

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

MAYOLO SANTOS,

Petitioner,

Case No. 2:26-cv-00751-JES-DNF

v.

GARRETT RIPA, et al.,

Respondents.

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**FEDERAL DEFENDANTS' RESPONSE TO  
PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Mayolo Santos 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, the Federal 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.

**FACTS**

Mayolo Santos is a national and citizen of Mexico. (Doc. 1). It is unknown when he last entered the United States. (Composite Exhibit A at 9.) Mayolo Santos was arrested on February 7, 2026 for domestic violence/battery/kidnap/false

imprisonment in Pasco County, Florida. *Id.* at 5-7; 10. He was placed in immigration custody on March 12, 2026. *Id.* at 11. He was served with a Notice to Appear on or about March 12, 2026. *Id.* at 12-13. Immigration hearings for Mayolo Santos have been scheduled in immigration court on March 24, 2026 and April 21, 2026. *Id.* at 17-21. Petitioner is currently detained at Miami Federal Detention Center. *Id.* at 16. On March 16, 2026, Mayolo Santos filed a petition for writ of habeas corpus alleging his custody violates the Due Process Clause of the Fifth Amendment. (Doc. 1.)

### CERTIFIED HABEAS RETURN

ICE is detaining Mayolo Santos 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.”). Mayolo Santos 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

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. 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 *Patel v. Hardin*, No. 2:25-cv-00870-JES-NPM (M.D. Fla.) (Doc. 22) (granting habeas in part). 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); see also *Avila v. Bondi*, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 2026). At least four circuits—including the Eleventh—have active appeals on the matter. *Martinez v. Hyde*, No. 25-1902 (1st Cir.); *Pizzaro Reyes v. ERO*, No. 25-1982 (6th Cir.);

*Cortes Alonzo v. Noem*, No. 25-7348 (9th Cir.); *Hernandez Alvarez v. Warden*, No. 25-14065 (11th Cir.).

Respondents respectfully disagree with the Court's decision in *Patel*. 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 Mayolo Santos's claims. *Patel v. Hardin*, No. 2:25-cv-00870-JES-NPM, Doc. 15 at 4-7 (M.D. Fla. Oct. 22, 2025).<sup>1</sup>
2. Title 8 U.S.C. § 1252(b)(9) bars review Mayolo Santos's claims. *Id.* at 7-8.
3. Mayolo Santos failed to exhaust his administrative remedies. *Id.* at 8-9.
4. Mayolo Santos is properly detained under 8 U.S.C. § 1225. *Id.* at 10-16.

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

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<sup>1</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 Rule 1.01(a) and 1.01(b); Fed. R. Civ. P. 1.

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”).

### CONCLUSION

Mayolo Santos’s Petition for Writ of Habeas Corpus should be denied.

DATED April 6, 2026.

Respectfully submitted,

GREGORY W. KEHOE  
United States Attorney

s/ Stephanie S. Leuthauser  
**STEPHANIE S. LEUTHAUSER**  
Assistant United States Attorney  
Florida Bar No. 0044981  
400 North Tampa Street, Suite 3200  
Tampa, Florida 33602  
Telephone: 813-274-6000  
Facsimile: 813-274-6198  
Stephanie.leuthauser@usdoj.gov  
Lead Counsel for the  
Federal Defendants

### CERTIFICATE OF SERVICE

I hereby certify that, on April 6, 2026, I filed the foregoing documents and any exhibits referenced therein using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record.

s/ Stephanie S. Leuthauser  
**STEPHANIE S. LEUTHAUSER**  
Assistant United States Attorney