

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

KEILYN DESIRE PENA FLORES,

Petitioner,

v.

Case No. 3:26-cv-1091-WWB-MCR

SECRETARY MARKWAYNE MULLIN et al.,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

Petitioner Keilyn Desire Pena Flores challenges her detention by United States Immigration and Customs Enforcement (ICE), arguing she is entitled to an individualized bond hearing or immediate release. *See generally* Pet., ECF No. 1. The United States Court of Appeals for the Eleventh Circuit's recent decision controls here. *See generally Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, ___ F.4th ___, No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026). Accordingly, Petitioner is entitled to an individualized bond hearing.

BACKGROUND

Petitioner is a native and citizen of Venezuela who last entered the United States without inspection on or about August 15, 2022. Composite Ex. at 1 (2024 NTA) and 4 (2026 I-213). On August 17, 2022, ICE issued—and on August 18, 2022, Petitioner was served with—a Notice to Appear (NTA), notifying her that she was “an alien present in the United States who has not been admitted or paroled” and placing her in removal proceedings pursuant to section 212(a)(6)(A)(i) of the Immigration and Nationality Act (INA). Pet. at Ex. 2; *see also* 8 U.S.C. § 1182(a)(6)(A)(i) (“An alien present in the United

States without being admitted or paroled, or who arrives in the United States at any time or place other than as designated by the Attorney General, is inadmissible.”). On August 18, 2022, ICE released Petitioner on an order of release on recognizance. Pet. at Ex. 1.

On September 9, 2024, Petitioner was served with another NTA, again notifying her that she was “an alien present in the United States who has not been admitted or paroled” and placing her in removal proceedings pursuant to section 212(a)(6)(A)(i) of the INA. Composite Ex. at 1-3. The NTA specifically noted that it superseded the NTA issued on August 17, 2022. *Id.* at 1. On April 19, 2026, Tampa Border Patrol Agents conducted a vehicle stop and questioned both the driver and three passengers as to their names, dates of birth, and citizenship. *Id.* at 6. The individuals in the vehicle, including Petitioner, stated they did not possess any documents and were illegally present in the United States. *Id.* Accordingly, they were arrested. *Id.* Petitioner was placed in immigration custody that same day. *Id.* at 7 (Detention History).

On May 1, 2026, Petitioner filed a petition for writ of habeas corpus. *See generally* Pet. She is currently detained at Flagler County Jail. Composite Ex. at 7.

CERTIFIED HABEAS RETURN

ICE is detaining Keilyn Desire Pena Flores under 8 U.S.C. § 1226(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.”); *see also generally Hernandez Alvarez*, 2026 WL 1243395. Petitioner “has the burden of establishing his right to federal habeas relief and of proving all facts necessary to show a constitutional violation.” *Romine v. Head*, 253 F.3d 1349, 1357 (11th Cir. 2001).

ARGUMENT

On May 6, 2026, the Eleventh Circuit held that the Immigration and Nationality Act does not “authorize the [mandatory] detention of unadmitted aliens who are simply present in the country.” *Hernandez Alvarez*, 2026 WL 1243395, at *2. Specifically, the Court held that “[t]he text of [8 U.S.C.] § 1225(b)(2)(A) is clear that mandatory detention applies only to a narrower category of applicants for admission: those seeking lawful entry into the United States . . . [not] to other present aliens not seeking admission.” *Id.* at *13. In short, “§ 1225 applies to arriving aliens seeking entry at the border, whereas § 1226 applies to aliens unlawfully in the interior.” *Id.* at *14. Petitioner falls into the latter category, so she is entitled to an individualized bond hearing under 8 U.S.C. § 1226. See Composite Ex. at 1 (Petitioner is “an alien present in the United States who has not been admitted or paroled.”) and 4 (Petitioner entered the United States without inspection). As the Court may resolve the petition on the statutory question, it need not proceed to evaluate any other claims raised in the petition.

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 seven days to arrange an individualized bond hearing.

Dated: May 14, 2026

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

/s/ Alexandra N. Karahalios
ALEXANDRA N. KARAHALIOS
Assistant United States Attorney

Florida Bar No. 1055229
400 N. Tampa Street, Suite 3200
Tampa, Florida 33602
Telephone: 813-274-6000
Alexandra.Karahalios@usdoj.gov
Lead Counsel for Federal Respondents

A.I. CERTIFICATION

I HEREBY CERTIFY that no generative AI was used in the drafting and preparation of this filing.

CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on May 14, 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:

Phillip Arroyo
Phillip Arroyo, Esq.
390 N. Orange Ave., Suite 625
Orlando, FL 32801
Tel.: +1 (407) 770-9000
Email: phillip@chillcallphil.com
Attorney for Petitioner

/s/ Alexandra N. Karahalios
ALEXANDRA N. KARAHALIOS
Assistant United States Attorney