

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

CELSO CABRERA ORTIZ,

Petitioner,

v.

Case No.: 3:26-cv-1048-MMH-SJH

TODD LYONS, et al.,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241 challenging his designation as an applicant for admission subject to mandatory detention under 8 U.S.C. § 1225(b)(2). Petitioner contends that he surreptitiously entered the United States without inspection in 2006, so his detention is properly grounded in 8 U.S.C. § 1226, which—unlike § 1225—generally authorizes immigration judges to release aliens on bond. Petitioner claims that Federal Respondents’ incorrect reading of the Immigration and Nationality Act (“INA”) has deprived him of the opportunity for release on bond—thus resulting in his unlawful detention.

Federal Respondents have reviewed this Petition and have determined that the United States Court of Appeals for the Eleventh Circuit’s recent decision controls. *Hernandez Alvarez v. Warden, Federal Det. Ctr. Miami*, --- F.4th ---, No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026). There, the Eleventh Circuit held that mandatory detention under § 1225(b)(2)(A) “generally applies to arriving aliens seeking lawful

entry to the country, and not to aliens who are simply present here.” *Id.* at *1. Thus, pursuant to *Hernandez Alvarez*, Petitioner is detained under 8 U.S.C. § 1226(a) and he may seek a bond hearing in immigration court. As the Court may resolve the Petition on the statutory question, it need not proceed to evaluate any other claims raised in the Petition.

Federal Respondents are evaluating whether to seek further appellate review of *Hernandez Alvarez*. While reserving all rights, including the right to appeal on the issue of the proper detention authority for aliens like Petitioner who are present in the United States unlawfully, Federal Respondents acknowledge *Hernandez Alvarez* is binding on this Court and controls the outcome of this matter. In the event the Court orders a bond hearing to be conducted by an immigration judge under 8 U.S.C.

§ 1226(a), Federal Respondents request a reasonable period of 10 working days to arrange an individualized bond hearing.

Dated: June 1, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on June 1, 2026, I electronically filed the foregoing document with the Clerk of the Court by using the CM/ECF system, which will send notice of filing and a downloadable copy of the filed document to the following CM/ECF participant listed below:

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