

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

JANDY ROMERO ROJAS

Petitioner,

Case No.: 3:26-cv-01170

v.

TODD M. LYONS as Acting Director Miami
Field Office, Enforcement and Removal
Operations (ERO), Department of Homeland
Security; and

MARKWAYNE MULLIN as Secretary for the
Department of Homeland Security (DHS);

ERIC HALL as Warden of Baker Correctional
Institute (North Florida Detention Center) in
Sanderson, Florida

Respondents.

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PETITIONER'S REPLY MEMORANDUM IN SUPPORT OF
PETITION FOR WRIT OF HABEAS CORPUS

Petitioner respectfully submits this Reply Memorandum in support of the Petition for Writ of Habeas Corpus. The government's response does not cure the fundamental defects in Petitioner's continued detention. The recently decided Eleventh Circuit case, *Hernandez Alvarez v. Warden*, Federal Detention Center Miami, No. 25-14065 (11th Cir. May 6, 2026), confirms that aliens detained within the country rather than upon arrival at the border are entitled to a bond hearing under 8 U.S.C. § 1226. In light of that decision, Petitioner has refiled for bond and is now scheduled for a bond hearing on May 26, 2026. Petitioner asks the Court to hold any final merits ruling in abeyance until after that hearing, and to permit a

prompt status update thereafter. If bond is denied again, Petitioner will proceed on the merits of the habeas petition.

I. FACTUAL BACKGROUND

Petitioner is challenging his continued immigration detention. Since the filing of the Petition, there has been a significant change in the legal landscape. In *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, the Eleventh Circuit held that aliens detained within the country rather than upon arrival at the border are entitled to a bond hearing under 8 U.S.C. § 1226. No. 25-14065 (11th Cir. May 6, 2026). Following that decision, Petitioner promptly refiled for bond in Immigration Court. A bond hearing is now scheduled for May 26, 2026. See **Exhibit 21**, Renewed Motion for Custody Redetermination dated 5/21/2026 and Notice of Hearing.

Petitioner respectfully requests that this Court hold any final merits ruling of this Petition in abeyance until after the scheduled bond hearing next week. Petitioner will promptly update this Court following the results of the bond hearing. If bond is denied again, Petitioner will proceed with the habeas petition on the merits.

Petitioner's ongoing inability to obtain consistent diabetes medication makes further detention especially dangerous and underscores the need for immediate judicial intervention.

Petitioner's agrees that his pending adjustment-of-status application does not itself confer lawful status, but it does confirm that he has a live avenue for permanent relief before USCIS while the immigration court lacks authority to adjudicate the application for Adjustment of Status under the Cuban Adjustment Act in the first instance.

II. ARGUMENT

A. *Hernandez Alvarez* confirms that Petitioner is entitled to bond review under section 1226

Petitioner is not subject to mandatory detention under 8 U.S.C. section 1225(b)(2)(A) as the Respondents contend. He was not apprehended at a port of entry or in the course of border inspection. He was detained in the interior of the United States after entering lawfully with parole.

The Eleventh Circuit's decision in *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, No. 25-14065 (11th Cir. May 6, 2026), confirms that aliens detained within the country rather than upon arrival at the border are entitled to a bond hearing under 8 U.S.C. section. *Hernandez Alvarez* materially supports Petitioner's position. See also *Guillen Ochoa v. Warden, Broward Transitional Center* (S.D. Fla. May 8, 2026)(applying *Hernandez Alvarez* stating "[t]he Eleventh Circuit ruled that aliens, like Petitioner, who are detained within the country rather than upon arrival at the border, are entitled to a bond hearing under 8 U.S.C. § 1226."). That is precisely Petitioner's posture. He was detained in the interior of the United States, not as an arriving alien at the border. Under *Hernandez Alvarez*, his detention must be evaluated through the bond-hearing framework of section 1226, not as mandatory detention without meaningful individualized review.

The government's response does not overcome that authority. To the extent the government asks the Court to continue treating Petitioner's custody as mandatory detention, that position is inconsistent with the Eleventh Circuit's ruling. *Garcia Alvarez v. Charles* (S.D. Fla. May 08, 2026) (finding the court is duty-bound to follow the opinion in *Hernandez Alvarez*). The proper course is immediate bond

review, or, at minimum, a temporary stay of the final merits ruling until the scheduled bond hearing occurs.

B. The Court should hold the merits in abeyance until the May 26 bond hearing

Petitioner has already refiled for bond before an immigration judge and a bond hearing is scheduled for next week on May 26, 2026. Because a bond hearing is already scheduled in Immigration Court and EOIR contemplates prompt bond proceedings, judicial economy favors holding the habeas merits in abeyance until that hearing occurs. Petitioner does not ask the Court to interfere with the scheduled bond hearing. He asks only that the Court preserve the Petition, permit the bond process to proceed, and then address any remaining habeas issues after the hearing.

If the immigration judge grants bond, this habeas petition may become moot or materially narrowed. If bond is denied again, Petitioner will promptly update this Court and request a decision on the merits. That approach avoids unnecessary rulings while preserving Petitioner's right to habeas relief if custody continues unlawfully.

C. The APA claim properly accompanies Petitioner's habeas challenge to unlawful detention

The APA claim is properly pleaded as an alternative theory because it challenges agency action that is contrary to law. The government's first-time filing-fee objection does not defeat the claim or convert this case into a mere benefits dispute.

Petitioner seeks review of the legality of his custody and the agency's decision to subject him to mandatory detention under the wrong statutory framework. Courts throughout the nation consistently consider APA claims together with INA and due process habeas claims, and where they did not reach the APA claim, it was only because the statutory claim was dispositive. See e.g. *Flores Pineda v. Simon* (E.D. Va. Oct. 21, 2025) Doc. 8 (finding petitioner's claims under the INA and due process clause are dispositive, the Court will not give further consideration to the APA claim); *Velasquez Salazar v. Dedos* (D.N.M. Sep. 17, 2025) Doc. 28 (habeas claim finding that detention was not in accordance with the law and violated the APA); *Aleman Hernandez v. Baltazar* (D. Colo. Dec. 23, 2025) Doc. 11 (finding petitioner's claims under the INA and due process clause are dispositive, the Court will not give further consideration to the APA claim).

D. Immediate release remains a proper remedy if he is denied bond because Petitioner does not pose a danger or risk of flight

Even with the scheduled bond hearing, the Court should recognize that immediate release from detention is still the correct ultimate remedy where the government cannot justify custody. Recent district decisions in the 11th Circuit likewise reflect that courts have ordered habeas relief and bond hearings where detention is unlawful. See e.g., *Hernandez Alvarez* (ordering bond hearing within 2 days or immediate release); *Garcia Alvarez* (granting habeas relief and ordering a bond hearing within 7 days); *Guillen Ochoa* (granting habeas relief and ordering a bond hearing within 10 days); *Cruz-Santana* (holding in abeyance the merits of the habeas petition and ordering a bond hearing within 10 days).

This Court has authority and jurisdiction to grant habeas relief when a noncitizen is unlawfully held in immigration detention. Petitioner has no criminal history. The government has not identified any individualized facts showing

danger, flight risk, or national security concern. Absent such facts, continued detention is unjustified.

The Court therefore should hold the merits of the habeas petition in abeyance pending the scheduled bond hearing, and then grant relief if the government again fails to justify detention.

E. Irreparable harm from continued detention

Petitioner is suffering irreparable harm from continued detention. He has a serious medical condition, diabetes, and the facility has not reliably provided his medication timely and consistently despite repeated requests by Petitioner, his family, and counsel. That ongoing deprivation creates a serious risk of harm that cannot be fully remedied later. Petitioner's continuing medical issues provide an additional due process basis for habeas relief. This is not a minor administrative issue. Diabetes requires regular, reliable treatment. Inconsistent medication places Petitioner at serious risk of harm and underscores the unreasonableness of continued detention.

There are broader concerns about detainee medical care in ICE detention. The DHS Office of Inspector General report on management of mental health cases in immigration detention explains that ICE has had persistent staffing shortages, limited oversight, and difficulties providing appropriate care across detention facilities. See U.S. Dep't of Homeland Sec., Office of Inspector Gen., *Management of Mental Health Cases in Immigration Detention*, OIG-11-62 (Mar. 28, 2011). While that report is not specific to diabetes, it supports the general proposition that detainee medical care failures occur when facilities cannot provide adequate treatment. Petitioner's situation demonstrates the same constitutional and urgent concern in real time. Continued detention in a setting that cannot

reliably provide prescribed life-saving medication violates due process and supports immediate judicial intervention.

In addition, Petitioner has been forced to seek additional asylum-related relief and to spend substantial sums on legal fees solely because the government continues to detain him despite his lawful entry, lack of criminal history, and lack of any showing that he poses a danger or flight risk.

III. CONCLUSION

For the foregoing reasons, Petitioner respectfully requests that the Court:

1. Hold any final merits ruling on the habeas petition in abeyance until after the scheduled May 26, 2026 bond hearing and permit Petitioner to file a prompt status update after the bond hearing; or, alternatively,
2. If the Court reaches the merits now, grant the Petition and order immediate habeas relief, including release or, at minimum, a prompt and meaningful bond hearing under 8 U.S.C. § 1226 within 7 days; *and*
3. Grant such other and further relief as the Court deems just and proper on this record.

Respectfully submitted this 22nd day of May, 2026.

/s/ Vilerka Solange Bilbao

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VERIFICATION

I hereby certify that on May 22nd 2026, I electronically filed the foregoing with the Clerk of the Court by using the CM/ECF system which will send a Notice of Electronic Filing to the counsel of record.

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