

UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF FLORIDA
FORT MYERS DIVISION

CESAR ADOLFO RODAS LORENZO,
Petitioner,

v.

No.: 2:26-cv-01667-JES-NPM

WARDEN, GLADES COUNTY
DETENTION CENTER, et al.,

Respondents.

**FEDERAL RESPONDENTS' RESPONSE TO
PETITION FOR WRIT OF HABEAS CORPUS**

Petitioner Cesar Adolfo Rodas Lorenzo challenges his detention by the United States Immigration and Customs Enforcement (“ICE”) seeking an individualized bond hearing before an Immigration Judge within seven days or, alternatively, release on reasonable conditions of supervision. *See* Dkt. 1 at ECF pg. 7. While the Federal Respondents contend Petitioner is subject to detention under § 1225, and that if he is entitled to a bond hearing he has failed to request one or otherwise exhaust his administrative remedies regarding same, the recent binding Eleventh Circuit decision in *Hernandez Alvarez* categorizes those in Petitioner’s circumstances as subject to § 1226 and thus eligible for a bond hearing.

BACKGROUND

Petitioner is a citizen of Guatemala who entered the United States at an unknown time and place. *See* Ex. A. at 1, 2; *but see* Dkt. 1 at ¶ 13, Ground Two

(alleging Petitioner has continuously resided in the United States since January 28, 2023). ICE encountered Petitioner at the Broward County Sheriff's Office on April 11, 2026, *see* Ex. A. at 2, apparently following his arrest / detention after a traffic stop. *See* Dkt. 1-2 at ¶ 22. ICE issued Petitioner a Notice to Appear. *See* Ex. B. Petitioner is currently detained at the Glades County Detention Center. *See* Ex. C. As of the date of this Response (June 4, 2026), has presently been in detention for 54 days.

CERTIFIED HABEAS RETURN

Pursuant to 28 U.S.C. § 2243, “[t]he person to whom the writ or order is directed shall make a return certifying the true cause of the detention.” Petitioner 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). For purposes of preserving its argument in the event of an appeal, ICE contends that Petitioner is subject to detention under 8 U.S.C. § 1225.

ARGUMENT

As noted, for purposes of preserving its argument in the event of an appeal, ICE contends Petitioner is subject to detention under § 1225. However, the Eleventh Circuit’s precedential ruling in *Hernandez Alvarez v. Warden, Fed. Det. Ctr. Miami*, Case No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026), categorizes Petitioner under § 1226 and thus eligible for a bond hearing. *See id.* at *14 (“§ 1225 applies to arriving aliens seeking entry at the border, whereas § 1226 applies to aliens unlawfully in the interior.”)

And if Petitioner is entitled to a bond hearing, then for purposes of preserving its argument in the event of an appeal, ICE contends he has failed to request a bond hearing or otherwise exhaust his administrative remedies regarding same. *See* Dkt. 1 at ¶ 13, Ground One (“No bond hearing has been held and none is scheduled.”)¹

¹ Immigration detainees must affirmatively seek bond hearings in Immigration Court. A non-citizen’s initial custody determination is made by ICE following detention. *See* 8 C.F.R. § 1236.1(c). However, there is no automatic bond redetermination. *See* 8 C.F.R. § 1236.1(d). Instead, the regulations provide that the non-citizen or his or her attorney or representative may affirmatively request a bond redetermination of the initial custody determination made by ICE. *See* 8 C.F.R. § 1003.19(b). Given the binding nature of *Hernandez Alvarez* on the Immigration Courts, seeking custody redetermination through a bond hearing is no longer futile. Indeed, Immigration Courts have affirmatively granted bond hearings without the intervention of district courts following the *Hernandez Alvarez* decision. *See, e.g., Fuentes Barrientos v. Warden Baker Cnty. Facility*, Case No. 3:26-cv-834-MMH-MCR, Doc. 9, (M.D. Fla. May 20, 2026) (dismissing habeas petition as moot by Endorsed Order where the petitioner filed a notice asserting that an immigration judge granted him bond). As noted, the Petition suggests Petitioner has not sought a bond hearing / redetermination, *see* Dkt. 1 at ¶ 13, Ground One, and he thus has not exhausted his administrative remedies before seeking habeas relief.

The principle of exhaustion protects administrative agency authority and promotes judicial efficiency, recognizing that agencies “ought to have primary responsibility for the programs that Congress has charged them to administer.” *McCarthy v. Madigan*, 503 U.S. 140, 145 (1992). The Eleventh Circuit has not adopted a futility exception in the habeas context. *See e.g., McGee v. Warden, FDC Miami*, 487 F. App’x 516, 518 (11th Cir. 2012) (finding that the district court lacked jurisdiction to consider a Section 2241 petition where the petitioner failed to exhaust remedies, notwithstanding his argument that doing so would be futile); *Morris v. Warden, FCC Coleman - Low*, No. 5:22-CV-527-WFJ-PRL, 2023 WL 3931928, at *2 (M.D. Fla. June 9, 2023) (expressing doubt as to whether the futility exception applies in the context of Section 2241 habeas petitions); *Gonzalez-Velez v. Warden, FCC Coleman - Low*, No. 5:22-CV-509-WFJ-PRL, 2023 WL 3584113, at *2 (M.D. Fla. May 22, 2023) (“[a]t the outset, it should be noted that an ‘exception’ to administrative exhaustion based on futility in the § 2241 setting has not been adopted by the Eleventh Circuit.”); *but see Garcia v. Noem*, No. 2:25-CV-00879-SPC-NPM, 2025 WL 3041895, at *3 (M.D. Fla. Oct. 31, 2025) (stating that exhaustion may be excused if an administrative body is biased or otherwise predetermined the issue before it). Moreover, exhaustion of administrative remedies could provide the benefit of a written decision from an Immigration Judge. Petitioner should therefore be required to exhaust his administrative remedies by seeking bond hearing / redetermination before the Immigration Court.

Should the Court order a bond hearing under 8 U.S.C. § 1226(a), the Federal Respondents request a reasonable period of seven working days to arrange an individualized bond hearing.

Wherefore, the Federal Respondents respond to the Petition as set forth above.

Respectfully submitted,

June 4, 2026

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s/ Charles T. Harden III
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CERTIFICATE OF FILING

I hereby certify that, on the date set forth above, I filed the foregoing documents and any exhibits referenced therein, using the CM/ECF system, which will send a Notice of Electronic Filing to all counsel of record and, further, that I caused copies of the foregoing documents and any exhibits referenced therein to be sent to pro se Petitioner by U.S. Mail at his last known address.

s/ Charles T. Harden III
Charles T. Harden III
Assistant United States Attorney