

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

DEIVY ZAMORA PORRES

Petitioner,

v.

Case No. 2:26-cv-818-SPC-NPM

WARDEN, FLORIDA SOFT SIDE
SOUTH, et. al.,

Respondents.

**REPLY TO RESPONDENT’S RESPONSE TO PETITION FOR WRIT
OF HABEAS CORPUS**

Petitioner hereby submits this Reply to Respondents’ “Response to
Petition for Writ of Habeas Corpus” (Doc. 4).

INTRODUCTION

Respondents’ Response to the Petition for Writ of Habeas Corpus does
not justify Petitioner Deivy Zamora Porres’s continued detention.

ARGUMENT

I. Courts in this District have rejected the arguments in *Matter of Yajure Hurtado*

Respondents argue that this Court should apply to this case the Board
of Immigration Appeals (“BIA”) case *Matter of Yajure Hurtado*, 29 I&N Dec.
216 (BIA 2025), and rule that Immigration Judges, under an interpretation of

8 U.S.C. § 1225(b)(2)(A), lack authority to hear or grant bond requests to noncitizens. 29 I&N Dec. at 225. However, this Court has already rejected the arguments in *Matter of Yajure Hurtado* in other cases identical to this instant case. See *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *5 (M.D. Fla. Oct. 31, 2025) (ruling that Petitioner's detention is governed by § 1226(a) and that Petitioner has a right to a bond hearing); see also *Carcamo v. Noem*, No. 2:25-CV-00922-SPC-NPM, 2025 WL 3119263, at *5 (M.D. Fla. Nov. 7, 2025) (ruling that Petitioner's detention is governed by § 1226(a) and that Petitioner has a right to a bond hearing); *Lopez v. Hardin*, No. 2:25-CV-830-KCD-NPM, 2025 WL 3022245, at *5 (M.D. Fla. Oct. 29, 2025) ("the Court will instead require Respondents to provide [Petitioner] with the statutory process required under § 1226(a), which includes a bond hearing."); *Patel v. Hardin*, No. 2:25-CV-870-JES-NPM, 2025 WL 3442706, at *5 (M.D. Fla. Dec. 1, 2025) ("[Petitioner's] detention is thus governed by § 1226(a) ... [and he] has a right to a bond hearing."); *Cetino v. Hardin*, No. 2:25-CV-1037-JES-DNF, 2025 WL 3558138, at *4 (M.D. Fla. Dec. 12, 2025) ("[Petitioner's] detention is thus governed by § 1226(a) ... [and he] has a right to a bond hearing.").

This Court should adopt the rulings in *Garcia v. Noem*, *Carcamo v. Noem*, *Lopez v. Hardin*, *Patel v. Hardin*, and *Cetino v. Hardin*, not *Matter of Yajure Hurtado*, in this case.

II. The Eleventh Circuit is not bound to decisions in other Circuits

Respondents further argue that this Court, this Circuit, should adopt the rulings of two circuits that have ruled that noncitizens who have not been admitted to the U.S. are subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). *Buenrostro-Mendez v. Bondi*, 166 F.4th 494 (5th Cir. 2026); *Avila v. Bondi*, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 2026). However, those Circuit Court decisions are only persuasive authority, not binding authority, on the Eleventh Circuit and this Court. *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, as Respondents have pointed out, the issues decided by the Fifth and Eight Circuits are not settled law in this jurisdiction and other jurisdictions. See *Pizzaro Reyes v. ERO*, No. 25-1982 (6th Cir.); *Hernandez Alvarez v. Warden*, No. 25-14065 (11th Cir.).

Further, the decisions in the Fifth and Eight Circuits were not unanimous. *Buenrostro-Mendez v. Bondi*, 166 F.4th 494, 520 (5th Cir. 2026) (Douglas, J. Dissenting) (“In sum, the government’s proposed reading of the

statute would mean that, for purposes of immigration detention, the border is now everywhere.”); *Avila v. Bondi*, No. 25-3248, 2026 WL 819258, at *8 (8th Cir. Mar. 25, 2026) (Erickson, J. Dissenting) (“Five presidential administrations, including the first Trump administration, and most immigration judges interpreted § 1225 to apply only to those arriving at the border. This conduct is something courts ought to consider.”)

Therefore, this Court, and the Eleventh Circuit, is not bound by, and should not follow, the *Buenrostro-Mendez v. Bondi* Fifth Circuit case or the *Avila v. Bondi* Eight Circuit case.

III. This Court has already ruled against the arguments raised by Respondents

a. Title 8 U.S.C. § 1252(g) does not bar review of Petitioner’s claims

Respondents assert that 8 U.S.C. § 1252(g) bars review of Petitioner’s claims. This Court has previously heard this argument, and it has rejected this 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) (“Section 1252(g) does not bar this action”).

The facts in *Garcia v. Noem* and *Carcamo v. Noem* are identical to this case, and this Court should find that Section 1252(g) does not bar review of Petitioner's claims.

b. Title 8 U.S.C. § 1252(b)(9) does not bar review of Petitioner's claims

Respondents assert that 8 U.S.C. § 1252(b)(9) bars review of Petitioner's claims. This Court has previously heard this argument, and it has rejected this argument. See *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *2 (M.D. Fla. Oct. 31, 2025) ("The zipper clause only applies to claims requesting review of a removal order"); *see also* *Carcamo v. Noem*, No. 2:25-CV-00922-SPC-NPM, 2025 WL 3119263, at *2 (M.D. Fla. Nov. 7, 2025) ("The zipper clause only applies to claims requesting review of a removal order.").

The facts in *Garcia v. Noem* and *Carcamo v. Noem* are identical to this case, Petitioner is not requesting review of a removal order, and this Court should find that Section 1252(b)(9) does not bar review of Petitioner's claims.

c. Exhaustion of Administrative Remedies is excused because it would be futile

Respondents assert that Petitioner failed to exhaust his administrative remedies. This Court has previously heard this argument, and it has rejected this argument. See *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL

3041895, at *3 (M.D. Fla. Oct. 31, 2025) (“[a] request for a bond hearing would be futile because the result is predetermined by *Yajure Hurtado*.”); *see also Carcamo v. Noem*, No. 2:25-CV-00922-SPC-NPM, 2025 WL 3119263, at *3 (M.D. Fla. Nov. 7, 2025) (“a bond hearing would be futile because the result is predetermined by *Yajure Hurtado*.”).

The facts in *Garcia v. Noem* and *Carcamo v. Noem* are identical to this case, Petitioner’s request for a bond hearing would be futile because the result is predetermined by *Yajure Hurtado*, and this Court should find that good cause exists to excuse exhaustion of administrative remedies in this case.

d. Petitioner is improperly detained under 8 U.S.C. § 1225

Respondents assert that Petitioner is properly detained under 8 U.S.C. § 1225. This Court has previously heard this argument, and it has rejected this argument. *See Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *5 (M.D. Fla. Oct. 31, 2025) (“detention is thus governed by Section 1226(a) ... right to a bond hearing.”); *see also Carcamo v. Noem*, No. 2:25-CV-00922-SPC-NPM, 2025 WL 3119263, at *5 (M.D. Fla. Nov. 7, 2025) (“detention is thus governed by Section 1226(a) ... right to a bond hearing.”).

Courts in the Southern District have also repeatedly rejected Respondents’ argument, and ruled that Section 1226, not Section 1225(b)(2),

governs a noncitizen's detention. *See, e.g., Merino v. Ripa*, No. 25-23845-CIV, 2025 WL 2941609, at *4 (S.D. Fla. Oct. 15, 2025) (“§ 1226(a), not § 1225(b)(2), governs Petitioner's detention.”); *Puga v. Assistant Field Off. Dir., Krome N. Serv. Processing Ctr.*, No. 25-24535-CIV, 2025 WL 2938369, at *5 (S.D. Fla. Oct. 15, 2025) (“section 1226(a) and its implementing regulations govern Petitioner's detention, not section 1225(b)(2)(A).”); *Castro v. Parra*, No. 26-CV-20422, 2026 WL 788019, at *6 (S.D. Fla. Mar. 20, 2026) (“Petitioner is detained pursuant to the authority of 8 U.S.C. § 1226(a) and is entitled to a bond hearing.”); *Sanchez-Morales v. Field Off. Dir., Miami Field Off., U.S. Immigr. & Customs Enf't*, No. 26-CV-20217-JB, 2026 WL 496726, at *4 (S.D. Fla. Feb. 23, 2026) (“Petitioner's detention is governed by section 1226(a) and, therefore, he is entitled to an individualized bond hearing before an IJ.”); *Figuera v. Ripa*, No. 26-CV-20307-JB, 2026 WL 467569, at *5 (S.D. Fla. Feb. 19, 2026) (“Petitioner's detention is governed by section 1226(a) and, therefore, he is entitled to an individualized bond hearing before an IJ.”); *Boffill v. Field Off. Dir.*, No. 25-CV-25179-JB, 2025 WL 3246868, at *7 (S.D. Fla. Nov. 20, 2025) (“Petitioner's detention is governed by section 1226(a) and, therefore, he is entitled to an individualized bond hearing before an IJ.”); *Chamsadine v. Assistant Field Dir. Warden*, No. 26-21487-CV, 2026 WL 746400, at *3 (S.D. Fla. Mar. 17, 2026) (“Because Petitioner is detained under § 1226, he is entitled to an individualized bond hearing before an

immigration judge.”); and *Ardon-Quiroz v. Assistant Field Dir.*, No. 25-CV-25290-JB, 2025 WL 3451645, at *7 (S.D. Fla. Dec. 1, 2025) (“Petitioner's detention is governed by section 1226(a) and, therefore, he is entitled to an individualized bond hearing before an IJ.”)

In fact, “countless other[] [Courts] have uniformly rejected the Government's expansive interpretation of § 1225.” *Chamsadine v. Assistant Field Dir. Warden*, No. 26-21487-CV, 2026 WL 746400, at *2 (S.D. Fla. Mar. 17, 2026)

The facts in *Garcia v. Noem* and *Carcamo v. Noem* are identical to this case, and this Court should find that Petitioner is subject to Section 1226(a) and that he has a right to a bond hearing.

CONCLUSION

For the foregoing reasons, Petitioner, Deivy Zamora Porres, respectfully requests that this Court grant the Petition for Writ of Habeas Corpus and order his immediate release. In the alternative, Petitioner respectfully requests that this Court order a § 1226(a) bond hearing within seven (7) days of the Court's decision.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that a true and correct copy of the foregoing **REPLY**
TO RESPONDENT'S RESPONSE TO PETITION FOR WRIT OF
HABEAS CORPUS was filed via CM/ECF and served on all counsels of
record on this 1st day of APRIL 2026.

Respectfully submitted,

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