

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
Jacksonville Division

CASE NO. 2:26-cv-01710-KCD-NPM

ROBERTO ARLEY RUIZ RIVERO,

Petitioner,

v.

WARDEN, *Collier County Sheriff*; GARRETT J. RIPA, *Field Office Director of U.S. Immigration and Customs Enforcement Miami Office*; TODD LYONS, *Acting Director of Immigration and Customs Enforcement*; MARKWAYNE MULLIN, *Secretary of the United States Department of Homeland Security*; and TODD BLANCHE, *Attorney General of the United States, in their official capacities*,

Respondents.

**PETITIONER'S, ROBERTO ARLEY RUIZ RIVERO, REPLY TO RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner, ROBERTO ARLEY RUIZ RIVERO, (hereinafter "Petitioner") hereby files his Reply to Respondents' Response to Petition for Writ of Habeas Corpus, and in support thereof states as follows:

INTRODUCTION

Petitioner respectfully requests this Court grant its Petition for Writ of Habeas Corpus. More specifically, Petitioner respectfully requests that this Court grant immediate release. As set forth in the Petition, Petitioner challenges his unlawful detention and the Government's continued detention without providing an individualized bond hearing, in violation of the Immigration and Nationality Act and the Due Process Clause of the Fifth Amendment. Federal Respondents' Response ultimately confirms the central issue before this Court: Petitioner is

presently detained pursuant to a statutory provision that does not lawfully apply to him under binding Eleventh Circuit precedent. Furthermore, Respondent, Warden of Collier County Sheriff Detention Center has failed to provide any response to the Petition, in direct violation of this Court's Order.

ARGUMENT

A. Federal Respondents Fail to Distinguish *Hernandez Alvarez v. Warden, Federal Detention Center Miami*, --- F.4th ---, 2026 WL 1243395 (11th Cir. May 6, 2026).

Respondents do not meaningfully dispute the applicability of *Hernandez Alvarez* to the facts of this case. Instead, they rely almost entirely on the regulatory definition of “arriving alien” under 8 C.F.R. § 1.2 and prior district court authority predating *Hernandez Alvarez*. However, administrative regulations cannot supersede the Eleventh Circuit's interpretation of the plain text of § 1225.

In *Hernandez Alvarez*, the Eleventh Circuit expressly rejected the Government's interpretation that all noncitizens present in the United States without lawful admission are categorically subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). The Court specifically held that individuals apprehended in the interior of the United States who are not actively seeking lawful entry fall instead within the ambit of 8 U.S.C. § 1226(a). Respondents acknowledge this holding but nevertheless continue to detain Petitioner under the exact statutory framework rejected by *Hernandez Alvarez*.

The Government's Response confirms that Petitioner entered the United States in October 2023 and was paroled into the country. Petitioner thereafter lived within the interior of the United States for an extended period of time prior to his detention in Florida. Thus, under *Hernandez Alvarez*, Petitioner is not properly subject to mandatory detention under § 1225(b)(2)(A).

B. Petitioner's Post Hoc Production of Documents Does Not Cure the Unlawful Detention.

At the time the Petition was filed, Respondents had failed to identify any statutory basis for detention, failed to produce a Notice to Appear, failed to identify an assigned Deportation Officer, failed to provide any custody determination, and failed to provide any meaningful custody review mechanism. Only after this habeas action was initiated did Respondents produce documentation attempting to justify detention under § 1225(b)(2)(A).

That post-hoc attempt to justify detention does not cure the constitutional and statutory violations identified in the Petition. For weeks, Petitioner remained incarcerated solely pursuant to an immigration detainer despite the complete absence of any disclosed detention authority or meaningful process. The Fifth Amendment does not permit the Government to imprison a civil detainee first and identify legal authority later. Moreover, even after Respondents eventually articulated their theory of detention, that theory remains legally defective under *Hernandez Alvarez*.

C. Petitioner's Prolonged Detention Without a Bond Hearing Violates Due Process.

Petitioner's continued detention violates the Due Process Clause of the Fifth Amendment. The Supreme Court has long recognized that civil immigration detention must be reasonably related to its purpose and accompanied by adequate procedural safeguards. Freedom from physical restraint lies at the core of liberty protected by the Due Process Clause. Here, Petitioner has been detained since February 2026 without any bond hearing or meaningful opportunity to contest his continued detention. There has been no determination by a neutral decisionmaker as to whether Petitioner poses a danger to the community or a risk of flight.

Petitioner has remained detained since April 20, 2026, despite the dismissal of the underlying criminal allegations that precipitated ICE involvement. The Office of the State

Attorney formally declined prosecution due to “Insufficient Evidence to Prove Beyond Reasonable Doubt.” Indeed, the Government’s Response does not even attempt to establish dangerousness or flight risk. Instead, Respondents rely entirely upon their incorrect legal theory that Petitioner is categorically subject to mandatory detention. As stated prior, that position fails under *Hernandez Alvarez*.

D. Immediate Release is the Appropriate Remedy.

Respondents request seven additional working days to arrange a bond hearing should the Court reject their detention theory. However, merely ordering a future bond hearing would fail to remedy the ongoing constitutional injury presently occurring. Petitioner has already endured unlawful detention for weeks pursuant to an inapplicable statutory framework. Respondents had ample opportunity to identify lawful authority for detention and failed to do so. Even now, Respondents rely exclusively on a detention provision rejected by binding Eleventh Circuit precedent.

Furthermore, this Court and other similar courts have already determined that immediate release, not merely a future bond hearing, is the appropriate remedy. *See Ramirez Ibarra v. Warden Baker County Detention Ctr*, No. 3:26-cv-710-MMH-LLL (M.D. Fla. May 11, 2026); *see also Arcenio de Leon Sanchez v. Warden, Baker County Facility, et al.*, No. 3:26-cv-716-TJC-PDB (M.D. Fla. April 20, 2026). Similarly here, Federal Respondents have failed to argue that Petitioner is a danger to the community or a flight risk. Petitioner has already endured prolonged detention under an unlawful mandatory detention scheme that Respondents now concede was improper. The constitutional injury is not merely the absence of a hearing going forward, but the fact that Petitioner was deprived of any meaningful custody charge, information, or explanation, while detained under the wrong statutory framework. Continued

detention after conceding the governing detention authority was erroneous only prolongs the unlawful deprivation of liberty already suffered by Petitioner.

As another court in this District noted when ordering immediate release under similar circumstances, “[t]he Federal Respondents have not contended that Petitioner’s release creates a danger to the community.” Accordingly, immediate release, not delayed administrative proceedings, is the only remedy that adequately cures the unlawful detention at issue in this case. *See Ramirez Ibarra v. Warden Baker County Detention Ctr*, No. 3:26-cv-710-MMH-LLL (M.D. Fla. May 11, 2026).

E. The Collier County Warden Failed to Comply with This Court’s Order by Not Responding to the Petition.

Significantly, Respondent Warden, Collier County Sheriff, the immediate physical custodian of Petitioner, has failed to file any response whatsoever to the Petition. The Warden is a named Respondent and the official directly responsible for Petitioner’s physical confinement. Yet no separate return or justification for detention has been submitted on behalf of the Warden despite this Court’s Order to Show Cause.

Under 28 U.S.C. § 2243, the custodian directed to respond to a habeas petition “shall make a return certifying the true cause of the detention.” Here, the immediate custodian failed to do so. The Warden’s failure to respond further underscores the absence of lawful authority supporting Petitioner’s continued confinement and weighs in favor of granting habeas relief. Importantly, as previously stated, neither the Warden nor the Federal Respondents have argued that Petitioner poses a danger to the community or presents a meaningful risk of flight justifying continued detention. Thus, there is presently no substantive defense to Petitioner’s continued detention under the previously asserted statutory authority. The remaining issue before this Court

is therefore the appropriate remedy for that unlawful detention. Under the circumstances presented here, and consistent with this Court's prior habeas decisions, immediate release is the appropriate remedy.

CONCLUSION

Respondents effectively concede that *Hernandez Alvarez* controls this Court's analysis. Under that binding precedent, Petitioner is not properly detained pursuant to § 1225(b)(2)(A). As provided in his Petition, the Government detained Petitioner under the incorrect statute, admitted binding precedent defeats their position, failed to provide applicable due process for weeks, and still to date has not justified continued detention. *See* D.E. 1. Petitioner therefore remains incarcerated without lawful statutory authority and in violation of the Due Process Clause of the Fifth Amendment.

For the foregoing reasons, Petitioner is entitled to relief because his continued detention is not authorized by the governing statutory framework and violates due process. Accordingly, the Court should grant Petitioner's, ROBERTO ARLEY RUIZ RIVERO, petition and grant any other relief deemed just and proper.

Dated: June 10, 2026

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 10, 2026, a true and correct copy of the foregoing was electronically filed with the Clerk of Court and served via the CM/ECF system on all counsel or parties of record.

By: /s/ Mariela E. Cano
Mariela E. Cano, Esq.