

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

LEANDRO BOADA PUERTA,
Petitioner,

v.

FIELD OFFICE DIR. GARRETT
RIPA, ET AL.
Respondents.

Case No. 2:26-cv-724-KCD-DNF

FEDERAL RESPONDENTS' RESPONSE TO HABEAS PETITION

Petitioner Leandro Boada Puerta challenges his detention by U.S. Immigration and Customs Enforcement, arguing he is entitled to a bond hearing under 8 U.S.C. § 1226. His petition should be denied. Boada Puerta was detained at the border after his illegal entry and is properly characterized as an alien seeking admission. *See Duenas Garcia v. ICE*, No. 2:25-cv-1004-KCD-NPM, 2025 WL 3277163 (M.D. Fla. Nov. 25, 2025). In support of this argument, and 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 find for the Petitioner. Should the Court prefer a more exhaustive discussion, Respondents request leave to submit additional briefing. Furthermore, contrary to Petitioner's assertion, he does not have current Temporary Protected Status and he may be detained at this time.

FACTS

Boada Puerta is a national and citizen Venezuela who last entered the United States on December 19, 2021. Petition for Writ of Habeas Corpus, ECF No. 1 (“Petition”), ¶¶ 7, 18, 19; *see also* ECF No. 1, Exhibit 2 at p. 26. He was detained by Customs and Border Protection at that time who issued him a Notice to Appear before ultimately releasing him from custody. Petition, ¶¶ 20, 21. Petitioner has applied for relief from removal but currently has no relief from removal. *Id.*, ¶¶ 23, 24.¹ On March 4, 2026, immigration authorities assumed custody of Boada Puerta once more. Petition, ¶¶ 2, 18, 27. He is currently detained at Florida Soft Side South detention center. *Id.*, ¶¶ 1, 18. It does not appear that he has requested a bond hearing before an immigration judge. *See generally* Petition.

On March 13, 2026, Boada Puerta filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act (“INA”) and the Fifth Amendment to the United States Constitution. *See generally* Petition. On March 17, 2026, this Court issued an order to show cause why Petitioner should not be released from custody. ECF No. 3. The government now timely responds.

CERTIFIED HABEAS RETURN

ICE is detaining Boada Puerta 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

¹ Petitioner alleges to have TPS which, if true, would protect him from detention or removal. *See* Petition, ¶ 24; *see also* 8 U.S.C. § 1254a(a)(1)(A). For reasons discussed in greater detail below, this statement is inaccurate and Petitioner does not have TPS at this time.

directed shall make a return certifying the true cause of the detention.”). Boada Puerta 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

1. Petitioner Lacks Standing to Bring an APA Claim.

Petitioner does not have standing to bring his Administrative Procedures Act (“APA”) claim. By the APA’s terms, it is available only for final agency action “for which there is no other adequate remedy in court.” 5 U.S.C. § 704. Thus, Petitioner’s APA claim is independently barred by this limitation in 5 U.S.C. § 704. In *Trump v. J.G.G.*, the Supreme Court held that where the claims for relief, as here, “necessarily imply the invalidity of their confinement” those claims “must be brought in habeas.” 145 S. Ct. 1003, 1005 (2025) (cleaned up) (internal quotation marks and citation omitted). As noted by Justice Kavanaugh in his concurrence in *J.G.G.*, “given 5 U.S.C. § 704, which states that claims under the APA are not available when there is another adequate remedy in court, I agree with the Court that habeas corpus, not the APA, is the proper vehicle here.” *Id.* at 1007 (Kavanaugh, J. concurring).

Here, as in *J.G.G.*, habeas is an “adequate remedy” through which Petitioner can challenge his detention. Even if Petitioner’s APA claim had merit, which it does not, the result would be the same as that in habeas—release from detention. The Supreme Court’s holding is consistent with well-established law that habeas is generally the only possible district court vehicle for challenges brought pursuant to the immigration statutes. *Id.* (citing *Heikkila v. Barber*, 345 U.S. 229, 234–35 (1953));

see also *Tran v. Warden, et al.*, No. 2:25-CV-1224-KCD-NPM, 2026 WL 672969, at *7 (M.D. Fla. Mar. 10, 2026).

2. *Petitioner is Subject to Mandatory Detention Under 8 U.S.C. § 1225(b)(2)(A).*

As stated above, Boada Puerta was detained on entry into the United States. Petition, ¶¶ 20, 21. Given his detention at or near the border upon entry, § 1225(b)(2) applies as this Court has consistently found. See *Alfonso Parra v. DHS*, No. 2:25-cv-1116-KCD-DNF, 2026 WL 21243, at *2 (M.D. Fla. Jan. 5, 2026); *Aranda Garcia*, 2025 WL 3537592, at *1; *Duenas Garcia*, 2025 WL 3277163, at *2; *Pirto v. Warden*, No. 2:25-cv-966-KCD-DNF, Doc. 13 (M.D. Fla. Nov. 13, 2025). His petition may be denied on that basis alone.

Should the Court disagree, Respondents aver that 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.

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

Respondents acknowledge that questions of law in this case, and the challenges to the government's policy and practice, substantially overlap with *Hernandez-Lopez v. Hardin, et al.*, No. 2:25-CV-830-KCD-NPM, 2025 WL 3022245 (M.D. Fla. Oct. 29, 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, two circuits have now 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)(A) 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); *Avila v. Bondi*, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 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

Bautista v. Santacruz, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *12 (C.D. Cal.). This order has been temporarily stayed pending a ruling on the government's emergency motion for a stay pending appeal, insofar as the district court's judgment extends beyond the Central District of California. *See Bautista et al. v. Dep't. of Homeland Sec., et al.*, No. 26-1044 (9th Cir. 2026), Dkt. 5. The Federal Respondents submit *Yajure Hurtado* remains persuasive authority in this Court regarding the proper interpretation of 8 U.S.C. § 1225(b)(2).

Cir.).

Respondents respectfully disagree with the Court's decision in *Hernandez-Lopez*. That said, in the interest of judicial economy and to expedite the Court's consideration of this matter, Respondents make the following arguments for preservation purposes:³

1. Title 8 U.S.C. § 1252(g) bars review of Boada Puerta's claims. *Hernandez-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 Boada Puerta's claims. *Id.* at 7-8.
3. Boada Puerta failed to exhaust his administrative remedies. *Id.* at 8.
4. Boada Puerta is properly detained under 8 U.S.C. § 1225. *Id.* at 8-14.

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., *Hernandez-Lopez*, 2025 WL 3022245, at *5—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 respondent is the warden of

³ The referenced brief is attached as Exhibit A.

the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official”).

3. Petitioner Does Not Have TPS.

Petitioner asserts that he was granted TPS and that the validity of his TPS was extended through October 6, 2026 on account of ongoing litigation challenging former Secretary Noem’s termination of TPS for Venezuela. *See* Petition, ¶ 24. If true, ICE would not be permitted to detain Petitioner at this time. 8 U.S.C. § 1254a(a)(1)(A). However, unfortunately for Mr. Boada Puerta, he no longer benefits from the protection against detention that TPS allows.

The Immigration Act of 1990 established a program for providing temporary shelter in the United States on a discretionary basis for aliens from designated countries experiencing ongoing armed conflict, environmental disaster, or “extraordinary and temporary conditions” that temporarily prevent those aliens’ safe return or, in the case of environmental disasters, temporarily render the country unable to handle adequately the return of its nationals. Pub. L. No. 101-649, 104 Stat. 4978. The statute authorizes the Secretary of Homeland Security, “after consultation with appropriate agencies of the Government,” to designate countries for TPS if he finds:

(C) . . . there exist extraordinary and temporary conditions in the foreign state that prevent aliens who are nationals of the state from returning to the state in safety, unless the [Secretary] finds that permitting the aliens to remain temporarily in the United States is contrary to the national interest of the United States.

8 U.S.C. § 1254a(b)(1)(C). When the Secretary designates a country for TPS, eligible aliens who are granted TPS may not be removed from the United States and are

authorized to work for the duration of the country's TPS designation, so long as they remain in valid temporary protected status. 8 U.S.C. § 1254a(a), (c); *see Sanchez v. Mayorkas*, 593 U.S. 409, 412 (2021).

Venezuela was first designated for TPS in March 2021. 86 Fed. Reg. 13,574 (Mar. 9, 2021). This designation was extended twice: on September 8, 2022 and October 3, 2023. *See* 87 Fed. Reg. 55,024 (Sept. 8, 2022); 88 Fed. Reg. 68130 (Oct. 3, 2023). The 2023 extension also purported to re-designate Venezuela for TPS anew, opening up registration to Venezuelan nationals who up until that point would not have been otherwise eligible. 88 Fed. Reg. at 68130 ("initial applicants for TPS under this designation must demonstrate that they have been continuously physically present in the United States since October 3, 2023, the effective date of this redesignation of Venezuela for TPS."). The result of the 2023 Federal Registration was two separate designations: the 2021 designation (which was extended by way of the FRN) and the 2023 designation (which served as a redesignation under the FRN). *Id.*

On January 10, 2025, former DHS Secretary Alejandro Mayorkas issued a federal register notice ("FRN") extending the 2023 Venezuela Designation for 18 months and allowing for a consolidated filing processes such that all eligible Venezuela TPS beneficiaries (whether under the 2021 or 2023 designations) could obtain TPS through October 2, 2026. 90 Fed. Reg. 5,961 (Jan. 17, 2025). The Executive Branch administration changed shortly thereafter with the inauguration of President Trump and former Secretary Kristi Noem replaced Mayorkas. Former Secretary Noem then purported to (1) vacate the January 2025 extension and consolidation and restore the

status quo that existed prior to its publication, namely the two-track 2021 and 2023 designations; and (2) terminate the 2023 TPS designation for Venezuela. 90 Fed. Reg. 8,805 (Feb. 3, 2025); 90 Fed. Reg. 9,040 (Feb. 5, 2025). Litigation ensued and as a result of that litigation—as well as subsequent action taken by former Secretary Noem—TPS for Venezuela has been terminated. *See Nat'l TPS All. v. Noem*, 798 F. Supp. 3d 1108, 1131 (N.D. Cal. 2025), *aff'd*, 166 F.4th 739 (9th Cir. 2026) (order granting partial summary judgment); *Nat'l TPS All. v. Noem*, No. 25-cv-1766-EMC (N. D. Cal. May 30, 2025), Dkt. 162 at 10 (granting relief to those TPS holders who received TPS documentation based on the 2023 Mayorkas extension/re-designation up to and including February 5, 2025); *see also* 90 Fed. Reg. 43,225 (Sept. 8, 2025). However, a small subset of TPS recipients retain their status through October 2, 2026. This group includes individuals who both (1) filed applications to register or reregister for TPS after Secretary Mayorkas's extension FRN published (January 25, 2026) but before Secretary Noem's February termination was published (February 5, 2025); and (2) who—on or before February 5, 2025—were issued TPS-related EADs, Notices of Action, and Forms I-94 issued with October 2, 2026 expiration dates.

This is accurately reflected in United States Citizenship & Immigration Service's⁴ ("USCIS") TPS landing page which provides that for 2023 designation recipients, "TPS beneficiaries who received TPS-related employment authorization documents (EADs), Forms I-797, Notices of Action, and Forms I-94 issued with

⁴ USCIS is the government agency responsible for processing applications for TPS.

October 2, 2026, expiration dates on or before February 5, 2025 will maintain work authorization and their documentation will remain valid until October 2, 2026, pursuant to the U.S. District Court for the Northern District of California's order dated May 30, 2025."⁵

Here, Boada Puerta was designated for TPS under the 2023 designation. Petition, ¶ 24. Validity of TPS under this designation was valid through April 2, 2025 according to his approval notice. *Id.*; *see also* ECF No. 1 at p. 33. Petitioner seemingly suggests that subsequent federal litigation in the Northern District of California extended his TPS through early October 2026—Petition, ¶ 24—however this conclusion is not accurate. As discussed above, only those who (1) filed applications to register or reregister for TPS after Secretary Mayorkas's extension FRN published (January 25, 2026) but before Secretary Noem's February termination was published (February 5, 2025); and (2) who—on or before February 5, 2025—were issued TPS-related EADs, Notices of Action, and Forms I-94 issued with October 2, 2026 expiration dates benefit from TPS through October 2, 2026 and Petitioner does not meet those criteria and Petitioner does not.

As to the first requirement, though Petitioner has not explicitly stated as such, government records reflect that he did in fact apply to reregister within the operative timeframe. But critical in this case, he was not issued a TPS-related EAD, Notice of Action, or Forms I-94 with an October 2, 2026 expiration date on or before February

⁵ See <https://www.uscis.gov/humanitarian/temporary-protected-status/temporary-protected-status-designated-country-venezuela> (last accessed Mar. 31, 2026).

5, 2025. He therefore does not fall within the small subset of Venezuelans who continue to hold TPS at this time.⁶ This is bolstered by the fact that USCIS no longer recognizes Petitioner's prior grant of TPS as valid. *See* USCIS Case Status Online record for receipt number IOE9226561506, attached as Exhibit B; *see also* ECF No. 1 at p. 33 (providing the receipt number). Boada Puerta does not have current TPS status and he may be detained.

CONCLUSION

For the foregoing reasons, Boada Puerta's Petition for Writ of Habeas Corpus should be denied.

DATED: March 31, 2026

Respectfully submitted,

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⁶ Though Petitioner has included a copy of an EAD, it does not reflect the information necessary to appropriately include him in the group of Venezuelan TPS holders that retained TPS. This reflects employment authorization through another avenue such as his other pending application for immigration relief.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on March 31, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF electronic filing system which will serve a copy to all counsels of record.

Dated: March 31, 2026

Signed:

/s/ Amanda Saylor

Amanda Saylor

Assistant United States Attorney