

**UNITED STATES DISTRICT COURT  
MIDDLE DISTRICT OF FLORIDA  
FORT MYERS DIVISION**

ANGEL FUENTES-LOPEZ,

Petitioner,

v.

Case No. 2:26-cv-708-SPC-NPM

KRISTI NOEM et al.,

Respondents.

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

Petitioner Angel Fuentes-Lopez challenges his detention by U.S. Immigration and Customs Enforcement (ICE), arguing he is entitled to a bond hearing under 8 U.S.C. § 1226 or immediate release. Pet. ¶ 1, 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.

**BACKGROUND**

Angel Fuentes-Lopez is a national and citizen of Guatemala who last entered the United States on June 5, 2016, by raft as an unaccompanied minor at the age of thirteen. Ex. 1 at 1-2 (2016 Form I-213). A U.S. Customs and Border Patrol (CBP)

agent encountered Petitioner in the Rio Grande Valley, Texas Border Patrol Sector, that day. *Id.* at 2. The CPB agent determined Petitioner had entered the United States from Mexico without permission and arrested him. *Id.* After CPB transported Petitioner to the Rio Grande City Station for further processing, Petitioner claimed to be a national and citizen of Guatemala who entered the United States without inspection or the necessary legal documentation to enter, pass through, or remain in the country. *Id.* Petitioner also claimed he entered the United States to live with his mother, who was residing in Miami, Florida, and seek education. *Id.*

On June 5, 2016, ICE issued Petitioner a Warrant of Arrest/Notice to Appear pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act. Ex. 2 at 1 (2016 NTA); *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.”). On June 21, 2016, the U.S. Department of Health and Human Services Office of Refugee Resettlement released Petitioner to the care of his mother under a Sponsor Care Agreement pursuant to section 462 of the Homeland Security Act of 2002 and section 235 of the William Wilberforce Trafficking Victims Protection Reauthorization Act of 2008. Pet. at Ex. B p. 1.

On April 6, 2018, Petitioner did not appear for a removal hearing before the Executive Office of Immigration Review in Miami, Florida. Ex. 3 (2018 In Absentia Removal Order). The immigration judge ordered Petitioner be removed to Guatemala

in abstentia. *Id.* On September 30, 2021, Petitioner filed a Motion to Rescind In-Abstentia Removal Order. Ex. 4 (2021 EOIR Order). On October 25, 2021, an immigration judge granted Petitioner's motion and set aside the April 6, 2018, Order of Removal. *Id.*

On July 11, 2022, U.S. Citizenship and Immigration Services (USCIS) received Petitioner's Form I-589, Application for Asylum and for Withholding of Removal. Pet. at Ex. C. Petitioner's asylum application remains pending with USCIS; the next step in the adjudication process is an in-person interview.<sup>1</sup> On September 1, 2022, an immigration judge dismissed Petitioner's removal proceedings without prejudice upon agreement between ICE and Petitioner that Petitioner move forward in pursuing his asylum application with USCIS. Pet. at Ex. D. Accordingly, as of this filing, Petitioner is not currently in removal proceedings.

On or about March 8, 2026, ICE Enforcement Removal Operations (ERO) encountered Petitioner incident to an operation conducted in an attempt to locate a different individual. Ex. 5 at 2-3 (2026 I-213).<sup>2</sup> After locating and apprehending that individual during a traffic stop, who was the passenger in the vehicle Petitioner was driving, ERO determined Petitioner was a citizen and national of Guatemala without

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<sup>1</sup> See *Case Status Online*, U.S. Citizenship & Immigr. Servs., <https://egov.uscis.gov/> (last accessed Mar. 24, 2026) (enter Form I-589 Receipt Number under "Enter a Receipt Number").

<sup>2</sup> To avoid delay and expedite the Court's consideration of this matter, the undersigned has attached the unsigned Form I-213 dated March 11, 2026, that Federal Respondents provided. See Ex. 3. The undersigned has not received a signed version of Petitioner's 2026 Form I-213 and defers to the Court as to what weight, if any, is appropriate to assign the attached.

legal status and transported him to ICE's Miramar office for further processing. *Id.* at 3.<sup>3</sup> ICE determined Petitioner was amenable to removal pursuant to section 212(a)(6)(A)(i) of the INA and decided to hold him in custody for placement in removal proceedings. *Id.* at 3-4. Petitioner is currently detained at Florida Soft Side South. Ex. 6 (Detention History).<sup>4</sup>

On March 12, 2026, Angel Fuentes-Lopez filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act (INA) and its implementing regulations, the Due Process Clause of the Fifth Amendment, and "Federal Laws." Pet. ¶ 7.

#### CERTIFIED HABEAS RETURN

ICE is detaining Angel Fuentes-Lopez 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).

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<sup>3</sup> Although the attached Form I-213 dated March 11, 2026, states that this operation occurred and Petitioner was transported to ICE's Miramar office on March 8, 2026, the undersigned recognizes Petitioner's Detention History reflects he has been in immigration custody since March 11, 2026. *Compare* Ex. 4 at 2 *with* Ex. 5.

<sup>4</sup> *See also* *Online Detainee Locator System*, U.S. Immigr. & Customs Enf't, <https://locator.ice.gov/odls/#/search> (last accessed Mar. 24, 2026) (enter Petitioner's A-Number and Guatemala as Country of Birth under "Search by A-Number").

## MEMORANDUM OF LAW

The questions of law in this case, and the challenges to the government's policy and practice, substantially overlap with *Garcia v. Noem et al.*, No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025). Federal Respondents respectfully disagree with the Court's decision in *Garcia v. Noem*. However, in the interest of judicial 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. *Garcia v. Noem et al.*, No. 2:25-cv-00879-SPC-NPM, Doc. 14 at 4-5 (M.D. Fla. Oct. 10, 2025).<sup>5</sup>
2. Title 8 U.S.C. § 1252(b)(9) bars review of Petitioner's claims. *Id.* at 6-7.
3. Petitioner failed to exhaust his administrative remedies. *Id.* at 7-8.
4. Petitioner is properly detained under 8 U.S.C. § 1225. *Id.* at 9-14; *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, they oppose outright release. 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*, 2025 WL 3041895, at \*6—Federal Respondents aver

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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 R. 1.01(a) & 1.01(b); Fed. R. Civ. P. 1.

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 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. Angel Fuentes-Lopez’s Petition for Writ of Habeas Corpus should be denied.

DATED this 24<sup>th</sup> day of March, 2026.

Respectfully submitted,

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