

**UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA**

ABUNDIO PABLO ARANDA,

Petitioner,

v.

KEVIN GUTHRIE, in his official capacity as
Director of the Florida Division of Emergency
Management (FDEM), et al.,

Respondents.

Case No.: 2:26-cv-781-SPC-NPM

Agency File: A



PETITIONER'S REPLY

INTRODUCTION

Petitioner, by and through undersigned counsel, filed a Petition for Writ of Habeas Corpus on March 18th, 2026. This Court issued an Order to Show Cause which required Respondents to respond within seven days on March 20th, 2026. Respondents filed a Response on March 27th, 2026. (Doc 6). Petitioner now replies to the Respondent's Response opposing the petition for habeas corpus. For the reasons stated herewith, the Petition for Habeas Corpus should be GRANTED.

Respondents' opposition concedes the dispositive fact: Petitioner holds an approved U visa valid through November 2026. That status forecloses application of 8 U.S.C. § 1225(b)(2) and places Petitioner within the discretionary detention framework of 8 U.S.C. § 1226(a).

Rather than address that conclusion, Respondents rely on non-binding authority, an acknowledged circuit split, and jurisdictional defenses foreclosed by binding precedent. Properly applied, Supreme Court and Eleventh Circuit law compel relief.

I. HABEAS JURISDICTION IS PROPER

A. Section 1252(g) Does Not Apply

Section 1252(g) applies only to three discrete actions: the decision to commence proceedings, adjudicate cases, or execute removal orders.

Gupta v. McGahey, 709 F.3d 1062, 1065–66 (11th Cir. 2013) (limiting § 1252(g) to those “three discrete actions” and rejecting broader jurisdictional bars).

Petitioner challenges the legality of his detention without a bond hearing, not any prosecutorial decision. Section 1252(g) therefore does not apply.

B. Section 1252(b)(9) Does Not Bar Independent Detention Claims

Section 1252(b)(9) does not channel claims that are independent of removal proceedings.

Jennings v. Rodriguez, 583 U.S. 281, 293 (2018) (holding § 1252(b)(9) does not bar challenges to detention);

Nken v. Holder, 556 U.S. 418, 435 (2009) (recognizing limits of channeling provisions);

Gupta, 709 F.3d at 1066 (permitting claims independent of removal proceedings).

Petitioner does not challenge removability—only detention authority. Jurisdiction is therefore proper.

C. Exhaustion Is Excused

Exhaustion is not required where administrative remedies are unavailable or futile.

Sundar v. INS, 328 F.3d 1320, 1325–26 (11th Cir. 2003) (recognizing futility exception);

Jaimes v. U.S. Att’y Gen., 715 F.3d 1310, 1317 (11th Cir. 2013) (same).

Because Respondents’ own position eliminates IJ bond jurisdiction, no remedy exists to exhaust. Exhaustion is excused.

II. PETITIONER IS NOT SUBJECT TO § 1225(b)

A. Eleventh Circuit Framework Limits § 1225 to Applicants for Admission

The Eleventh Circuit distinguishes between:

- § 1225 → applicants for admission
- § 1226 → individuals already present

Alvarez Acosta v. U.S. Att’y Gen., 524 F.3d 1191, 1196 (11th Cir. 2008) (recognizing § 1226 governs detention pending removal proceedings for non-arriving aliens);

Sopo v. U.S. Att’y Gen., 825 F.3d 1199, 1214–15 (11th Cir. 2016), vacated as moot, 890 F.3d 952 (11th Cir. 2018) (distinguishing detention categories based on admission status).

Petitioner:

- was not apprehended at the border;
- is not seeking admission;
- is physically present with lawful status.

Section 1225 does not apply.

B. Approved U Visa Status Confirms Lawful Presence

Petitioner’s approved U visa reflects:

- DHS adjudication
- lawful presence
- eligibility for adjustment

Applying mandatory detention without bond to a U visa holder conflicts with the INA’s structure and purpose.

C. Respondents’ Reliance on Buenrostro-Mendez and Avila Is Misplaced

Respondents rely heavily on out-of-circuit authority that is neither binding nor persuasive.

1. Not Controlling and Inconsistent with Eleventh Circuit Law

Alvarez Acosta, 524 F.3d at 1196 (limiting § 1226 to non-arriving aliens);
Sopo, 825 F.3d at 1214–15 (recognizing structured statutory distinctions);
cf. *Jennings*, 583 U.S. at 293 (declining to extend detention provisions beyond statutory text).

2. Conflicts with Supreme Court Precedent on Entry and Presence

Zadvydas v. Davis, 533 U.S. 678, 693 (2001) (distinguishing between aliens at the threshold and those who have entered);

Clark v. Martinez, 543 U.S. 371, 380–81 (2005) (rejecting expansive detention interpretations);

Landon v. Plasencia, 459 U.S. 21, 32 (1982) (recognizing due process rights for noncitizens physically present).

3. Violates Constitutional Avoidance Principles

Zadvydas, 533 U.S. at 689 (requiring avoidance of interpretations permitting indefinite detention);

Jennings, 583 U.S. at 305 (acknowledging constitutional limits);

Demore v. Kim, 538 U.S. 510, 532 (2003) (approving only brief detention).

4. Contrary Authority Supports Petitioner

Vasquez Carcamo v. Noem, No. 2:25-cv-922-SPC-NPM, 2025 WL 3119263, at *4–6 (M.D. Fla. Nov. 7, 2025) (rejecting § 1225 for non-border arrest);

Ahmed v. Bondi, No. 25-cv-4711, 2026 WL 25627, at *1 (D. Minn. Jan. 5, 2026) (recognizing interpretive difficulty).

5. Factually Distinguishable

Neither case involved:

- an approved U visa
- lawful presence
- likely termination of proceedings

6. Ambiguity Requires Application of § 1226(a)

Zadvydas, 533 U.S. at 689;

Clark, 543 U.S. at 381.

III. THE BIA'S DECISION IN *MATTER OF YAJURE HURTADO* DOES NOT CONTROL

Respondents rely on *Matter of Yajure Hurtado*, but that decision does not bind this Court and is unpersuasive.

A. No Chevron Deference on Detention Scope

Jennings, 583 U.S. at 289 (declining to defer to agency interpretation of detention statutes);

INS v. St. Cyr, 533 U.S. 289, 320 (2001) (courts retain authority over habeas and statutory interpretation).

B. Contrary to Supreme Court Structure of Detention Statutes

Zadvydas, 533 U.S. at 690 (detention must be limited);

Clark, 543 U.S. at 380 (rejecting expansive readings).

C. Unreasonable Expansion of § 1225

The BIA extends § 1225 to individuals:

- not at the border
- not seeking admission

This conflicts with statutory text and structure.

D. Cannot Eliminate Habeas Jurisdiction or Due Process

Boumediene v. Bush, 553 U.S. 723, 779 (2008) (habeas is a fundamental constitutional protection);

Zadvydas, 533 U.S. at 692 (due process applies to immigration detention).

E. Particularly Inapplicable to U Visa Holders

The BIA decision did not address:

- U visa status
- lawful presence
- humanitarian protections

It is therefore inapposite.

IV. DETENTION IS GOVERNED BY § 1226(a)

Alvarez Acosta, 524 F.3d at 1196;
Sopo, 825 F.3d at 1217–18.

Section 1226(a) requires:

- individualized custody determinations
- bond hearings

Petitioner has received none.

V. DETENTION VIOLATES DUE PROCESS

Zadvydas, 533 U.S. at 690;
Demore, 538 U.S. at 532;
Sopo, 825 F.3d at 1217–18.

Detention without:

- hearing
- findings
- process

is unconstitutional.

VI. REMEDY

Zadvydas, 533 U.S. at 699;
Sopo, 825 F.3d at 1221.

The Court should order:

1. Immediate release, or
2. A prompt, constitutionally compliant bond hearing

with:

- government bearing burden
- individualized findings

CONCLUSION

Petitioner is not an arriving alien. He is a lawfully present U visa holder detained under the wrong statute and without process.

The Petition should be GRANTED.

Respectfully submitted,

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Dated: March 31st, 2026.

CERTIFICATE OF SERVICE

I hereby certify that on March 31st, 2026, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system.

/s/ Virlenys H. Palma

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