

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

ALIESKY ALVAREZ SANCHEZ,

Petitioner,

Case No. 2:26-cv-812-JES-NPM

v.

WARDEN¹, et al.,

Respondents.

RESPONSE IN OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Aliesky Alvarez Sanchez (hereafter Sanchez) 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. Should the Court prefer a more exhaustive discussion, Respondents request leave to submit additional briefing.

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] / [David Hardin] be terminated from this case. *See* Inter-Governmental Services Agreement for Glades County Detention Center, Ex. 1 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).

FACTS

Sanchez is a 29-year-old male, native and citizen of Cuba. *See* Ex. 1, I-213. He last entered the United States on February 8, 2023, as an arriving alien at Miami International Airport. *Id.* He was paroled as a CHP pending the adjustment of his status for two years. *Id.* His parole expired on February 6, 2025. *Id.* He has not yet adjusted status to an LPR. *Id.*

On March 12, 2026, Sanchez was arrested by Miami-Dade police on charges of five counts of filing false insurance claims pertaining to vehicle collisions and four counts of grand theft. *See* Ex. 2, Arrest Documents. The police turned Sanchez over to ICE-ERO pursuant to an I-247 immigration detainer that same day. *Id.*, at 2, 4-5. The Department served Sanchez with an NTA on March 13, 2025. *See* Ex. 3, NTA.

Sanchez is currently detained at Glades County Detention Center. *See* Ex. 4, Detention History. He has been detained for 18 days as of April 2, 2026. *Id.* His first appearance in immigration court was March 31, 2026, where his case was reset for another master calendar hearing on March 21, 2026 at which time the immigration judge will take pleadings to the charge on the NTA.

On March 19, 2026, Sanchez filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act, APA, Accardi Doctrine, and Ultra Vires Detention. Dkt. 1.

CERTIFIED HABEAS RETURN

ICE is detaining Sanchez under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2)(A). *See* 28 U.S.C. § 2243. Sanchez 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 Sanchez, 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 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.).

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, 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); *but see Mario Pardillo Valdes v. Secretary of U.S. Dpt. Of Homeland Security, et al.*, No. 2:26-CV-656-JES-NPM, 2026 WL 864798, at *2 (M.D. Fla. Mar. 30, 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 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 Sanchez's claims. *Patel v. Hardin*, No. 2:25-cv-00870-JES-NPM, Doc. 15 at 4-7 (M.D. Fla. Oct. 22, 2025).³
2. Title 8 U.S.C. § 1252(b)(9) bars review Sanchez's claims. *Id.* at 7-8.
3. Sanchez failed to exhaust his administrative remedies. *Id.* at 8-9.
4. Sanchez is properly detained under 8 U.S.C. § 1225. *Id.* at 10-16.

Although Respondents argue that Sanchez is an arriving alien subject to detention under § 1225 (*See Walter Cooper Pedro, v. Warden et al.*, No. 2:26-CV-524-KCD-DNF, 2026 WL 900129, at *1 (M.D. Fla. Apr. 2, 2026), the undersigned is cognizant that this Court disagrees. *See Bautista v. Sec. U.S. Dept. of Homeland Sec.*, No. 2:26-CV-75-JES-DNF, 2026 WL 183556 (M.D. Fla. Jan. 23, 2026); *Patel v. Hardin*, No. 2:25-CV-870-JES-NPM, 2025 WL 3442706, at *6 (M.D. Fla. Dec. 1, 2025).

Finally, Respondents contend that should this Court determine that Sanchez'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

³ 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.

determining whether Sanchez 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 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”).

b. Sanchez’s Administrative Procedure Act claim is not properly before the Court.

Sanchez does not have standing to bring his 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, Sanchez’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 Sanchez can challenge his detention. Even if Sanchez'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, Florida Soft Side South*, No. 2:25-cv-1224-KCD-NPM (M.D. Fla. Mar. 10, 2026), Dkt. 16 at pp. 16-17.

CONCLUSION

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

DATED this 3rd day of April, 2026.

Respectfully submitted,

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