

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

JESUS ELIGIO ACEVEDO,

Petitioner,

Case No. 3:26-cv-1159-JEP-LLL

v.

ACTING DIRECTOR TODD
M. LYONS, et al.,

Respondents.

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

Petitioner Jesus Eligio Acevedo 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. The undersigned recognizes that Petitioner should receive an individualized bond hearing based on binding Eleventh Circuit precedent.

BACKGROUND

Petitioner is a national and citizen of Mexico who first entered the United States without inspection in 2009. Doc. 1 at ¶ 17. In 2012, he was granted and accepted voluntary departure and departed the United States. *Id.* at ¶ 17. Petitioner returned to the United States without inspection in mid-2014. *Id.* at ¶ 18. He was placed in immigration custody on March 17, 2026. *Id.* at ¶ 25. He was served with a Notice to Appear on or about March 17, 2026. Doc. 1-2 at 2. Petitioner is currently

detained at the Florida Baker Correctional Institute (Doc. 1 at ¶ 25) and has a master calendar hearing scheduled for June 10, 2026, at 2:30 p.m. *Id.* at ¶ 26.

On May 5, 2026, Petitioner filed a petition for writ of habeas corpus alleging his custody violates the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. Doc. 1.

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). Based on the Eleventh Circuit’s precedential ruling in *Hernandez Alvaraez*, the undersigned concludes that Petitioner is detained under 8 U.S.C. § 1226(a). *See generally Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, Case No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026).

ARGUMENT

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 the issue in this case. The Eleventh Circuit’s decision concludes that the Immigration and Nationality Act (“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. The Eleventh Circuit also 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.

Here, Petitioner’s Notice to Appear identifies him as an alien present in the United States who has not been admitted or paroled. Doc. 1 at 15. Accordingly, based on the distinction drawn by the Eleventh Circuit in *Hernandez Alvarez*, Petitioner is entitled to an individualized bond hearing under 8 U.S.C. § 1226(a).

Based on the Eleventh Circuit’s decision in *Hernandez Alvarez*, the undersigned recognizes that Petitioner is entitled to an individualized bond hearing under 8 U.S.C. § 1226(a). 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 that *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.

Respectfully Submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on May 15, 2026, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system that will send a notice of electronic filing to counsel of record.

s/James A. Muench
JAMES A. MUENCH
Assistant United States Attorney