

**UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION
CASE NO. 3:26-cv-1157-MMH-MCR**

JAQUELINE ALMIDON ALLENDE,

Petitioner,

v.

DANIEL ENGERT, in his official capacity as Division Chief, Court and Detention Services Division, Sheriff Perry Hall Inmate Detention Facility;

KELIE WALKER, in her official capacity as Field Office Director of U.S. Immigration and Customs Enforcement Miami Field Office;

Respondents.

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

INTRODUCTION

1. Respondents concede that Petitioner is detained under 8 U.S.C. § 1226(a), not 8 U.S.C. § 1225(b), and is entitled to an individualized bond hearing. Doc. 5 at 2–4. But that concession does not resolve the Petition because Respondents have not established lawful authority for the arrest and detention they ask this Court to preserve.

2. Petitioner specifically requested any Form I-200 Warrant for Arrest of Alien or other document establishing the asserted basis for her arrest and detention. Doc. 1 at 8, 10–11. Respondents’ return states that U.S. Immigration and Customs Enforcement (“ICE”) took Petitioner into custody on April 24, 2026, but did not issue the Notice to Appear (“NTA”) until April 27, 2026. Doc. 5 at 1. Their exhibits show the NTA was dated and served on April 27, 2026. Doc. 5-3 at 1, 3. Respondents produced no Form I-200 Warrant for Arrest of Alien and did not establish that any valid warrant authorized the April 24 arrest.

3. Immediate release is therefore warranted. In the alternative, the Court should grant the Petition on the conceded § 1226(a) issue and order an individualized bond hearing without delay.

I. Respondents Have Not Established Lawful Authority for Petitioner’s Arrest and Detention.

4. Respondents’ return does not justify Petitioner’s present custody because Respondents have not established lawful authority for ICE’s arrest of Petitioner on April 24, 2026.

5. Section 1226(a) authorizes the arrest and detention of a noncitizen “on a warrant issued by the Attorney General” pending a decision on whether the noncitizen is to be removed. 8 U.S.C. § 1226(a).

6. The Government now concedes that § 1226(a) governs Petitioner’s

custody. Doc. 5 at 2–4. But Respondents did not produce a Form I-200 warrant, did not identify the date or time any warrant was issued, did not establish that any valid warrant existed at the time of, or after, the issuance of the NTA, and did not establish that any warrant issued at all.

7. Respondents have therefore failed to produce any documentation establishing a lawful basis for Petitioner’s arrest.

A. Petitioner Specifically Put the Arrest Authority at Issue

8. The Petition requested production of “any Form I-200 warrant, custody determination, Notice to Appear served before Petitioner’s detention, proof of service, and other custody or charging documents necessary to establish the asserted statutory basis for Petitioner’s arrest and detention.” Doc. 1 at 8. The prayer for relief again requested “all documents necessary for resolution of the Petition, including any Form I-200 warrant, Notice to Appear, custody determination, proof of service, charging document filed with the Immigration Court, and records reflecting the date and time of Petitioner’s arrest, detention, and commencement of removal proceedings.” Doc. 1 at 10–11.

9. Respondents were then ordered to respond and show cause why the Petition should not be granted. Doc. 4 at 1. Yet Respondents’ return does not include the warrant that would be necessary to establish the lawful basis for the April 24 arrest under the statute Respondents now invoke.

B. Respondents' Own Exhibits Show ICE Detained Petitioner Before Issuing and Serving the NTA

10. Respondents' own chronology confirms the defect. Respondents state that ICE took Petitioner into ICE custody on April 24, 2026, and issued the Notice to Appear on April 27, 2026. Doc. 5 at 1. The NTA is dated April 27, 2026, and the certificate of service states that it was served in person on April 27, 2026. Doc. 5-3 at 1, 3. Thus, Respondents' own exhibits show that ICE took Petitioner into custody before issuing and serving the NTA.

C. Respondents' Own Exhibit References the Warrant They Failed to Produce

11. The Form I-213 reinforces the defect in Respondents' return. It includes a disposition notation referencing "Warrant of Arrest/Notice to Appear." Doc. 5-1 at 1.

12. That notation suggests that warrant-related paperwork should have existed. However, Respondents did not allege in their return that a warrant issued. Respondents did not identify when any warrant issued. Respondents did not produce any Form I-200 Warrant for Arrest of Alien. Respondents did not even attempt to establish that a warrant issued prior to ICE taking Petitioner into custody on April 24, or indeed that a warrant issued at all.

13. Even if the disposition notation implies that a warrant issued, the return remains incomplete. Respondents produced the Notice to Appear dated April 27,

2026, but no warrant supporting ICE's April 24 arrest, despite Petitioner's specific request for any warrant or other document establishing the asserted statutory basis for her arrest and detention.

14. Nor does the remainder of the I-213 establish lawful custody authority. The I-213 states that Petitioner was "currently not in proceedings with the Immigration Court" and that she "will remain in ICE custody pending placement into removal proceedings." Doc. 5-1 at 2. That language confirms that ICE chose to hold Petitioner before removal proceedings had been initiated, while failing to produce a valid arrest warrant required to justify her arrest and detention under § 1226(a). Respondents cannot cure that defect by later issuing and serving an NTA on April 27.

II. Immediate Release Is the Proper Remedy

15. Immediate release is warranted because Respondents have failed to show lawful procedural authority for the custody they ask this Court to preserve. The issue is not merely whether Petitioner is now bond eligible under § 1226(a). The threshold issue is *whether Respondents established a lawful basis for the arrest and detention at all*. They did not. Having failed to produce the warrant or otherwise establish that lawful arrest authority existed before detention, Respondents have not shown cause why the writ should not be granted.

16. Section 1226(a) authorizes arrest and detention "[o]n a warrant issued

by the Attorney General.” 8 U.S.C. § 1226(a). The regulation governing § 1226(a) custody provides that, “[a]t the time of issuance of the notice to appear, or at any time thereafter and up to the time removal proceedings are completed, the respondent may be arrested and taken into custody under the authority of Form I–200, Warrant of Arrest.” 8 C.F.R. § 1236.1(b).

17. Section 1226(a) does not authorize a warrantless arrest. *Perez Pacheco v. Warden of Fla. Soft Side S. Det. Facility*, No. 2:26-cv-01227-SPC-NPM, slip op. at 3–4 (M.D. Fla. May 1, 2026). In *Perez Pacheco*, the court held that the petitioner’s arrest and subsequent detention were not lawfully authorized where respondents did not provide evidence that a warrant had been issued:

DHS did not even bother to issue a warrant here. The government arrested Perez Pacheco with no warrant, after his first removal proceeding was dismissed, and before a new removal proceeding was commenced. Perez Pacheco’s arrest and detention were unlawful. *See Gopie*, 2025 WL 3167130, at *3 (“ICE does not have free-ranging ability to arrest and detain people, and figure out the reasons later, like they apparently did here.”)¹

Id. at 4.

18. Here, just as in *Perez Pacheco*, Respondents do not allege in their return that a warrant issued and did not produce a warrant. In this case, that failure is especially significant because Petitioner specifically requested any warrant or other document establishing the asserted statutory basis for her arrest and detention.

¹ *Gopie v. Lyons*, No. 25-cv-5229-SJB, 2025 WL 3167130 (E.D.N.Y. Nov. 13, 2025).

19. Even if Respondents had issued a warrant, “[t]he timing of the warrant and the arrest is important.” *Herrera Rivas v. Warden of Fla. Soft Side S. Det. Facility*, No. 2:26-cv-01204-SPC-NPM, slip op. at 2–3 (M.D. Fla. May 1, 2026). That is, I-200 warrants issued without a contemporaneous or previously issued NTA are invalid. *Herrera Rivas*, slip op. at 3. An arrest warrant “must be issued at the time the notice to appear is issued or at any time thereafter” and “cannot precede the notice to appear.” *Landaverde Ardon v. Mina*, No. 6:26-cv-00313-JSS-LHP, slip op. at 6 (M.D. Fla. Feb. 26, 2026). *See also* *Perez Pacheco*, slip op. at 3–4; *Hinestroza Arango v. Genalo*, No. 25-CV-6720 (RER), slip op. at 2–4 (E.D.N.Y. Dec. 16, 2025); *Gopie v. Lyons*, No. 25-CV-5229 (SJB), slip op. at 1–3 (E.D.N.Y. Nov. 13, 2025); *Castanon Nava v. Dep’t of Homeland Sec.*, 806 F. Supp. 3d 823, 848–53 (N.D. Ill. 2025).

20. Here, Respondents have failed to establish lawful § 1226(a) arrest authority. Respondents have not produced a warrant at all. Their return states that ICE took Petitioner into custody on April 24, 2026, but did not issue the NTA until April 27, 2026. Doc. 5 at 1. Respondents produced the NTA, but not the Form I-200 Warrant for Arrest of Alien, despite Petitioner’s specific request for any warrant or other document establishing the asserted statutory basis for her arrest and detention. On this record, Respondents have shown neither that a warrant issued nor that any warrant issued at the time of, or after, the NTA.

21. Respondents therefore have failed to show that Petitioner was arrested under a valid Form I-200 warrant issued at the time of, or after, the Notice to Appear, or indeed that any warrant issued at all.

22. The remedy for arrest and detention unsupported by lawful § 1226(a) warrant authority is immediate release. *See Herrera Rivas*, slip op. at 4–5 (granting habeas relief and ordering release within 24 hours where DHS issued and served the I-200 warrant after arresting petitioner and before issuing and serving the NTA); *Perez Pacheco*, slip op. at 4 (granting habeas relief and ordering release within 24 hours where DHS arrested petitioner with no warrant and before commencing a new removal proceeding); *Landaverde Ardon*, slip op. at 6–7 (holding that respondents “lacked statutory authority to arrest Petitioner” and ordering immediate release where arrest preceded issuance of the NTA).

23. A later bond hearing cannot supply the missing arrest authority. Bond review addresses whether detention should continue after lawful custody authority exists. It does not retroactively authorize an arrest unsupported by a valid warrant under § 1226(a) and 8 C.F.R. § 1236.1(b). *See, e.g., Herrera Rivas*, slip op. at 4–5; *Perez Pacheco*, slip op. at 4; *Landaverde Ardon*, slip op. at 6–7.

24. Because Respondents failed to establish lawful procedural authority for the April 24 arrest and detention, the proper remedy is immediate release.

III. In the Alternative, As Respondents Concede, Petitioner Is Detained Under

§ 1226(a) and Is Entitled to an Individualized Bond Hearing.

25. If the Court does not order immediate release, the Court should grant the Petition on the statutory-custody issue. Respondents concede that *Hernandez Alvarez* is binding, that Petitioner is detained under § 1226(a), not § 1225(b)(2), and that Petitioner is entitled to an individualized bond hearing. Doc. 5 at 2–4; *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, No. 25-14065, slip op. at 4–5, 36–37, 42–43 (11th Cir. May 6, 2026). If detention continues, Petitioner must receive the custody process available under § 1226(a).

26. Respondents request seven days to arrange a bond hearing. Doc. 5 at 4. If the Court declines to order immediate release and orders a bond hearing instead, Petitioner does not oppose a seven-day period.

CONCLUSION

27. The Petition should be granted. Respondents have not carried their burden to show lawful procedural authority for Petitioner’s April 24 arrest and detention because they failed to produce a Form I-200 Warrant for Arrest of Alien or otherwise establish that Petitioner was arrested under a valid warrant issued at the time of, or after, the Notice to Appear—or indeed that any warrant issued at all. Therefore, Petitioner should be released immediately.

28. In the alternative, the Court should declare that Petitioner is detained, if at all, under 8 U.S.C. § 1226(a), order an individualized bond hearing, require the

Government to bear the burden of justifying continued detention by clear and convincing evidence, and order release if Respondents fail to provide that hearing within the time ordered.

Respectfully submitted,

Dated: May 18, 2026

/s/ Samantha Topper Berns

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CERTIFICATE OF SERVICE

I HEREBY CERTIFY that on this date, I filed the foregoing with the Clerk of Court using CM/ECF, which will send a notice of electronic filing to all counsel of record.

Respectfully submitted,

Dated: May 18, 2026

/s/ Samantha Topper Berns

Samantha Topper Berns, Esq.

Counsel for the Petitioner