

George N. Russo III, Esq.

The Russo Firm

48 Wilson Avenue

Newark, New Jersey 07105

P: (973) 344-9120

gnrusso@cmrlaw.net

NJ Bar No. 116102014

Admitted Pro Hac Vice

Attorney for Petitioner

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF ARIZONA

(PHOENIX DIVISION)

Francisco Imaicela-Vega,

Petitioner.

V.

Warden, Florence Service Processing Center; **John Cantu**, Director of Phoenix Field Office, U.S. Immigration and Customs Enforcement; **Todd Lyons**, Director, U.S. Immigration and Customs Enforcement; **Markwayne Mullin**, Secretary of the U.S. Department of Homeland Security; and **Todd Blanche**, Acting Attorney General of the United States, in their official capacities.

Respondents.

) Case No. CV-26-02758-PHX-SHR (MTM)

) PETITIONER'S REPLY TO
) RESPONDENT'S RESPONSE TO
) PETITION FOR WRIT OF HABEAS
) CORPUS

I. INTRODUCTION

1. Respondents argue that Petitioner is subject to mandatory detention under § 1225(b)(2), but their conclusion concedes that a bond redetermination hearing is an acceptable form of relief. Doc. 6 at 7. The remaining questions are which statutory framework applies and what relief is appropriate. Both questions favor Petitioner. Judges in this District have repeatedly rejected Respondents' mandatory detention position – most recently in *Echevarria*, which this Court itself cited in the Order to Show Cause. And Respondents offer no justification for the fourteen-day delay they request. The Court should order Petitioner's immediate release – which Respondents themselves identify as an acceptable form of relief – or, in the alternative, a bond hearing within seven days.

II. ARGUMENT

A. Respondents' Response Misidentifies the Petitioner and Should Be Given Accordingly Little Weight

2. At the outset, Respondents' response identifies Petitioner as "a native and citizen of Mexico." Doc. 6 at 1. He is not. Petitioner is a native and citizen of Ecuador. Doc. 1 at 17.

B. The Fifth and Eighth Circuits Are Not Controlling Authority in This District, and This Court Has Already Rejected Respondents' Position

3. Respondents rely primarily on *Buenrostro-Mendez v. Bondi*, 2026 WL 323330 (5th Cir. Feb. 6, 2026), and *Avila v. Bondi*, 2026 U.S. App. LEXIS 8744 (8th Cir. Mar. 25, 2026). Neither decision is binding on this Court. This case arises in the Ninth Circuit, which has not yet decided the question. *Rodriguez Vazquez v. Bostock*, No. 25-6842 (9th Cir.), remains pending.

4. More to the point, this Court has already considered and rejected Respondents' position. As this Court noted in its Order to Show Cause, "[a]nother judge in this District has determined § 1226(a) applies in this circumstance," citing *Echevarria v. Bondi*, CV-25-03252-PHX-DWL (ESW), 2025 WL 2821282 (D. Ariz. Oct. 3, 2025), and observed that "this Court has ordered habeas relief – taking the form of an order requiring the petitioner to be released from custody or provided with a prompt bond hearing – in many recent § 2241 actions brought by individual petitioners." Doc. 4 at 1-2. This Court issued the Order to Show Cause with full awareness of the circuit split Respondents now cite. The government's response raises nothing new that was not before this Court when the Order to Show Cause was issued.
5. Finally, even if Section 1225(b)(2) could be read as Respondents urge, the canon of constitutional avoidance counsels against that reading. *See Zadvydas v. Davis*, 533 U.S. 678, 689 (2001). Respondents' interpretation – placing a long-term resident with a United States citizen spouse and children in the same statutory posture as a noncitizen apprehended at the border yesterday – raises serious due process concerns that this Court should avoid by adopting Petitioner's reading.

C. Petitioner Does Not Rely on Bautista's Preclusive Effect

6. Respondents devote significant briefing to arguing that *Bautista v. Santacruz* has no preclusive effect outside the Central District of California. Petitioner does not contend otherwise. His § 1226(a) claim rests on this District's own independent and well-developed precedent, including *Echevarria*, *Millan-Osuna v. Cantu*, 2025 WL 3294945 (D. Ariz. Nov. 26, 2025), *Luna-Gonzalez v. Noem*, 2025 WL 2394961 (D. Ariz. Nov. 26, 2025), and *Rubi-Martinez v. Cantu*, No. CV-26-02266-PHX-AMM (D. Ariz. Apr.

3, 2026), among many others. *Bautista* is cited for persuasive value only. The *Bautista* preclusion argument is a red herring that does not affect the outcome of this petition.

D. Respondents' Fallback Position Identifies Two Acceptable Forms of Relief

7. Although Respondents argue Petitioner is subject to mandatory detention, their conclusion identifies two acceptable forms of relief in the alternative: a bond redetermination hearing within fourteen days, or release “under the same conditions that existed before detention.” Doc. 6 at 7. Petitioner agrees that both are appropriate forms of relief. He disputes only the timing of the bond hearing alternative and respectfully submits that release is the more appropriate remedy.

E. Seven Days – Not Fourteen – Is Warranted Given the Circumstances of Petitioner's Detention and Active Removal Proceedings

8. Respondents' request fourteen days but offer no justification. Their response contains no declaration from ICE or any other agency identifying any logistical, administrative, or scheduling impediment to a bond hearing within seven days. They identify no reason – let alone a compelling one – why an additional week of confinement is necessary or appropriate. This Court's own Order to Show Cause directed that “[a]ny response must be supported by documentary evidence including, if applicable, affidavits signed under penalty of perjury by individuals with personal knowledge of the factual statements made therein.” Doc. 4 at 2. Respondents have provided no such evidentiary support for their fourteen-day request. Where a party seeks delay-based relief without any factual support, the Court has no basis on which to grant it. In the event release is not ordered, Petitioner respectfully submits that seven days is both appropriate and necessary for the following reasons.

9. First, Petitioner has active removal proceedings before the Florence Immigration Court with imminent filing deadlines and a deadline to submit an application for relief by Monday, May 4, 2026. His ability to meaningfully participate in his own removal defense – including the filing of pending applications and preparation for upcoming hearings – is directly and materially impaired by continued detention. Critically, Immigration Judge Taylor has already stated on the record that he will conduct a bond hearing immediately upon receipt of a federal court order directed to this case. Ex. C at 2. There is no logistical or administrative impediment to a bond hearing within seven days.
10. Second, the government has already imposed substantial delay on Petitioner through its own conduct. Just days after counsel filed a bond motion in the District of New Jersey, where immigration judges routinely exercise bond jurisdiction, ICE transferred Petitioner across the country to Florence, disrupting the bond proceedings already underway and requiring Petitioner to pursue habeas relief in a new district. Having caused that delay, the government now seeks an additional week of delay without offering any reason, evidence, or explanation.

III. CONCLUSION

11. For the foregoing reasons, and for the reasons set forth in the Petition, Petitioner Francisco Imaicela-Vega respectfully requests that this Court:
 - a. Grant the Petition and order Petitioner's immediate release from custody; or, in the alternative,
 - b. Order Respondents to provide Petitioner with a bond hearing before an Immigration Judge within seven (7) days of this Court's Order, at which hearing

Petitioner shall have the opportunity to demonstrate that he is not a flight risk
and does not pose a danger to the community; and

c. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted,

/s/ George N. Russo III

George N. Russo III, Esq.

The Russo Firm

48 Wilson Avenue

Newark, New Jersey 07105

(973) 344-9120

Admitted Pro Hac Vice

Counsel for Petitioner

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