

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

YUNIERKY BURGOS BONACHEA,

Petitioner,

Case No. 2:26-cv-00653-KCD-NPM

v.

SECRETARY KRISI NOEM, U.S.
ATTORNEY GENERAL PAMELA
BONDI, ACTING DIRECTOR
TODD M. LYONS, FIELD OFFICE
DIRECTOR, GARRETT RIPA,
DIRECTOR KEVIN GUTHRIE,
WARDEN ALLIGATOR
ALACATRAZ WARDEN,

Respondents.

FEDERAL RESPONDENTS' RESPONSE
TO MOTION TO ALTER OR AMEND JUDGMENT
AND/OR FOR RECONSIDERATION PURSUANT TO RULE 59

Petitioner Yunierky Burgos Bonachea ("Burgos Bonachea") seeks to set aside the judgment denying his Petition for Writ of Habeas Corpus on the grounds that intervening, binding Eleventh Circuit precedent in *Fidencio Hernandez Alvarez v. Warden, Fed. Det. Center Miami et al.*, --- F.4th ---, 2026 WL 1243395 (11th Cir. May 6, 2026), controls the issue in his case and rejects the Federal Respondents' position that he is an "applicant for admission" subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Doc. 119.

Federal Respondents acknowledge that, in *Hernandez Alvarez*, the Eleventh Circuit held that the Immigration and Nationality Act (INA) does not “authorize the detention of unadmitted aliens who are simply present in the country.” *Id.* at *2. Further, the Court held that “[t]he text of [8 U.S.C.] § 1225(b)(2)(A) is clear that mandatory detention applies only to a narrower category of applicants for admission: those seeking lawful entry into the United States . . . [not] to other present aliens not seeking admission.” *Id.* at *13. In short, “§ 1225 applies to arriving aliens seeking entry at the border, whereas § 1226 applies to aliens unlawfully in the interior.” *Id.* at *14.

In light of the Eleventh Circuit’s decision in *Hernandez Alvarez*, Federal Respondents concede that § 1226(a) applies to Burgos Bonachea, and that he is entitled to seek an individualized bond hearing under 8 U.S.C. § 1226(a). Therefore, Federal Respondents do not oppose the request to alter or amend the judgment in this case.

In the interest of judicial economy and to expedite the Court’s consideration of this matter, the Federal Respondents make the following arguments to preserve any appellate review:

1. Title 8 U.S.C. § 1252(g) bars review of Burgos Bonachea’s claims.¹ *Hernandez-*

¹Federal 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, Federal Respondents respectfully request the Court to suspend

Lopez v. Hardin, et al., No. 2:25-CV-830-KCD-NPM (M.D. Fla. Oct. 29, 2025) (Doc. 19 at 5-6).

2. Title 8 U.S.C. § 1252(b)(9) bars review of Burgos Bonachea's claims. *Id.* at 7-8.
3. Burgos Bonachea failed to exhaust his administrative remedies. *Id.* at 8.
4. Burgos Bonachea is properly detained under 8 U.S.C. § 1225. *Id.* at 8-14.

CONCLUSION

Based on the Eleventh Circuit's decision in *Hernandez Alvarez*, Burgos Bonachea is entitled to an individualized bond hearing under 8 U.S.C. § 1226(a). Thus, Federal Respondents do not oppose altering or amending the judgment consistent with *Hernandez Alvarez*.

Dated: May 22, 2026

Respectfully submitted,

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application of the rule in this instance. *See* Local Rule 1.01(a) and 1.01(b); *see also* Fed. R. Civ. P. 1.