

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

EDWIN PATRICIO VELAZQUEZ
POSLIGUA,

Petitioner,

v.

Case No.: 2:26-cv-01670-KCD-NPM

WARDEN, FLORIDA SOFT SIDE
SOUTH DETENTION CENTER, et al.,

Respondents.

RESPONSE TO PETITION FOR WRIT OF HABEAS CORPUS

On May 18, 2026, Petitioner filed a petition for writ of habeas corpus pursuant to 28 U.S.C. § 2241, requesting a bond hearing or immediate release. Doc. 1. On June 3, 2026, an Immigration Judge granted Petitioner's application for pre-conclusion voluntary departure under INA § 240B(a), and ordered Petitioner to depart by July 3, 2026. Composite Exhibit, Ex. A, at 1-2. As discussed further below, the Court should deny Petitioner's habeas petition as moot, or alternatively hold it in abeyance until after July 3, 2026.

BACKGROUND

Petitioner is a national and citizen of Ecuador, who was admitted to the United States in Miami, Florida on January 26, 2024, as a nonimmigrant B-2 Visa with authorization to remain in the United States for a temporary period not to exceed July 25, 2024. Ex. A at 9. Petitioner remained in the United States beyond July 25, 2024

without authorization. *Id.* Petitioner was served with a Notice to Appear on March 30, 2026. *Id.* at 5. The charges in the Notice to Appear were amended on April 16, 2026, to charge Petitioner under INA § 237(a)(1)(B). *Id.* at 9. Petitioner has been in custody since April 1, 2026 at Florida Soft-Sided Facility-South. *Id.* at 11. Petitioner filed a motion to withdraw relief application and request voluntary departure, which the Immigration Court granted on June 3, 2026. *Id.* at 1-2. In lieu of removal, Petitioner was granted voluntary departure from the United States on or before July 3, 2026, under safeguards (*i.e.*, in ICE custody). *Id.* Petitioner waived appeal. *Id.*

LEGAL STANDARD AND CERTIFIED HABEAS RETURN

The Court has the power to grant a writ of habeas corpus where a petitioner “is in custody in violation of the Constitution or laws or treaties of the United States.” 28 U.S.C. § 2241(c)(3); *Walker v. Johnston*, 312 U.S. 275, 286 (1941). “The burden rests on the person in custody to prove his detention is unlawful.” *Benito Vasquez v. Moniz*, No. 25-11737-NMG, 2025 WL 1737216, at *1 (D. Mass. June 23, 2025). ICE is detaining Petitioner under the provisions of 8 U.S.C. § 1226(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.”).

ARGUMENT

If this Court grants the Petition and orders Petitioner’s immediate release or a bond redetermination hearing, such order would potentially be at odds with the

immigration judge's voluntary departure order and may adversely affect Petitioner. Release on bond would violate Petitioner's voluntary departure order and would subject him to removal. In particular, the voluntary departure order's requirement that Petitioner depart "under safeguards" would be violated if Petitioner were released on bond, since he would no longer be in ICE custody. Moreover, if Petitioner failed to depart under the terms of the immigration judge's order, the order would convert to a removal order and Petitioner would face heightened adverse consequences, including ineligibility to apply for entry for a specified period, civil monetary penalties, and potential criminal prosecution. *See* Ex. A at 2-3. ICE has informed the undersigned that Enforcement and Removal Operations is actively working to remove Petitioner to comply with the Immigration Court order.

The Federal Respondents therefore wish to draw the Court's attention to the possible adverse consequences to Petitioner if he is released pursuant to Court order or on bond. To avoid the adverse consequences referenced above, the Court could find that the Petitioner's request for voluntary departure renders habeas relief moot, or hold the matter in abeyance until a date after July 3, 2026, the deadline for Petitioner's departure. In any event, Federal Respondents stand ready to comply with this Court's order.

Dated: June 10, 2026

Respectfully submitted,

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