

IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

LUIS HERNANDEZ-ROMERO,

Petitioner,

Case No. 3:26-cv-1150-JEP-MCR

v.

WARDEN, NORTH FLORIDA
DETENTION FACILITY, et al.,

Respondents.

**FEDERAL RESPONDENT'S RESPONSE
TO PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Luis Hernandez-Romero filed a petition for writ of habeas corpus challenging his mandatory detention under 8 U.S.C. § 1225. (Doc. 1). Petitioner appears to allege that his detention is properly grounded in 8 U.S.C. § 1226, which—unlike § 1225—generally authorizes immigration judges to release aliens on bond. (*See* Doc. 1 at 3 (requesting “a prompt bond hearing”)). Federal Respondents acknowledge that Petitioner is entitled to an individualized bond hearing under 8 U.S.C. § 1226. However, to the extent that Petitioner requests immediate release, his Petition should be denied.

BACKGROUND

Petitioner is a national and citizen of Mexico. (Exhibit 1, I-213, at 2). He last entered the United States without inspection at an unknown place at an unknown

time. (*Id.*). He was encountered by immigration officials on April 16, 2026, at the Hillsborough County Probation and Parole Office. (*Id.*). Once it was determined he was illegally present in the United States, he was served with a Notice to Appear and a warrant for his arrest. (Exhibit 2, Notice to Appear, at 1–4; Exhibit 3, I-200 warrant, at 1). He was then taken into immigration custody. (Exhibit 4, Detention History). To date, he has been detained for 42 days. (*See id.*).

DISCUSSION

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. Mia.*, --- 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 now can request a bond hearing in immigration court directly. 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 seven days to arrange an individualized bond hearing.¹

Dated: May 27, 2026

Respectfully Submitted,

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TABLE OF EXHIBITS

Ex. No.	Date	Title and Description
1	4/16/2026	I-213: Report of Deportable/Inadmissible Alien
2	4/16/2026	Notice to Appear charging Petitioner as removable
3	4/16/2026	I-200 Warrant for Arrest of Alien
4	5/27/2026	Detention History

¹ Of note, Federal Respondents would oppose any bond hearing that places the burden of proof on the Department of Homeland Security. Section 1226 provides a bond hearing where the alien must provide evidence to the immigration judge to support why they should be released on bond. *See Matter of Guerra*, 24 I&N Dec. 37, 40 (BIA 2006) (“The burden is on the *alien* to show to the satisfaction of the Immigration Judge that he or she merits release on bond. In general, an Immigration Judge must consider whether an alien who seeks a change in custody status is a threat to national security, a danger to the community at large, likely to abscond, or otherwise a poor bail risk.” (emphasis added)).