

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FT. MYERS DIVISION**

OSCAR DAVID ESPINOZA MAZO,
Petitioner,

v.

U.S. DEPT. OF HOMELAND SEC., ET AL.
Respondents.

Case No. 2:26-cv-831-SPC-DNF

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Oscar David Espinoza Mazo 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.

FACTS

Espinoza Mazo is a national and citizen Colombia who last entered the United States on August 24, 2022 at Hidalgo, Texas. Petition for Writ of Habeas Corpus, ECF No. 1 ("Petition"), ¶ 15(a); *see also* Notice to Appear, attached as "Exhibit A" at 1. He was briefly detained following his entry at the border but ultimately released on

an alternative to detention program, for which he did not continue to report. Form I-213, attached as “Exhibit B” at 2. He was served with a Notice to Appear on or about August 27, 2022, placing him in removal proceedings which remain pending at this time. *See* Exhibit A at 2; *see also* Exhibit B at 2. In November 2025, Petitioner was placed back in immigration custody following a traffic stop by the Florida Highway Patrol. Exhibit B at 2. Petitioner is currently detained at Glades County Jail. Petition, ¶ 2. An immigration judge in Miami, Florida declined to grant Petitioner a bond at a hearing on February 6, 2026 for lack of jurisdiction. *See* ECF No 1-2 at 2-3.

On February 19, 2026, Espinoza Mazo filed a petition for writ of habeas corpus in the Southern District of Florida alleging his custody violates statute and regulation. *See generally* Petition. The case was transferred to this District on March 20, 2026. ECF Nos. 8, 9, 10. On March 23, 2026, this Court issued an order to show cause why Petitioner should not be released from custody. ECF No. 12. The government now timely responds.

CERTIFIED HABEAS RETURN

ICE is detaining Espinoza Mazo under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2). *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.”). Espinoza Mazo 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

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 petitioner, who are present in the United States without admission.” 29 I&N Dec. at 225.¹ This Court should rule the same.

Respondents acknowledge that questions of law in this case, and the challenges to the government’s policy and practice, substantially overlap with *Garcia v. Noem, et al.*, No. 2:25-cv-879-SPC-NPM, 2025 WL 3041895 (M.D. Fla. Oct. 31, 2025). 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-

¹ 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.). This order has been temporarily stayed pending a ruling on the government’s emergency motion for a stay pending appeal, insofar as the district court’s judgment extends beyond the Central District of California. *See Bautista et al. v. Dep’t. of Homeland Sec., et al.*, No. 26-1044 (9th Cir. 2026), Dkt. 5. The Federal Respondents submit *Yajure Hurtado* remains persuasive authority in this Court regarding the proper interpretation of 8 U.S.C. § 1225(b)(2).

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, the Fifth Circuit recently 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) 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). Though not binding on this Court, it is persuasive authority in support of the government's position and at least four other circuits—including the Eleventh—have active appeals on the matter. *Guerrero-Orellana v. Moniz, et al.*, No. 25-2152 (1st Cir.); *Da Cunha v. Moniz*, No. 25-3141 (2d Cir.); *Lopes de Andrade v. Dir. Philadelphia Field Off.*, No. 26-1454 (3rd Cir.); *Lopez Garcia v. Guadian*, 25-7044 (4th Cir.); *Pizzaro Reyes v. ERO*, No. 25-1982 (6th Cir.); *Castanon Nava v. DHS*, 25-3050 (7th Cir.); *Herrera Avila v. Bondi*, 25-3248 (8th Cir.); *Rodriguez Vazquez v. Bostock, et al.*, 25-6842 (9th Cir.); *Mendoza Gutierrez v. Baltasar, et al.*, 25-1460 (10th Cir.); *Hernandez Alvarez v. Warden*, No. 25-14065 (11th Cir.).

Respondents respectfully disagree with the Court's decision in *Garcia v. Noem*. 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 Espinoza Mazo's claims. *Garcia v. Noem, et al.*, No. 2:25-cv-00879-SPC-NPM, Doc. 14 at 4-5 (M.D. Fla. Oct. 10, 2025).²
2. Title 8 U.S.C. § 1252(b)(9) bars review of Espinoza Mazo's claims. *Id.* at 6-7.
3. Espinoza Mazo is properly detained under 8 U.S.C. § 1225. *Id.* at 9-14.

Finally, Respondents contend that should this Court determine that Petitioner'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 determining whether Petitioner 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”).

² 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.

CONCLUSION

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

DATED: March 26, 2026

Respectfully submitted,

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