

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION**

MILTON CRUZ JUC

Petitioner,

V.

TODD BLANCHE, Acting U.S. Attorney
General, in his official capacity

Case No.: 3:26-cv-1042-MMH-PDB

KELEI B. WALKER, Orlando Field
Office Director, U.S IMMIGRATION AND
CUSTOMS ENFORCEMENT

RESPONSE TO RESPONDENT'S REPLY

MARKWAYNE MULLIN, Secretary
Secretary, **DEPARTMENT OF HOMELAND
SECURITY**,

**TODD LYONS, Acting Director, U.S
IMMIGRATION AND CUSTOMS
ENFORCEMENT**

Warden, **BAKER CORRECTIONAL
INSTITUTION**

In their official capacities, Respondents.

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

The Government's response concedes the dispositive issue: the Eleventh Circuit's decision in *Fidencio Hernandez Alvarez v. Warden, Fed. Det. Center Miami et al.*, --- F.4th ----, 2026 WL 1243395 (11th Cir. May 6, 2026), controls, and Petitioner Milton Cruz Juc "is entitled to an individualized bond hearing under 8 U.S.C. § 1226(a)." Doc. 8 at 2. That concession is dispositive. The three procedural arguments the Government preserves for

appellate review are foreclosed by binding authority, and its TRO opposition fails because habeas provides a complete remedy and because unlawful detention without a statutory bond hearing constitutes irreparable harm. Cruz Juc has been detained 58 days without any individualized bond hearing. The Petition should be granted and a bond hearing ordered within seven (7) days.

ARGUMENT

I. THE GOVERNMENT'S CONCESSION IS DISPOSITIVE.

Hernandez Alvarez held that the INA does not "authorize the detention of unadmitted aliens who are simply present in the country" under § 1225(b)(2)(A), and that "§ 1225 applies to arriving aliens seeking entry at the border, whereas § 1226 applies to aliens unlawfully in the interior." 2026 WL 1243395, at *2, *14. Cruz Juc entered without inspection and is present in the interior. He falls squarely within the class the Eleventh Circuit held must receive a § 1226(a) bond hearing. His continued detention without one violates federal law, and the Government does not argue otherwise.

II. GOVERNMENT'S THREE PRESERVED ARGUMENTS ARE FORECLOSED.

A. Section 1252(g) Does Not Bar Jurisdiction.

Section 1252(g) applies only to challenges to the Attorney General's decision to "commence proceedings, adjudicate cases, or execute removal orders." *Reno v. Am.-Arab Anti-Discrimination Comm.*, 525 U.S. 471, 482 (1999). Cruz Juc challenges none of those three actions — he challenges only the statutory basis for his detention without a bond

hearing, a collateral question cognizable under § 2241. *Madu v. U.S. Att'y Gen.*, 470 F.3d 1362, 1367 (11th Cir. 2006). Section 1252(g) presents no bar.

B. Section 1252(b)(9)'s Zipper Clause Does Not Apply.

The Eleventh Circuit has held that § 1252(b)(9) does not bar habeas challenges to detention independent of a removal order. *Madu*, 470 F.3d at 1365. Cruz Juc does not challenge his removal order or any removal proceeding — he challenges only the Government's authority to hold him without a bond hearing. That claim does not "arise from" removal proceedings, and § 2241 jurisdiction is intact.

C. Cruz Juc Is Not Properly Detained Under § 1225(b)(2).

This is the merits argument *Hernandez Alvarez* directly rejected. The Government offers no statutory analysis; it relies solely on *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025) — a BIA decision that cannot supersede binding circuit authority. *See* 8 C.F.R. § 1003.1(g). *Hernandez Alvarez* is controlling precedent in this Circuit, and it forecloses the Government's § 1225(b)(2) detention theory.

III. THE GOVERNMENT'S TRO ARGUMENTS DO NOT PRECLUDE HABEAS RELIEF.

A. The Court Need Not Apply the Preliminary Injunction Standard.

Where a habeas claim succeeds on the merits — as the Government concedes this one does — the Court orders the appropriate remedy directly under 28 U.S.C. § 2241 without applying the preliminary injunction factors. Habeas corpus is a complete, independent remedy. *See Boumediene v. Bush*, 553 U.S. 723, 779 (2008). No TRO conversion is required.

B. Unlawful Detention Without a Bond Hearing Is Irreparable Harm.

Even under the injunction standard, Cruz Juc satisfies it. The harm is not detention generically — it is detention without any individualized determination of flight risk or dangerousness, in violation of a statutory right. That deprivation cannot be retroactively cured by a later hearing; each day without one is a day the right is extinguished. Courts in this District have so held. *Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *5–6 (M.D. Fla. Oct. 31, 2025); *Hernandez-Lopez v. Hardin*, No. 2:25-CV-830-KCD-NPM, 2025 WL 3022245, at *3 (M.D. Fla. Oct. 29, 2025). The Government cites no authority holding otherwise.

C. The Balance of Equities and Public Interest Favor Relief.

The public interest is served by compliance with federal law, not by detention the Eleventh Circuit has declared unlawful. *See Hernandez Alvarez*, 2026 WL 1243395, at *14. The Government suffers no cognizable harm from complying with a statute it is already bound to follow. Cruz Juc suffers unlawful confinement for each additional day. the equities are not close.

CONCLUSION

The Government has conceded that *Hernandez Alvarez* controls and that Cruz Juc is entitled to a § 1226(a) bond hearing. Its preserved procedural arguments are foreclosed by binding authority. Its TRO arguments fail because habeas provides a complete remedy and because unlawful detention without a statutory hearing constitutes irreparable harm. Petitioner respectfully requests that the Court:

1. Grant the Petition and order Respondents to either (a) release Petitioner from immigration custody forthwith, or (b) provide Petitioner with an individualized bond hearing under 8 U.S.C. § 1226(a) within seven (7) calendar days, at which the Government bears the burden of proof by clear and convincing evidence;
2. Declare that Petitioner's continued detention under § 1225(b)(2)(A) is unlawful under *Hernandez Alvarez*, 2026 WL 1243395 (11th Cir. May 6, 2026);
3. Enjoin Respondents from detaining Petitioner under § 1225(b)(2)(A) absent an individualized § 1226(a) bond hearing; and
4. Grant such other and further relief as the Court deems just and proper.

Respectfully submitted,

Dated: May 12, 2026



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CERTIFICATE OF SERVICE

I hereby certify that on May 12, 2026, I filed the foregoing Reply via CM/ECF, which will serve all counsel of record, including

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Dated: May 12, 2026



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