

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

KEYNNERD GEOVANNY
CRUZ CASTRO

Petitioner,

Case No. 2:26-cv-0703-KCD-NPM

v.

WARDEN¹, GLADES COUNTY
DETENTION CENTER, et al¹

Respondents.

RESPONSE IN OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Keynnerd Geovanny Cruz Castro (hereafter Castro) challenges his detention by U.S. Immigration and Customs Enforcement, arguing he is entitled to a bond hearing under 8 U.S.C. § 1226. 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. Additionally, Castro has an Order of Removal and has not been detained

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 be terminated from this case. See Inter-Governmental Services Agreement for Glades County Detention Center, Ex. A 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).

for more than 180-days. Should the Court prefer a more exhaustive discussion, Respondents request leave to submit additional briefing.

FACTS

Castro is a 32-year-old citizen of Nicaragua, that Border Patrol Agents (BPA) encountered him on 14 NOV 2021 in the Rio Grande Valley, Texas Border Patrol Sector. *See* Composite Ex. 1, at 1; Dkt. 1, ¶ 6. BPA determined that Castro had unlawfully entered the United States from Mexico, at a time and place other than as designated by the Secretary of the Department of Homeland Security of the United States. *Id.* After determining that Castro was an alien who illegally entered the United States, he was arrested and transported to the Rio Grande Valley Sector Centralized Processing Center in McAllen, Texas for further processing. Ex. 1, at 8.

At the Station, Castro was advised of the administrative rights in removal proceedings. *Id.* He acknowledged understanding these rights and claimed to be a citizen and national of Nicaragua without the necessary legal documents to enter, pass through, or to remain in the United States. *Id.* He also admitted to illegally crossing the international boundary without being inspected by an immigration officer at a designated Port of Entry. *Id.* He was then processed for a Notice to Appear as per section 212(a) (6) (A) (i) of the Immigration and Nationality Act and was released. *Id.*

On October 3, 2024, IJ after a hearing on the issue of removability, the IJ issued an Order of Removal. *Id.*, at 42-45 (Order of Removal). Castro reserved his right to

appeal. *Id.*, at 45. On December 13, 2020⁵ and January 9, 2026, Castro withdrew his Right to Appeal. *Id.*, at 46, 48. The BIA gave notice that Castro needed to prove he served DHS.² *Id.*, at 50.

On Monday, November 17, 2025, Border Patrol Intelligence Agents (BPA-I) from MIAMI Sector Intelligence Unit (SIU) were working in conjunction with Border Patrol Agents (BPA) and Border Patrol Resident Agents (BPRA) from Marathon Border Patrol Station (NU") to conduct targeted vehicle stops around Islamorada, Florida. *Id.* at 5. Florida Highway Patrol (FHP) troopers conducted multiple vehicle stops for local and state traffic violations with OS Border Patrol support. BPAs from NU' also conducted vehicle stops targeted vehicles bel ongoing to or linked to known illegal aliens. *Id.*

On November 17, 2025, Defendants issued a Warrant of Removal and a Warrant of Arrest for Castro. *Id.*, at 56-59. Defendants determined that Castro should be detained. *Id.* at 60.

Respondents are detaining Castro at the Broward Transitional Center for approximately 135 days (as of April 1, 2026). *Id.*, at 61. He is being detained under

² This is contrary to BIA policy and procedures as Castro filed his motion on the ECAS system that automatically served all parties electronically. See <https://www.justice.gov/eoir/respondent-access-portal-frequently-asked-questions> ("Does electronically filing a document constitute completed service of process on DHS?" "Yes. EOIR will complete electronic service (send a copy to DHS) on your behalf if you electronically file through Respondent Access Portal as long as the filing was eligible for electronic filing. Remember, unrepresented individuals in immigration proceedings before EOIR may choose to participate in electronic filing through the Respondent Access Portal but are not required to do so. Participation is voluntary") (last visited April 1, 2026).

the argument of 1225/1226 statute. But he has a final order of removal that initially he had reserved on appeal but in January of this year decide to withdraw that appeal.

CERTIFIED HABEAS RETURN

ICE is detaining Castro 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.”). Castro 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

a. 1225/1226

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 225.³ This Court should rule the same.

³ 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.”

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

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.).

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 *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:

1. Title 8 U.S.C. § 1252(g) bars review of Castro’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 Castro’s claims. *Id.* at 7-8.
3. Castro failed to exhaust his administrative remedies. *Id.* at 8.
4. Castro is properly detained under 8 U.S.C. § 1225. *Id.* at 8-14.
- b. Removal Order changes things.

In this case, when a noncitizen is subject to a final removal order, the INA starts a 90-day clock. 8 U.S.C. § 1231(a). During that time frame, the government must keep the noncitizen detained. *Id.* § 1231(a)(2). If that initial period expires without removing the noncitizen, the government may: release the individual on supervision or keep him detained. *Id.* § 1231(a)(6). This detention is not unlimited, but must be “reasonably necessary” to bring about their removal. *Zadvydas v. Davis*,

533 U.S. 678 (2001). And the Supreme Court, and this court, have found that any post-removal detention lasting six months or less is “presumptively reasonable.” *Id.*; *Luc Qut Tran v. Warden, et al.*, No. 2:25-CV-1224-KCD-NPM, 2026 WL 672969, at *3 (M.D. Fla. Mar. 10, 2026). “In order to state a claim under *Zadvydas*,” then, “the alien not only must show post-removal order detention in excess of six months [180 days] but also must provide evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.” *Luc Qut Tran*, 2026 WL 672969 (citing *Akinwale v. Ashcroft*, 287 F.3d 1050, 1052 (11th Cir. 2002)). As of the filing of this response, Castro has been detained for approximately 135/180 days and has failed to provide any “evidence of a good reason to believe that there is no significant likelihood of removal in the reasonably foreseeable future.”

Finally, Respondents contend that should this Court determine that Castro’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 Castro 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 the facility where the prisoner is being held, not the Attorney General or some other remote supervisory official”).

CONCLUSION

Castro's Petition for Writ of Habeas Corpus should be denied

DATED this 1st day of April 2026.

Respectfully submitted,

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