

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

GEISON MEJIA VAMAC,

Petitioner,

v.

Case No.: 3:26-cv-1158-MMH-PDB

MARKWAYNE MULLIN, in their official
capacity as Secretary of the United States
Department of Homeland Security;
WARDEN OF FLORIDA BAKER
CORRECTIONAL INSTITUTE; TODD
BLANCHE, in their official capacity as
Attorney General of the United States;
GARRET RIPA, in their official capacity as
Director of Miami Field Office, U.S.
Immigration and Customs Enforcement; and
TODD LYONS, in their official capacity as
Acting Director of Immigration and Customs
Enforcement,

Respondents.

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

Petitioner Geison Mejia Vamac challenges his detention by the United States Immigration and Customs Enforcement ("ICE"), arguing he is entitled to a bond hearing under 8 U.S.C. § 1226(a). (Doc. 1.) To the extent Petitioner seeks an individualized bond hearing, Federal Respondents recognize that, under recent Eleventh Circuit precedent, Petitioner is entitled to such a hearing.

BACKGROUND

Petitioner is a nineteen-year-old Guatemalan citizen who arrived in the United States at an unknown time and place without inspection. (Ex. A, Petitioner's Form I-213.) His Form I-213, however, also states that he entered the United States on February 24, 2021, at Hidalgo Texas. (*Id.* at 2; *but see also* Ex. B, Notice to Appear, p. 1 (stating that Petitioner entered the United States at or near Hidalgo, Texas, on an unknown date).) On April 21, 2026, he was encountered at the Sarasota County Jail by ICE Enforcement Removal Operations (ERO) after an arrest for driving without a driver's license the prior day. (Ex. A, p. 2; *see also* Ex. C, Petitioner's Arrest Documents, p. 1.) Petitioner was served with arrest documents that same day and detained by ICE on April 23, 2026. (Ex. C, pp. 2, 5–6; Ex. D, Detention History.) On April 28, 2026, he was served with Notice to Appear and placed into removal proceedings. (Ex. B, p. 1.) The Notice to Appear charged Petitioner with violating Sections 212(a)(6)(A)(i)¹ and 212(a)(7)(A)(i)(I)² of the Immigration and Nationality Act (INA). (*Id.* at 4.) He is currently detained at Baker Correctional Institute. (Ex. D.) Petitioner's next hearing in Immigration Court is scheduled for June 3, 2026. (Ex. E,

¹ INA § 212(a)(6)(A)(i) is codified at 8 U.S.C. § 1182(a)(6)(A)(i) and provides that 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.

² INA Section 212(a)(7)(A)(i)(I) is codified at 8 U.S.C. § 1182(a)(7)(A)(i)(I) and provides that any immigrant who, at the time of application for admission, is not in possession of a valid unexpired immigrant visa, reentry permit, border crossing identification card, or other required valid entry document, and a valid unexpired passport, or other suitable travel document, or document of identity and nationality if required, is inadmissible.

Notice of Internet Based Hearing, p. 1.) As of today, May 14, 2026, Petitioner has been in ICE custody for twenty-one days. (Ex. D.)

CERTIFIED HABEAS RETURN

Pursuant to 28 U.S.C. § 2243, “[t]he person to whom the writ or order is directed shall make a return certifying the true cause of the detention.” Petitioner bears the burden to prove his custody violates federal law. *Whitfield v. U.S. Sec’y of State*, 853 F. App’x 327, 329 (11th Cir. 2021). While Federal Respondents acknowledge that the Eleventh Circuit’s precedential ruling in *Hernandez Alvarez* controls the outcome here and renders that Petitioner is detained under 8 U.S.C. § 1226(a), for preservation purposes, Federal Respondents maintain that Petitioner was properly detained under 8 U.S.C. § 1225.

ARGUMENT

I. Petitioner is Entitled to a Bond Hearing pursuant to *Hernandez Alvarez*

On May 6, 2026, the Eleventh Circuit issued a decision in *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, Case No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026), which controls in this case. The Eleventh Circuit’s decision concludes that the INA does not “authorize the detention of unadmitted aliens who are simply present in the country.” *Hernandez Alvarez*, 2026 WL 1243395, at *2. In doing so, the Eleventh Circuit concluded 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” and does not apply

to “present aliens not seeking admission.” *Id.* at *13. Notably, the *Hernandez Alvarez* court agreed with the petitioners’ interpretation that 8 U.S.C § 1225(b)(2)(A) applies to a “distinct group of aliens—those who have not yet entered the United States[] but are seeking admission at the border.” *Id.* at *18 (also stating that “[t]he distinction between an alien who has effected an entry into the United States and one who has never entered runs throughout immigration law”). In short, the Eleventh Circuit drew the following distinction: “§ 1225 applies to arriving aliens seeking entry at the border, whereas § 1226 applies to aliens unlawfully in the interior.” *Id.* at *14.

Based on the decision in *Hernandez Alvarez*, Petitioner will be entitled to an individualized bond hearing under 8 U.S.C. § 1226(a). The Eleventh Circuit’s decision will necessarily apply with equal force to Immigration Courts located within the Eleventh Circuit’s territory of Florida, Georgia, and Alabama. *See Matter of Garcia*, 28 I. & N. Dec. 693, 698 (BIA 2023) (“We are bound to follow the law of the circuit court of appeals with jurisdiction over the region where an Immigration Court is located.”) Where immigration proceedings implicate multiple circuits, “[t]he circuit law that applies in Immigration Court proceedings is the law governing the geographic location of the Immigration Court where jurisdiction vests and proceedings commence.” *Id.* at 707. “This circuit law controls regardless of where the parties and the Immigration Judge are physically located and may only change where an Immigration Judge grants a motion to change venue.” *Id.* As such, going forward, there should be no impediment to requiring petitioners in these cases to exhaust their administrative remedies by seeking bond hearings with the Immigration Courts. *See*

Bohorquez-Valencia v. Ripa, Case No. 3:25-cv-1383-MMH-LLL, 2026 WL 662980, at *2 (M.D. Fla. Mar. 9, 2026) (citing *Santiago-Lugo v. Warden*, 785 F.3d 467, 475 (11th Cir. 2015)) (“A petitioner must exhaust all available administrative remedies before filing a [28 U.S.C.] § 2241 petition in federal court.”).

Accordingly, based on the Eleventh Circuit’s decision in *Hernandez Alvarez*, Petitioner is entitled to an individualized bond hearing under 8 U.S.C. § 1226(a). Nevertheless, 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 noncitizens 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.

II. Petitioner is Not Entitled to Immediate Release

Finally, Petitioner is not entitled to immediate release. Section 1226(a)(1) of the INA “grants the executive branch discretion to determine whether to detain or release a noncitizen who is facing removal proceedings.” *Lopez Bartolo v. Mullin*, Case No. 2:26-cv-1247-KCD-NPM, 2026 WL 1309028, at *1 (M.D. Fla. May 13, 2026). “Petitioner is an alien without lawful status.” *Id.* “So he is entitled to a bond hearing under 1226(a), not immediate release.” *Id.* To be sure, Petitioner is in removal

proceedings, and the Supreme Court has recognized that “detention during such proceedings is a constitutionally permissible part of that process.” *Demore v. Kim*, 538 U.S. 510, 531 (2003).) Consequently, the Petition should be denied to the extent Petitioner seeks immediate release.

Dated: May 14, 2026

Respectfully submitted,

GREGORY W. KEHOE
United States Attorney

By: /s/ Somadina I. Sullins
SOMADINA I. SULLINS
Assistant United States Attorney
Florida Bar No. 0120126
400 N. Tampa Street, Suite 3200
Tampa, FL 33602
Telephone: (813)-274-6000
Fax: (813)-274-6200
Email: Soma.Nwokolo@usdoj.gov
Counsel for the Federal Respondents