

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

ALIESKY ALVAREZ SANCHEZ

Petitioner,

v.

Case No. 2:26-cv-00812-JES-NPM

WARDEN, GLADES COUNTY
DETENTION CENTER, et al.,

Respondents.

**REPLY TO RESPONDENTS' RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Aliesky Alvarez Sanchez hereby submits this Reply to Respondents' "Response in Opposition to Petition for Writ of Habeas Corpus" (Doc. 6).

INTRODUCTION

Respondents' Response does not justify Petitioner Aliesky Alvarez Sanchez's continued detention.

ARGUMENT

**I. Courts in This District Have Repeatedly Rejected the
Arguments Raised in Respondents' Response**

Respondents ask this Court to apply *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025), and rule that immigration judges lack authority to grant

bond to noncitizens who were not admitted to the United States. But this Court has already rejected that very argument in cases factually indistinguishable from this one. *See Patel v. Hardin*, No. 2:25-CV-870-JES-NPM, 2025 WL 3442706, at *5–6 (M.D. Fla. Dec. 1, 2025) (holding that a paroled Cuban national’s detention is governed by § 1226(a) and that he has a right to a bond hearing); *see also Bautista v. Sec. U.S. Dep’t of Homeland Sec.*, No. 2:26-CV-75-JES-DNF, 2026 WL 183556 (M.D. Fla. Jan. 23, 2026) (same); *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *5 (M.D. Fla. Oct. 31, 2025); *Carcamo v. Noem*, No. 2:25-CV-00922-SPC-NPM, 2025 WL 3119263, at *5 (M.D. Fla. Nov. 7, 2025); *Lopez v. Hardin*, No. 2:25-CV-830-KCD-NPM, 2025 WL 3022245, at *5 (M.D. Fla. Oct. 29, 2025).

Indeed, Respondents themselves acknowledge that this Court has ruled against them on the central question presented. *See* Doc. 6 at 5 (“[T]he undersigned is cognizant that this Court disagrees.”). Respondents’ request that this Court reconsider its prior rulings is unpersuasive. This Court should follow its own precedent and grant the Petition.

Most recently, this very Court, in *Mario Pardillo Valdes v. Secretary of U.S. Dep’t of Homeland Security, et al.*, No. 2:26-CV-656-JES-NPM, 2026 WL 864798, at *2 (M.D. Fla. Mar. 30, 2026), rejected the argument that a paroled noncitizen is subject to mandatory detention under § 1225(b). Petitioner’s

circumstances are materially indistinguishable from those in *Pardillo Valdes*. This Court should reach the same conclusion here.

II. The Eleventh Circuit Is Not Bound by the Decisions of the Fifth and Eighth Circuits

Respondents urge this Court to follow *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026), and *Avila v. Bondi*, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 2026), which held that noncitizens not formally admitted to the United States are subject to mandatory detention under § 1225(b)(2)(A) regardless of how long they have resided in the interior. Those decisions are not binding on this Court. *See Carmichael v. United States*, No. 19-12298, 2022 WL 908943, at *3 (11th Cir. 2022) (“The decisions of other circuit courts are not binding on district courts within this Circuit.”).

Moreover, neither of those decisions was unanimous. *Buenrostro-Mendez* drew a dissent warning that the majority’s reading would mean “the border is now everywhere.” 166 F.4th at 520 (Douglas, J., dissenting). *Avila* drew a dissent noting that five presidential administrations, including the first Trump administration, and most immigration judges had interpreted § 1225 to apply only to those arriving at the border—and that such historical practice is entitled to weight. 2026 WL 819258, at *8 (Erickson, J., dissenting). The persuasive force of those decisions is further diminished by the presence of active circuit-level appeals on this very question in other circuits. *See Pizzaro*

Reyes v. ERO, No. 25-1982 (6th Cir.); *Hernandez Alvarez v. Warden*, No. 25-14065 (11th Cir.).

The Eleventh Circuit has not resolved this issue, and the law in this jurisdiction is controlled by the decisions of this Court cited above. This Court should not depart from those decisions based on out-of-circuit authority.

III. This Court Has Previously Rejected Each of Respondents' Procedural Arguments

a. Section 1252(g) Does Not Bar Review of Petitioner's Claims

Respondents assert that 8 U.S.C. § 1252(g) deprives this Court of jurisdiction. This Court has already rejected that argument. *See Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *2 (M.D. Fla. Oct. 31, 2025) ("Section 1252(g) does not bar this action."); *see also Carcamo v. Noem*, No. 2:25-CV-00922-SPC-NPM, 2025 WL 3119263, at *2 (M.D. Fla. Nov. 7, 2025) (same).

Section 1252(g) strips jurisdiction only over decisions "to commence proceedings, adjudicate cases, or execute removal orders." 8 U.S.C. § 1252(g). Petitioner does not challenge any such decision. He challenges the legal authority for his detention—a distinct claim lying at the historic core of the writ of habeas corpus. *See Zadvydas v. Davis*, 533 U.S. 678, 687–88 (2001). Section 1252(g) therefore does not apply.

b. Section 1252(b)(9) Does Not Bar Review of Petitioner's Claims

Respondents assert that the “zipper clause” of 8 U.S.C. § 1252(b)(9) also strips jurisdiction. This Court has likewise rejected that argument. *See Garcia v. Noem*, 2025 WL 3041895, at *2 (“The zipper clause only applies to claims requesting review of a removal order”); *see also Carcamo v. Noem*, 2025 WL 3119263, at *2 (same).

Petitioner does not seek review of a final order of removal, and he expressly disclaimed any such challenge in his Petition. Doc. 1 at 2–3. The zipper clause is therefore inapplicable.

c. Exhaustion of Administrative Remedies Is Excused

Respondents assert that Petitioner failed to exhaust administrative remedies. This Court has already rejected this argument where, as here, any request for a bond hearing before an immigration judge would be futile because the result is predetermined by *Matter of Yajure Hurtado*. *See Garcia v. Noem*, 2025 WL 3041895, at *3; *see also Carcamo v. Noem*, 2025 WL 3119263, at *3.

Additionally, the Eleventh Circuit recognizes that exhaustion may be excused where administrative remedies are inadequate, where exhaustion would be futile, or where claims are constitutional in nature. *Linfors v. United States*, 673 F.2d 332, 334 (11th Cir. 1982). Because Respondents have treated Petitioner’s detention as categorically mandatory under § 1225(b)—and because immigration judges are bound by *Yajure Hurtado* and thus lack

authority to grant bond on that record—any administrative application would be futile. Exhaustion is therefore excused.

IV. Petitioner Is Improperly Detained Under 8 U.S.C. § 1225(b); His Detention Is Governed by § 1226(a)

The central question in this case is whether Petitioner’s detention is governed by § 1225(b)—which provides for mandatory detention—or § 1226(a)—which provides for discretionary detention and a bond hearing. Every court in this District to have addressed this question on materially identical facts has held that § 1226(a) governs. *See Patel v. Hardin*, 2025 WL 3442706, at *5–6; *Garcia v. Noem*, 2025 WL 3041895, at *5; *Carcamo v. Noem*, 2025 WL 3119263, at *5; *Lopez v. Hardin*, 2025 WL 3022245, at *5; *Pardillo Valdes*, 2026 WL 864798, at *2.

Section 1225(b) governs the inspection and detention of individuals “at the border” or those apprehended “contemporaneously with their arrival.” Petitioner, by contrast, was paroled into the United States on February 8, 2023—over three years before his arrest. He was not apprehended at a port of entry or immediately upon arrival. He was arrested inside the United States by Miami-Dade police in connection with state criminal charges. His detention thus has no nexus to any contemporaneous border encounter. Section 1225(b) simply does not reach him.

Respondents rely principally on *Matter of Yajure Hurtado*, which purports to extend § 1225(b)'s mandatory detention to any noncitizen who was never formally admitted—regardless of the circumstances of their arrest or the length of their presence in the United States. But as this Court has recognized, that interpretation conflicts with the statutory text, structure, and history of the INA; renders § 1226 superfluous as applied to parolees; and raises serious constitutional concerns. *Patel v. Hardin*, 2025 WL 3442706, at *4–5. Moreover, *Yajure Hurtado* was expressly vacated as contrary to law by the United States District Court for the Central District of California. *See Bautista v. Santacruz*, No. 5:25-CV-01873-SSS-BFM, 2026 WL 468284, at *12 (C.D. Cal. Feb. 18, 2026). Although that order was subsequently stayed by the Ninth Circuit, its reasoning reinforces the weight of authority holding that *Yajure Hurtado* is incorrectly decided.

Under the canon of constitutional avoidance, a narrower reading of § 1225(b)—limited to individuals apprehended at the border or contemporaneously with arrival—is required. *Zadvydas v. Davis*, 533 U.S. 678, 682 (2001); *Jennings v. Rodriguez*, 583 U.S. 281, 286 (2018). Construing § 1225(b) to authorize mandatory, indefinite detention of a long-present parolee seized in the interior—without any individualized determination of flight risk or danger—would raise grave questions under the Due Process Clause of the

Fifth Amendment. The Court should avoid that construction and hold that § 1226(a) governs.

The I-213 submitted by Respondents actually confirms that Petitioner entered on February 8, 2023, was paroled under the CHP program, and was encountered by ICE only on March 12, 2026—at a county jail in Miami-Dade, not at a port of entry. See Doc. 6-1. The Notice to Appear, filed by the Government itself, charges Petitioner as an “arriving alien” whose parole expired on February 6, 2025—but critically, does not allege that he was encountered at the border or during an inspection. See Doc. 6-3. These facts confirm that his detention is an interior enforcement action subject to § 1226(a), not a border-processing function subject to § 1225(b).

V. Petitioner’s APA Claim Is Properly Before This Court, But the Habeas Remedy Is Sufficient

Respondents argue that Petitioner’s APA claim is not properly before this Court because habeas corpus provides an adequate remedy, citing *Trump v. J.G.G.*, 145 S. Ct. 1003, 1005 (2025). Petitioner acknowledges that habeas corpus is the primary vehicle for challenging the legality of his confinement, and does not dispute that the habeas remedy, if granted, would provide equivalent relief. However, Petitioner respectfully preserves his APA and Accardi doctrine claims as alternative grounds for relief.

Even setting aside the APA claim, the habeas claim alone is sufficient. Respondents' failure to exercise individualized discretion—treating detention as categorically mandatory when discretion plainly exists under § 1226(a)—constitutes unlawful executive action remediable through the writ. *Zadvydas*, 533 U.S. at 688; *Jennings*, 583 U.S. at 294–95.

VI. Outright Release, or in the Alternative a Bond Hearing, Is the Appropriate Remedy

Respondents contend that outright release is inappropriate and that any bond hearing should be conducted by the Executive Office for Immigration Review rather than ordered by this Court. Petitioner submits that outright release is warranted given that his detention is unlawful and has already lasted over three weeks without any individualized determination of flight risk or dangerousness.

In the alternative, Petitioner respectfully requests that this Court, consistent with the relief granted in *Patel v. Hardin*, *Garcia v. Noem*, and the other cases cited herein, order an individualized bond hearing before an immigration judge within seven (7) days of this Court's order, at which the Government shall bear the burden of demonstrating by clear and convincing evidence that Petitioner poses a danger to the community and by a preponderance of the evidence that he presents a serious risk of flight.

Petitioner's profile strongly supports his release. He has substantial ties to this community: he is married, has a four-month-old United States citizen child, and has close family members who are lawful permanent residents. He has no prior criminal history.

The state criminal case, Case No. F-26-005042 (Miami-Dade County), remains at its earliest stages. See Exhibit A for State Case Information Sheet. Petitioner entered a written plea of Not Guilty and demanded a jury trial at his first appearance on March 12, 2026. *Id.* His arraignment is not scheduled until May 11, 2026. *Id.* The case was only assigned to a trial prosecutor on April 6, 2026. *Id.* No conviction exists, and none is imminent. *Id.* The charges remain unproven allegations.

Critically, the state court's own docket confirms what Petitioner has maintained throughout: the ICE hold—not any failure to satisfy state bond conditions—is the sole reason Petitioner remains detained. *Id.* State court docket entry #7 reflects: "CURRENT BOND STATUS PC FOUND CT1-10 2500 EACH ICE HOLD." *Id.* All ten bond powers, each in the amount of \$2,500, were issued on March 14, 2026, and confirmed received on March 18, 2026. *Id.* Petitioner fully satisfied his state bond obligations. *Id.* He has been held exclusively at ICE's direction ever since. A state court judge—evaluating the same facts Respondents now characterize as disqualifying—found that a \$12,500 bond was sufficient to ensure Petitioner's appearance. That

determination is entitled to weight in assessing whether Petitioner presents a flight risk or danger. He presents neither.

CONCLUSION

For the foregoing reasons, Petitioner Aliesky Alvarez Sanchez respectfully requests that this Court grant the Petition for Writ of Habeas Corpus and order his immediate release under reasonable conditions of supervision. In the alternative, Petitioner respectfully requests that this Court order an individualized bond hearing before an immigration judge within seven (7) days of the Court's order, at which the Government shall bear the burden of demonstrating by clear and convincing evidence that Petitioner is a danger to the community, and by a preponderance of the evidence that he is a flight risk.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing REPLY TO RESPONDENTS' RESPONSE TO PETITION FOR WRIT OF HABEAS

CORPUS was filed via **CM/ECF** and served on all counsels of record on this 14th day of April, 2026.

Respectfully submitted,

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