

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
JACKSONVILLE DIVISION

JANDY ROMERO ROJAS,

Petitioner,

Case No. 3:26-cv-1170-MMH-PDB

v.

ACTING DIRECTOR-ICE
TODD LYONS, et al.,

Respondents.

**RESPONDENTS' OPPOSITION TO
PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Jandy Romero Rojas challenges his detention by U.S. Immigration and Customs Enforcement, arguing he is entitled to immediate release. Federal Respondents contend that Romero Rojas is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) as an arriving alien whose parole previously expired. Federal Respondents acknowledge, however, this Court previously rejected a similar argument in *Rodriguez Valencia v. Noem*, No. 3:26-CV-297-MMH-PDB, 2026 WL 730318, at *5 (M.D. Fla. Mar. 16, 2026).

BACKGROUND

Romero Rojas is a native and citizen of Cuba who was paroled into the United States from January 27, 2024, through June 12, 2025. (Form I-94, Ex. B.)

Although Romero Rojas has applied to adjust his status, that application has not been granted. (Form I-213, Ex. A at 2.) His pending application does not grant any immigration status or benefit. *See* Receipt, Doc. 1-4 (stating “THIS NOTICE DOES NOT GRANT ANY IMMIGRATION STATUS OF BENEFIT”).

Romero Rojas was placed in immigration custody on March 19, 2026. (Form I-213, Ex. A at 1.) He was issued a Notice to Appear the same day. (Notice to Appear, Ex. C.) On April 2, 2026, an Immigration Judge denied Romero Rojas’s request for a custody redetermination reasoning that Immigration Judges have no authority over the custody and detention of arriving aliens. (Apr. 2, 2026, Order of the Immigration Judge, Ex. G.)

He is currently detained at Florida Baker Correctional Institute.

CERTIFIED HABEAS RETURN

ICE is detaining Romero Rojas under the mandatory detention provisions of 8 U.S.C. § 1225(b)(2)(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.”). Romero Rojas 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),

ARGUMENT

I. Romero Rojas’s detention comports with the INA and the Due Process Clause of the Fifth Amendment.

Title 8 U.S.C. § 1225—applicable to “applicants for admission,” that is, aliens

present in the United States who have not been admitted—is the specific detention authority applicable to Romero Rojas. Under § 1225(a), an “applicant for admission” is defined as an “alien present in the United States who has not been admitted *or who arrives in the United States*.” (Emphasis added). Applicants for admission “fall into one of two categories, those covered by § 1225(b)(1) and those covered by § 1225(b)(2).” *Jennings v. Rodriguez*, 583 U.S. 281, 287 (2018). Section 1225(b)(2)—the provision relevant here—is the “broader” of the two. *Id.* It “serves as a catchall provision that applies to all applicants for admission not covered by § 1225(b)(1) (with specific exceptions not relevant here).” *Id.* And § 1225(b)(2) mandates detention. *Id.* at 297; *see also* 8 U.S.C. § 1225(b)(2).

The present case is factually and legally distinct from recent cases finding § 1225(b)(2)(A) an inapplicable basis for detention. The Code of Federal Regulations define an “[a]rriving alien” as “an applicant for admission coming or attempting to come into the United States at a port-of-entry, or an alien seeking transit through the United States at a port-of-entry, or an alien interdicted in international or United States waters and brought into the United States by any means, whether or not to a designated port-of-entry, and regardless of the means of transport.” 8 C.F.R. § 1.2. Importantly, “[a]n arriving alien remains an arriving alien even if paroled pursuant to section 212(d)(5) of the Act, and even after any such parole is terminated or revoked.” *Id.*

Here, Romero Rojas was paroled into the United States on or about July 24,

2024, as an arriving alien. (Form I-94, Ex. B.) His parole at a port of entry allowed his otherwise mandatory § 1225(b)(2)(A) detention to be suspended, subject, however, the government's right to treat him "as if stopped at the border." *See Dep't of Homeland Sec. v. Thuraissigiam*, 591 U.S. 103, 139 (2020). Romero Rojas's parole expired after June 12, 2025, restoring him to applicant for admission subject to mandatory detention. *Cf. Cooper Pedro v. Warden, Glades County Detention Center*, 2:26-cv-KCD-DNF (M.D. Fla. Apr. 2, 2026) (holding a previously paroled petitioner is an arriving alien subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A)); *Chanaguano Caiza v. Scott*, No. 1:25-CV-00500-JAW, 2025 WL 3013081, at *6 (D. Me. Oct. 28, 2025) (holding the petitioner's parole automatically terminated upon expiration subjecting him to mandatory detention).¹ Respondents nevertheless acknowledge this Court has previously disagreed. *See Rodriguez Valencia v. Noem*, No. 3:26-CV-297-MMH-PDB, 2026 WL 730318, at *5 (M.D. Fla. Mar. 16, 2026).

Respondents further acknowledge *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026) in which the Eleventh Circuit 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

¹ Immigration Judges generally lack jurisdiction to redetermine conditions of custody for "[a]rriving aliens" in removal proceedings, including previously paroled aliens. *See* 8 C.F.R. § 1003.19(h)(2)(i)(B).

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. 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.

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 working days to arrange an individualized bond hearing.

II. Romero Rojas’s Administrative Procedure Act claim is not properly before the Court.

Because habeas corpus actions and non-habeas corpus actions have different filing fee requirements, different pleading standards, and different substantive standards, it is generally inappropriate to bring a hybrid action asserting both habeas and non-habeas claims in one case. *Burnam v. Marberry*, 313 F. App’x 455, 456 n.2 (3d Cir. 2009) (noting that the district court should not have considered habeas claims and claims under the Privacy Act and Administrative Procedure Act in a single case); accord *Malcom v. Starr*, No. 20-cv-2503 (MJD/LIB), 2021 U.S. Dist. LEXIS 45387, 2021 WL 931213, at *2 (D. Minn. Mar. 11, 2021) (“As many other cases from this District have noted, habeas petitions and civil complaints have different and

incompatible rules regarding service of process, discovery, and even filing fees.”).

For example, Romero Rojas did not pay the required filing fee for any non-habeas claims. The statute governing filing fees in district court states, “The clerk of each district court shall require the parties instituting any civil action, suit or proceeding in such court, whether by original process, removal or otherwise, to pay a filing fee of \$350, except that on application for a writ of habeas corpus the filing fee shall be \$5.” 28 U.S.C. § 1914(a). “The payment of the \$5 habeas filing fee relegates this action to habeas relief only. One cannot pay the minimal habeas fee and pursue non-habeas relief.” *Ndudzi v. Castro*, No. SA-20-CV-0492-JKP, 2020 WL 3317107, at *2 (W.D. Tex. June 18, 2020); *King v. Carlton*, No. 21-cv-21634, 2021 U.S. Dist. LEXIS 83778, at *4 (S.D. Fla. Apr. 30, 2021) (Bloom, J.) (finding that petitioner could not circumvent filing fee requirements by filing a “joint or hybrid” habeas action).

Finally, the Administrative Procedure Act provides, “Agency action made reviewable by statute and final agency action *for which there is no other adequate remedy* in a court are subject to judicial review.” (Emphasis added). As Judge Dudek recently noted, a petitioner such as Romero Rojas has an adequate remedy—“the very habeas petition he filed to get through the courthouse doors.” *See Gomez- Alcina v. Noem, Garret*, No. 2:25-CV-1164-KCD-DNF, 2026 WL 607614, at *5 (M.D. Fla. Mar. 4, 2026) (*citing Trump v. J.G.G.*, 604 U.S. 670, 674 (2025) (Kavanaugh, J., concurring)). Because habeas corpus review provides Romero Rojas an adequate judicial remedy for his allegations of unlawful detention, he cannot state a claim for relief under the

Administrative Procedure Act.

III. Release from custody is not available in an action alleging unconstitutional conditions of confinement.

Romero Rojas also challenges his conditions of confinement. “[R]elease from imprisonment is not an available remedy for a conditions-of-confinement claim.” *Vaz v. Skinner*, 634 F. App’x 778, 781 (11th Cir. 2015 (per curiam); *see also Hidalgo v. Parra*, No. 2:25-CV-01214-SPC-NPM, 2026 WL 113587, at *1 (M.D. Fla. Jan. 15, 2026) (“Claims challenging the conditions of confinement, rather than the fact or duration of confinement, are not grounds for habeas relief.”) Indeed, in *Gomez v. United States*, the Eleventh Circuit stated that if conditions of confinement violate a prisoner’s constitutional rights, “[t]he appropriate Eleventh Circuit relief . . . is to require the discontinuance of any improper practices, or to require correction of any condition causing cruel and unusual punishment.” *Gomez v. United States*, 899 F.2d 1124, 1126-27 (11th Cir. 1990).

The Eleventh Circuit has further indicated that its holding from *Gomez* applies to civil detainees in ICE custody. *See Vaz*, 634 F. App’x at 781-82 (noting that a detained alien could not obtain release based on his conditions of confinement claim). This district has further refused to permit any exception for civil detainees in ICE custody. As stated in *St. Louis v. Martin*, “[R]elease under § 2241 unavailing when the alleged constitutional violation is predicated upon the conditions of a petitioner’s confinement.” No. 220CV349FTM60NPM, 2020 WL 3490179, at *7 (M.D. Fla. June

26, 2020). Because Eleventh Circuit precedent precludes the Court from ordering release from custody, the petition should be denied.

CONCLUSION

Romero Rojas's Petition for Writ of Habeas Corpus should be denied.

DATED this 19th day of May, 2026.

Respectfully submitted,

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Exhibit List

1. Exhibit A – March 19, 2026, Form I-213
2. Exhibit B – Form I-94
3. Exhibit C – March 19, 2026, Notice to Appear
4. Exhibit D – March 17, 2026, Immigration Detainer
5. Exhibit E – March 17, 2026, Warrant for Arrest
6. Exhibit F – April 2, 2026, Bond Order Cover Sheet
7. Exhibit G – April 2, 2026, Bond Order
8. Exhibit H – April 8, 2026, Filing Receipt for Appeal or Motion
9. Exhibit I – Detention History