

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

JULIAN FELIPE RAMIREZ SAAVEDRA,

Petitioner,

v.

Case No. 2:26-cv-839-SPC-DNF

Matthew MORDANT, Florida Soft Side South;
Garrett RIPA, Field Office Director; Markwayne
MULLIN,¹ Secretary, U.S. Department of Homeland
Security; Todd LYONS, Acting Ice Director,
Pamela BONDI, Attorney General, and
DEPARTMENT OF HOMELAND SECURITY,
IN THEIR OFFICIAL CAPACITIES,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Julian Felipe Ramirez Saavedra 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 Secretary Mullin is automatically substituted for his predecessor under Rule 25(d) of the Federal Rules of Civil Procedure

FACTS

Julian Felipe Ramirez Saavedra is a national and citizen of Columbia who last entered the United States, illegally, without inspection on or about October 10, 2021, at or near San Luis, Arizona. Composite Exhibit 1. Saavedra was arrested and placed in immigration custody on October 15, 2021. *Id.* at 8-9. Saavedra was served with a Notice to Appear (dated October 15, 2021), on or about November 16, 2021. *Id.* at 5-7. Saavedra was later released on supervision on or around January 27, 2022, on his own recognizance. *Id.* at 4.

Saavedra applied for asylum, and according to ICE, an ILJ granted a motion to consolidate his case with his family's for purposes of hearing their asylum claims, which is scheduled for a hearing on October 28, 2027. No records have been provided as to his asylum claim.

Julian Felipe Ramirez Saavedra was encountered by ICE again on January 16, 2026, and placed in ICE custody. *Id.* Saavedra is currently detained at Florida Soft Side. On March 23, 2026, Saavedra filed a *pro se* petition for writ of habeas corpus requesting his immediate release or an individualized bond hearing alleging his custody violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. ECF 1. Saavedra also alleges constitutional violations under the Fourth and Fifth amendments for his "unlawful arrest" and "unreasonable seizure." *Id.*

CERTIFIED HABEAS RETURN

ICE is detaining Julian Felipe Ramirez Saavedra under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2)(A). *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.”). Julian Felipe Ramirez Saavedra 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

I. Saavedra is subject to mandatory immigration detention under 8 U.S.C. § 1225(b)(2)(A).

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 225.² 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

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) and *Vasquez Carcamo v. Noem*, 2:25-cv-922-SPC-NPM, 2025 WL 3119263 (M.D. Fla. Nov. 7, 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. 25-62598-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).

There are 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. *See Buenrostro-Mendez v. Bondi*, No. 25-20496, 2026 WL 323330 (5th Cir. Feb. 6, 2026);

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.).

Avila v. Bondi, No. 25-3248, 2026 WL 819258 (8th Cir. Mar. 25, 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 *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 Julian Felipe Ramirez Saavedra'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).³
2. Title 8 U.S.C. § 1252(b)(9) bars review of Julian Felipe Ramirez Saavedra's claims. *Id.* at 6-7.
3. Julian Felipe Ramirez Saavedra failed to exhaust his administrative remedies. *Id.* at 7-8.
4. Julian Felipe Ramirez Saavedra is properly detained under 8 U.S.C. § 1225. *Id.* at 9-14.

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.

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”).

II. Saavedra's continued detention does not violate the U.S. Constitution

Under the Fifth Amendment's Due Process Clause, “a detainee may not be punished prior to an adjudication of guilt in accordance with due process of law.” *Bell v. Wolfish*, 441 U.S. 520, 535 (1979). For confinement to constitute “punishment,” a petitioner must show either “an expressed intent to punish on the part of detention facility officials,” or an implied intent to punish through a condition or restriction that a “is not reasonably related to a legitimate goal—if it is arbitrary or purposeless[.]” *Id.* at 538-39. “Thus, if a particular condition or restriction of pretrial detention is reasonably related to a legitimate governmental objective, it does not, without more, amount to ‘punishment.’” *Id.* at 539.

Saavedra fails to show that detention is not proportionately related to the government's non-punitive responsibilities and administrative purposes. While civil detainees retain greater liberty protections than individuals convicted of crimes, *see, e.g., Youngberg v. Romeo*, 457 U.S. 307, 321-22 (1982), continued immigration detention pending removal cannot be described as punitive or excessive in relation to the legitimate government purpose of protecting the public and ensuring their removal. *See, e.g., Demore v. Kim*, 538 U.S. 510, 523 (2003) (“[T]his Court has recognized detention during deportation proceedings as a constitutionally valid aspect of the deportation process.”). “[I]t is a fallacy to think that Respondents do not have a legitimate government purpose in ‘preventing detained aliens from absconding and ensuring that they appear for removal.’” *Matos v. Lopez Vega*, No. 20-CIV-60784-RAR, 2020 WL 2298775, at *10 (S.D. Fla. May 6, 2020).

Further, this Court lacks subject matter jurisdiction to review any decision to commence immigration proceedings. Securing an alien while awaiting a removal determination constitutes an action taken to commence proceedings. *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013); *see also Alvarez v. ICE*, 818 F.3d 1194, 1203 (11th Cir. 2016) (“Because [alien] challenges the methods that ICE used to detain him prior to his removal hearing, these claims are foreclosed by § 1252(g) and our decision in *Gupta*.”); *Johnson v. U.S. Attorney General*, 847 F. App’x 801, 802 (11th Cir. 2021). “By its plain terms, [§ 1252(g)] bars us from questioning ICE’s discretionary decisions to commence removal—and thus necessarily prevents us from

considering whether the agency should have used a different statutory procedure to initiate the removal process.” *Alvarez*, 818 F.3d at 1203. Saavedra is detained “while awaiting a removal determination.” *Gupta*, 709 F.3d at 1065. Under *Gupta*’s binding interpretation of § 1252(g), this Court has no jurisdiction. *Id.* Immigration authorities decided to commence proceedings against Saavedra related to removal. Congress specifically stripped jurisdiction to review that discretionary decision; therefore, the Court lacks subject-matter jurisdiction over any decision to commence Saavedra’s removal proceedings through his arrest. *See also Lopez Lozano v. U.S. Immigr. & Customs Enft.*, No. 2:25-CV-1066-KCD-NPM, 2026 WL 111354, at *1 (M.D. Fla. Jan. 15, 2026) (holding the court lacked jurisdiction to address a petitioner’s arguments about the government’s decision to arrest and hold him.”).

Thus, under *Gupta v. McGahey*, 709 F.3d 1062, 1065 (11th Cir. 2013), this court lacks jurisdiction to address detainee’s claims that he was unreasonably seized or “unlawfully arrested.” *See also Alvarez v. U.S. Immigr. & Customs Enft.*, 818 F.3d 1194, 1203 (11th Cir. 2016). The only cognizable claim this Court can address under the Fifth Amendment, is Saavedra’s challenge the legality of his continued detention. *See* ECF 1 at 10-11 (“Second Cause of Action”). Yet Saavedra has been in custody for about two and one half months. That is far short of the constitutional threshold in this context. *See Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199, 1217 (11th Cir. 2016) (“[T]here is little chance that a[n] . . . alien’s detention is unreasonable until at least the six-

month mark.”). Thus, before that six-month period expires, a habeas challenge to the detention itself is premature and a due process claim is not ripe. *E.g.*, *Akinwale v. Ashcroft*, 287 F.3d 1050, 1051-52 (11th Cir. 2002); *Guo Xing Song v. U.S. Attorney General*, 516 F. App’x 894, 899 (11th Cir. 2013); *Gozo v. Napolitano*, 309 F. App’x 344, 346 (11th Cir. 2009). Federal Respondents acknowledge this Court has previously disagreed that such a claim is premature. *See Chumachenko v. Noem*, 2:26-cv-00344-SPC-NPM, 2026 WL 545453 (M.D. Fla. Feb. 27, 2026). However, federal Respondents submit that because Saavedra is present in the United States without admission at the border, where he was arrested and served with notice, commencing removal proceedings, his detention is lawful because it does not yet exceed six months.

CONCLUSION

The federal Respondents respectfully request that Julian Felipe Ramirez Saavedra’s Petition for Writ of Habeas Corpus should be denied based on the arguments set forth herein.

DATED this 31st day of March, 2026.

Respectfully submitted,

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