Constitution. *See generally* Pet., ECF No. 1. While reserving all rights, including the right to appeal, Federal Respondents submit this abbreviated brief in lieu of an exhaustive memorandum to preserve their arguments and conserve judicial resources. Should the Court prefer a more exhaustive discussion, Federal Respondents request leave to submit additional briefing.

**FACTS**

Petitioner is a national and citizen of Cuba who last entered the United States without inspection on or about May 10, 2022, near Sasabe, Arizona. Composite Ex.

1 at 4-5 (2022 Form I-213). On or about May 12, 2022, a U.S. Customs and Border Protection (CBP) agent encountered Petitioner near Arivaca, Arizona. *Id.* at 5. The CPB agent determined Petitioner had entered the United States without admission or parole and then arrested him and transported him to the Tucson Coordination Center (TCC) for further processing. *Id.* At TCC, Petitioner admitted he was a citizen and national of Cuba who had entered the United States without permission or inspection on May 10, 2022. *Id.* Petitioner also claimed that he feared persecution or torture if he returned to Cuba because the Cuban government was persecuting him for his political views. *Id.* at 5-6.

On May 13, 2022, Petitioner was served with a Warrant of Arrest/Notice to Appear (NTA) and placed in removal proceedings pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA). *Id.* at 1-2 (NTA) & 6; *see also* 8 U.S.C. § 1182(a)(6)(A)(i) (“An alien present in the United States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.”). The NTA informed Petitioner he was ordered to appear before an immigration judge for a hearing on March 28, 2024. Composite Ex. 1 at 1. Petitioner ultimately attended that hearing, at which the immigration judge set Petitioner’s next hearing for April 12, 2027. *Id.* at 13 (2026 Form I-213).

On May 14, 2022, ICE ordered Petitioner be released on his own recognizance pursuant to section 236 of the INA, which corresponds to 8 U.S.C. § 1226. Pet. at Ex.

D. On June 15, 2022, U.S. Citizenship and Immigration Services (USCIS) received Petitioner's Form I-589, Application for Asylum and for Withholding of Removal ("I-589"). Pet. at Ex. E. On December 3, 2022, USCIS scheduled Petitioner for a biometrics appointment as part of the process of adjudicating his I-589. *Id.* Petitioner attended his biometrics appointment and completed the biometrics processing on December 21, 2022. *Id.* Petitioner's I-589 remains pending with USCIS; the next step in the adjudication process is an interview.<sup>1</sup> In April 2025, Petitioner received employment authorization, which is valid until April 13, 2030. Pet. at Ex. F.

On or about February 26, 2026, a Florida Highway Patrol (FHP)<sup>2</sup> officer arrested Petitioner "following a vehicle stop." Composite Ex. 1 at 13 (2026 Form I-213). FHP contacted ICE "to verify alienage and amenability." *Id.* ICE directed the FHP officer to apprehend Petitioner, after which he was taken into custody without incident. *Id.* Petitioner was then placed in immigration custody pending removal, *id.* at 14, and is currently detained at Florida Soft Side South.<sup>3</sup> Petitioner has no known criminal history. Composite Ex. 1 at 13.

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<sup>1</sup> See *Case Status Online*, U.S. Citizenship & Immigr. Servs., <https://egov.uscis.gov/> (last accessed Mar. 13, 2026) (enter Receipt Number).

<sup>2</sup> ICE has a Memorandum of Agreement (MOA) with the Florida Department of Highway Safety and Motor Vehicles, Division of Highway Patrol, under Section 287(g) of the INA, codified at 8 U.S.C. § 1357(g), as amended by the Homeland Security Act of 2002, Public Law 107-276. See Ex. 2. Pursuant to this MOA, "ICE delegates to nominated, trained, and certified officers or employees of [FHP] . . . to perform certain immigration enforcement functions." *Id.* at 1.

<sup>3</sup> See *Online Detainee Locator System*, U.S. Immigr. & Customs Enf't, <https://locator.ice.gov/odls/#/search> (last accessed Mar. 16, 2026) (enter Petitioner's A-Number and Cuba as Country of Birth under "Search by A-Number").

On March 4, 2026, Petitioner filed a writ of habeas corpus alleging his custody violates the Fourth Amendment and Due Process Clause of the Fifth Amendment to the United States Constitution. *See generally* Pet. On March 10, 2026, the Executive Office for Immigration Review sent Petitioner notice of an in-person master hearing to take place in the Miami Immigration Court on March 30, 2026. Composite Ex. 1 at 10-11.

### CERTIFIED HABEAS RETURN

ICE is detaining Petitioner under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). *See* 28 U.S.C. § 2243 (“The person to whom the writ or order is directed shall make a return certifying the true cause of the detention.”). Petitioner “has the burden of establishing his right to federal habeas relief and of proving all facts necessary to show a constitutional violation.” *Romine v. Head*, 253 F.3d 1349, 1357 (11th Cir. 2001).

### ARGUMENT

The questions of law in this case, and the challenges to the government’s policy and practice, substantially overlap with *Patel v. Hardin*, No. 2:25-cv-870-JES-NPM, 2025 WL 3442706 (M.D. Fla. Dec. 1, 2025).<sup>4</sup> Federal Respondents respectfully disagree with the Court’s decision in *Patel*. That said, in the interest of judicial

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<sup>4</sup> Compare, e.g., Pet. at 6-7 (pursuant to *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025), administrative exhaustion is futile) with *Patel*, 2025 WL 3442706 at \*3 (“[R]equiring Patel to make an administrative request for a bond hearing would be futile because the result is predetermined. . . . Under these circumstances, the Court finds good cause to excuse exhaustion.”).

economy and to expedite the Court's consideration of this matter, Federal Respondents make the following arguments:

1. Title 8 U.S.C. § 1252(g) bars review of Petitioner's claims. *Patel v. Hardin*, No. 2:25-cv-870-JES-NPM, Doc. 15 at 4-7 (M.D. Fla. Oct. 22, 2025).<sup>5</sup>
2. Title 8 U.S.C. § 1252(b)(9) bars review of Petitioner's claims. *Id.* at 7-8.
3. Petitioner failed to exhaust his administrative remedies. *Id.* at 8-9.
4. Petitioner is properly detained under 8 U.S.C. § 1225. *Id.* at 10-16; *see also Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026).

Finally, Federal Respondents contend that should this Court determine that Petitioner's detention is subject to 8 U.S.C. § 1226, outright release is inappropriate. To the extent the Court orders a bond hearing before an immigration judge for the purpose of determining whether Petitioner is a flight risk or danger to the community—*see, e.g., Garcia v. Noem*, No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895, at \*6 (M.D. Fla. Oct. 31, 2025)—Federal Respondents aver that such bond hearings are not conducted or managed by ICE, rather by the Executive Office for Immigration Review, which is not a proper party to this suit. *See Rumsfeld v. Padilla*, 542 U.S. 426, 435 (2004) (“[I]n habeas challenges to present physical confinement . . . the default

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<sup>5</sup> Respondents acknowledge Local Rule 3.01(h) prohibits incorporation by reference of any other motion, legal memorandum, or brief. To achieve the purpose of efficiency, Respondents respectfully request the Court to suspend application of the rule in this instance. *See* Local Rule 1.01(a) and 1.01(b); Fed. R. Civ. P. 1.

rule is that the proper respondent is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official.”).

### CONCLUSION

Federal Respondents argue Mr. Bejerano Amador’s Petition for Writ of Habeas Corpus should be denied.

DATED this 16<sup>th</sup> day of March, 2026.

Respectfully submitted,

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