

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

CARLOS ALBERTO HERNANDEZ
ESCALONA,

Petitioner,

v.

Case No. 2:26-cv-769-SPC-NPM

KRISTI NOEM, et al.,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Carlos Alberto Hernandez Escalona challenges his detention by U.S. Immigration and Customs Enforcement, arguing he is entitled to either immediate release or an individualized bond hearing. Because Hernandez Escalona applied for admission to the United States at the border upon his arrival, he is an “applicant for admission” and is subject to mandatory detention under

FACTS

Hernandez Escalona is a national and citizen of Cuba who last entered the United States on or about May 27, 2024, when he applied for admission into the United States at the Miami International Airport. Composite Ex. 1 at 1, 5. He was paroled into the United States on May 27, 2024, and given an I-

94 valid through June 12, 2025. *Id.* at 4. He stayed in the United States after the expiration of the I-94. *Id.* at 3-4. He was placed in immigration custody on December 23, 2025. *Id.* at 3. He was processed as a Notice to Appear. *Id.* at 4. Hernandez Escalona is currently detained at Glades County Detention Center.¹

On March 17, 2026, Hernandez Escalona filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. Dkt. 1.

CERTIFIED HABEAS RETURN

ICE is detaining Hernandez Escalona 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.”). Hernandez Escalona 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).

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

ARGUMENT

Hernandez Escalona applied for admission to the United States upon his arrival at the Miami International Airport on or about May 27, 2024. Ex. 1 at 5. Upon the expiration of his parole in 2025, Hernandez Escalona returned to the status he had before – an applicant for admission. Under 8 U.S.C. § 1182(d)(5)(A), “thereafter his case shall continue to be dealt with in the same manner as that of *any other applicant for admission* to the United States.” (emphasis added). Therefore, he is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A), which reads:

in the case of an alien who is an applicant for admission, if the examining immigration officer determines that an alien seeking admission is not clearly and beyond a doubt entitled to be admitted, the alien shall be detained for a proceeding under section 1229a of this title.

This case is distinguishable from *In re Matter of Yajure Hurtado*, 29 I&N Dec. 216 (B.I.A. 2025) because of Petitioner’s application for admission upon entry to the United States. Although Petitioner was detained while already inside the United States, he had previously applied for admission at the border and is therefore subject to detention under § 1225 not § 1226.

CONCLUSION

Hernandez Escalona's Petition for Writ of Habeas Corpus should be denied.

DATED this 26th day of March, 2026.

Respectfully submitted,

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