

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

JANDY ROMERO ROJAS
Petitioner,

v.

Case No.: 3:26-cv-01170

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.

/

PETITIONER'S REPLY TO RESPONDENT WARDEN'S MOTION TO DISMISS

Introduction

Respondent Warden's motion to dismiss should be denied. The Warden is a proper respondent in this habeas action because the federal habeas statute directs the petition against the person who has custody over the detained individual, and the Supreme Court has explained that the relevant custodian is the person with the ability to produce the prisoner's body before the habeas court. That is exactly what the Warden does. The Warden holds the keys to the detention

facility and has the practical authority to release Petitioner if the Court orders bond or release.

The motion also rests on the incorrect premise that Petitioner is subject to mandatory detention as an arriving alien. Petitioner was apprehended in the interior of the United States, not at a port of entry or in the course of border inspection. That distinction matters. The Eleventh Circuit's recent 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 bond review under 8 U.S.C. § 1226]. Under that framework, Petitioner is not subject to unreviewable mandatory detention.

For those reasons, and for the additional reasons set out below, the Court should deny the motion to dismiss and allow Petitioner's habeas petition to proceed.

I. The Warden Is a Proper Respondent Because He Is Petitioner's Immediate Custodian

Warden Respondent acknowledges that the Supreme Court has made clear that a proper respondent in a habeas petition is "the person who has custody over the petitioner," and that the custodian is the person "with the ability to produce the

prisoner's body before the habeas court." Doc. 10 (*quoting Rumsfeld v. Padilla*, 542 U.S. 426, 434 (2004) and 28 U.S.C. § 2242). In the ordinary habeas case, the immediate physical custodian is the proper respondent. The government's own filing acknowledges that courts dismiss respondents only where the named official does not have custody of the petitioner. *Id.*

Here, the Warden is the official who physically maintains custody of Petitioner and can carry out a court order directing release. Even if the Warden did not make the underlying immigration classification decision, that is not the relevant inquiry for habeas respondent status. The question is custody and the ability to produce the body or effectuate release, and that authority lies with the Warden.

The motion appears to blur the distinction between the decisionmaker and the custodian. But habeas jurisdiction is directed to the custodian, not necessarily the official who made the legal determination being challenged. The fact that immigration officers or DHS officials may have made the underlying charging or detention decision does not make the Warden an improper respondent when the Warden is the officer actually holding Petitioner in custody.

II. Petitioner Should Be Treated Under the Section 1226 Bond Framework Because He Was Arrested in the Interior of the United States

Petitioner was not apprehended at the border, on arrival, or during border inspection. He was arrested in the interior of the United States after lawful entry. That distinction is dispositive for detention classification.

The Eleventh Circuit's decision in *Hernandez Alvarez v. Warden*, Federal Detention Center Miami, No. 25-14065 (11th Cir. May 6, 2026), 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 [4]. That is the same posture Petitioner occupies. He was not intercepted at the border, and the government should not be allowed to recast an interior arrest as if it were an arriving-alien detention.

Accordingly, the detention here should be analyzed under the bond-hearing framework of Section 1226, not as mandatory detention without individualized review. The government's contrary position is inconsistent with the Eleventh Circuit's controlling decision, and district courts in this circuit have treated *Hernandez Alvarez* as binding and have required bond review [4].

III. Mandatory Detention Does Not Apply on These Facts

The Warden's motion depends on the proposition that Petitioner is subject to mandatory detention under the border-arrival statute. But the facts pleaded by Petitioner show the opposite: he was detained in the interior of the United States

after entry. Under the 11th Circuit's recent *Hernandez Alvarez v. Warden* decision, the fact that he was detained in the interior of the United States places him within the Section 1226 bond framework rather than mandatory detention.

To the extent the Warden's Motion rests on the government's underlying proposition that Petitioner's detention should be treated as mandatory because of his manner of entry, that argument confuses the location and manner of arrest with the later administrative charging and detention decision. The location of the arrest is what Petitioner relies on to show that his custody is not the kind of border or arrival detention that triggers mandatory confinement. The court should look to the actual circumstances of apprehension, not the government's later label.

IV. The Motion Should Also Be Denied Because Habeas Relief Must Remain Available to Test Unlawful Detention

The habeas petition challenges the legality of Petitioner's present custody. The Supreme Court's habeas respondent cases recognize that the writ must run to the person who can respond to the court and effectuate release. *Padilla* at 434. If the Court were to accept the Warden's position, Petitioner would be left without a meaningful respondent even though the Warden is the official maintaining the detention and able to comply with a release order.

This would elevate formalism over function. Habeas is designed to provide a practical remedy for unlawful detention. Where the petitioner seeks release or bond review, the proper respondent is the officer who has immediate custody and can implement the court's order.

V. Additional Arguments Supporting Denial of the Motion

A. The Warden's Lack of Policy-Making Authority Does Not Defeat Custody

The Warden may not set immigration policy or decide the statutory classification in the first instance, but that is not the test for habeas respondent status. The relevant question is who has custody and can produce or release the detainee. The Warden does.

B. The Court Should Avoid an Overly Formalistic Reading That Would Defeat Judicial Review

If the Warden were dismissed simply because he did not make the original detention decision, habeas review would become artificially constrained. The practical custodian would no longer be before the Court, even though he is the one

actually confining Petitioner. That approach would undermine the purpose of habeas and the Court's ability to grant effective relief.

C. To the Extent the Government Relies on Non-Binding District Court Cases, They Do Not Overcome the Eleventh Circuit's Newer Decision

The Warden's motion cites district-level authority for the proposition that only a different official may be the respondent in some immigration habeas cases. But those cases do not control where the Eleventh Circuit recently in *Hernandez Alvarez v. Warden* has clarified that detainees held in the interior are entitled to bond review under Section 1226. Any older or non-binding contrary cases should yield to the more recent appellate authority.

D. The Warden's Failure to Address Petitioner's Medical Neglect Further Supports Habeas Relief

The Warden has not meaningfully addressed Petitioner's specific allegations that he has suffered medical neglect while in confinement, including the facility's repeated failure to provide adequate and timely medication for his diabetes. That omission matters. As the administrator of the facility, the Warden is responsible for ensuring that detainees receive adequate medical care and that the facility complies with applicable detention standards and governing law. ICE

detention standards¹ require facilities to provide comprehensive medical care throughout a detainee's time in custody. Petitioner's filings further allege that inconsistent medication has placed him at serious risk of harm and that the detention facility has not reliably provided his prescribed treatment despite repeated requests. Doc. 1.

Courts have recognized that detention conditions and access to medical care may be relevant in habeas proceedings where they bear on the legality of continued custody and the need for relief. Here, Petitioner's ongoing medical neglect is not a mere conditions claim divorced from custody; it is part of the reason continued detention is unreasonable and unlawful. The government's failure to ensure adequate medical care, despite the Warden's authority over day-to-day confinement, weighs in Petitioner's favor because it demonstrates that detention is being carried out in a manner inconsistent with basic detention obligations and due process. At minimum, it supports individualized bond review and immediate judicial scrutiny of whether continued confinement can be justified.

Conclusion

¹ 2025 National Detention Standards found at <https://www.ice.gov/detain/detention-management/2025>.

The Warden's motion to dismiss should be denied. The Warden is a proper habeas respondent because he is Petitioner's immediate custodian and can effectuate any release order. Separately, Petitioner was arrested in the interior of the United States, not at the border, so his detention should be evaluated under the Section 1226 bond framework rather than as mandatory arrival detention. The Eleventh Circuit's decision in *Hernandez Alvarez* confirms that interior detainees are entitled to bond review. The Court should deny the motion and proceed to the merits of Petitioner's request for habeas relief.

Respectfully submitted this 5th day of June, 2026.

/s/ Vilerka Solange Bilbao

Vilerka Solange Bilbao, Esq.
Florida Bar No: 1012139
Bilbao Law LLC
301 W. Bay Street, suite 1449
Jacksonville, FL 32202
Tel.: +1 (904) 300-0825
Email: vilerka@bilbaolaw.com

Lead Counsel for Plaintiff/Petitioner

VERIFICATION

I hereby certify that on June 5, 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.

/s/ Vilerka Solange Bilbao

Vilerka Solange Bilbao, Esq.

Florida Bar No: 1012139

Bilbao Law LLC

301 W. Bay Street, suite 1449

Jacksonville, FL 32202

Tel.: +1 (904) 300-0825

Email: vilerka@bilbaolaw.com

Counsel for Plaintiff/Petitioner