

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ARTURO ANDRES CEIJAS
CAVEZAS,

Petitioner,

Case No. 2:26-cv-691-SPC-DNF

v.

GARRETT RIPA et al.,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Arturo Ceijas Cavezas challenges his detention by U.S. Immigration and Customs Enforcement, arguing he is entitled to a bond hearing under 8 U.S.C. § 1226.¹ While reserving all rights, including the right to appeal, Respondents submit this abbreviated brief in lieu of an exhaustive memorandum to preserve the Respondents' arguments and to conserve judicial resources. Should the Court prefer a more exhaustive discussion, Respondents request leave to submit additional briefing.

¹ Pursuant to its Inter-Governmental Services Agreement for Glades County Detention Center, U.S. Immigration and Customs Enforcement requests Warden of Glades County Detention Center David Hardin be terminated from this case. *See* Inter-Governmental Services Agreement for Glades County Detention Center, Ex. 2_ at 12; *Mota-Constanzo v. Noem*, 2:26-cv-00369-KCD-DNF, 2026 WL 681819, at *2 & n.2 (M.D. Fla. Mar. 11, 2026).

FACTS

Cejias Cavezas is a national and citizen of Venezuela who last entered the United States without inspection on or about November 27, 2023, at or near Eagle Pass Texas. (Composite Exhibit, Ex. 1 at 1.) He was served with a Notice to Appear on or about November 29, 2023. *Id.* at 6.

Cejias Cavezas was placed in immigration custody on or about December 18, 2025, after an arrest by local law enforcement on December 16, 2025, for driving without a license. *Id.* at 1-2, 18.

On March 11, 2026, Cejias Cavezas filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act, the Due Process Clause of the Fifth Amendment, the Fourth Amendment, the Administrative Procedure Act, and bond regulations. (Doc. 1.)

Cejias Cavezas is currently detained at Glades County Detention Center.

CERTIFIED HABEAS RETURN

ICE is detaining Cejias Cavezas under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2)(A). *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.”). Cejias Cavezas bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021).

ARGUMENT

I. **Cejias Cavejas is subject to mandatory immigration detention under 8 U.S.C. § 1225(b)(2)(A).**

In *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) the Board of Immigration Appeals (BIA) examined the plain language of Section 1225, the INA's statutory scheme, Supreme Court and BIA precedent, the legislative history of the INA and the Illegal Immigration Reform and Immigrant Responsibility Act of 1996 ("IIRIRA"), Pub L. No. 104-208, and DHS's prior practices. After doing so, the BIA held that "under a plain language reading of section 235(b)(2)(A) of the INA, 8 U.S.C. § 1225(b)(2)(A), Immigration Judges lack authority to hear bond requests or to grant bond to aliens, like the petitioner, who are present in the United States without admission." 29 I&N Dec. at 225.² This Court should rule the same.

Respondents acknowledge that questions of law in this case, and the challenges to the government's policy and practice, substantially overlap with *Garcia v. Noem, et*

² On February 18, 2026, U.S. District Court for the Central District of California issued an order stating the court "hereby VACATES *Matter of Yajure Hurtado* as contrary to law under the APA." See *Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *12 (C.D. Cal.). Respondents submit *Yajure Hurtado* remains persuasive authority in this Court regarding the proper interpretation of 8 U.S.C. § 1225(b)(2). The Court does not need to decide the issue of *Bautista's* preclusive effect. See *Avendano v. Warden, Fla. Soft Side S.*, No. 2:25-CV-01221-SPC-NPM, 2026 WL 145499, at *1 (M.D. Fla. Jan. 20, 2026) (declining to rule on *Bautista's* preclusive effect). Respondents nevertheless note that on March 6, 2026, the Ninth Circuit temporarily stayed the *Bautista* district court's February 18, 2026, order vacating *Yajure Hurtado*. *Bautista v. U.S. Dep't of Homeland Security*, 26-1044, Dkt Entry 5.1 ¶ 2 (9th Cir.).

al., No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025). It should be noted, however, that courts have recently ruled against petitioners in similar cases. *See, E.g., Lopez v. Dir. of Enft & Removal Operations*, No. 3:25-CV-1313-JEP-SJH, 2026 WL 261938, at *1 (M.D. Fla. Jan. 26, 2026); *Iraheta Morales v. Noem*, No. 25-62598-CIV-SINGHAL, 2026 WL 236307, at *3-9 (S.D. Fla. Jan. 29, 2026). Some decisions have started recognizing that there is no jurisdiction over this question to begin with. *Munoz Nataren v. Raycraft*, No. 4:26-cv-212, 2026 WL 214368, at *2 (N.D. Ohio Jan. 28, 2026); *Amaya-Velis v. Raycraft*, No. 4:26-cv-73, 2026 WL 100596, at *2-3 (N.D. Ohio Jan. 14, 2026).

Significantly, the Fifth Circuit recently ruled that aliens who have not been admitted to the United States are subject to mandatory detention under 8 U.S.C. § 1225(b)(2) regardless of whether the alien is already present in the United States. *Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026). Other circuits—including the Eleventh—have active appeals on the matter. *See e.g., Pizzaro Reyes v. ERO*, No. 25-1982 (6th Cir.); *Hernandez Alvarez v. Warden*, No. 25-14065 (11th Cir.).

Respondents respectfully disagree with the Court's decision in *Garcia v. Noem*. That said, in the interest of judicial economy and to expedite the Court's consideration of this matter, Respondents make the following arguments:

1. Title 8 U.S.C. § 1252(g) bars review of Ceijas Cavezas's claims. *Garcia v. Noem, et al.*, No. 2:25-cv-00879-SPC-NPM, Doc. 14 at 4-5 (M.D. Fla. Oct. 10, 2025).³
2. Title 8 U.S.C. § 1252(b)(9) bars review of Ceijas Cavezas's claims. *Id.* at 6-7.
3. Ceijas Cavezas failed to exhaust his administrative remedies. *Id.* at 7-8.
4. Ceijas Cavezas is properly detained under 8 U.S.C. § 1225. *Id.* at 9-14.

Finally, 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-00879-SPC-NPM, 2025 WL 3041895, at *6 (M.D. Fla. Oct. 31, 2025)—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, 434-36 (2004) (noting that for habeas petitions challenging detention, “the default rule is that the proper Respondents is the warden of the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official”).

³ 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.

II. Ceijas Cavezas's Administrative Procedure Act claim is not properly before the Court.

Because habeas corpus actions and non-habeas corpus actions have different filing fee requirements, different pleading standards, and different substantive standards, it is generally inappropriate to bring a hybrid action asserting both habeas and non-habeas claims in one case. *Burnam v. Marberry*, 313 F. App'x 455, 456 n.2 (3d Cir. 2009) (noting that the district court should not have considered habeas claims and claims under the Privacy Act and Administrative Procedure Act in a single case); accord *Malcom v. Starr*, No. 20-cv-2503 (MJD/LIB), 2021 U.S. Dist. LEXIS 45387, 2021 WL 931213, at *2 (D. Minn. Mar. 11, 2021) (“As many other cases from this District have noted, habeas petitions and civil complaints have different and incompatible rules regarding service of process, discovery, and even filing fees.”).

For example, Ceijas Cavezas did not pay the required filing fee for any non-habeas claims. The statute governing filing fees in district court states, “The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$350, except that on application for a writ of habeas corpus the filing fee shall be \$5.” 28 U.S.C. § 1914(a). “The payment of the \$5 habeas filing fee relegates this action to habeas relief only. One cannot pay the minimal habeas fee and pursue non-habeas relief.” *Ndudzi v. Castro*, No. SA-20-CV-0492-JKP, 2020 WL 3317107, at

*2 (W.D. Tex. June 18, 2020); *King v. Carlton*, No. 21-cv-21634, 2021 U.S. Dist. LEXIS 83778, at *4 (S.D. Fla. Apr. 30, 2021) (Bloom, J.) (finding that petitioner could not circumvent filing fee requirements by filing a “joint or hybrid” habeas action).

III. ICE has issued an administrative warrant for Ceijas Cavezas’s arrest.

Finally, Ceijas Cavezas incorrectly argues the Court should order his release due to failure to issue an administrative arrest warrant. Ceijas Cavezas was served with an I-200 Warrant for Arrest of Alien on December 19, 2025. (Composite Exhibit, Ex. 1 at 9.)

Even more fundamentally, this Court lacks subject matter jurisdiction to review any decision to commence immigration proceedings. Securing an alien while awaiting a removal determination constitutes an action taken to commence proceedings. *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013); *see also Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) (“Because [alien] challenges the methods that ICE used to detain him prior to his removal hearing, these claims are foreclosed by § 1252(g) and our decision in *Gupta*.”); *Johnson v. U.S. Attorney General*, 847 F. App’x 801, 802 (11th Cir. 2021). “By its plain terms, [§ 1252(g)] bars us from questioning ICE’s discretionary decisions to commence removal—and thus necessarily prevents us from considering whether the agency should have used a different statutory procedure to initiate the removal process.” *Alvarez*, 818 F.3d at 1203.

Ceijas Cavezas was detained “while awaiting a removal determination.” *Gupta*,

709 F.3d at 1065. Under *Gupta*'s binding interpretation of § 1252(g), this Court has no jurisdiction. *Id.* Immigration authorities decided to commence proceedings against Ceijas Cavezas related to removal. Congress specifically stripped jurisdiction to review that discretionary decision; therefore, the Court lacks subject-matter jurisdiction over any decision to commence Ceijas Cavezas' removal proceedings through his arrest. *See also Lopez Lozano v. U.S. Immigr. & Customs Enft*, No. 2:25-CV-1066-KCD-NPM, 2026 WL 111354, at *1 (M.D. Fla. Jan. 15, 2026) (holding the court lacked jurisdiction to address a petitioner's arguments about the government's decision to arrest and hold him.")

CONCLUSION

Cejas Cavezas's Petition for Writ of Habeas Corpus should be denied.

DATED this 23rd day of March, 2026.

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: /s/Chad C. Spraker
CHAD C. SPRAKER
Assistant United States Attorney
USA No. 198
2110 First Street, Ste. 3-137
Fort Myers, Florida 33901
Telephone: 239-461-2200
Fax: 239-461-2219
Email: chad.spraker@usdoj.gov
Lead Counsel for Federal Defendants