UNITED STATES DISTRICT COURT
DISTRICT OF COLORADO

JOSE DE JESUS SAHAGUN ALERIANO, **Petitioner,** **v.** JUAN BALTASAR, Warden, GEO Group ICE Processing Center; GEORGE VALDEZ, Director of the Denver Field Office for U.S. Immigration and Customs Enforcement; DAVID VENTURELLA, Acting Director of U.S. Immigration and Customs Enforcement; MARKWAYNE MULLIN, Secretary, U.S. Department of Homeland Security; TODD BLANCHE, Acting U.S. Attorney General, in their official capacities, **Respondents.**	Case No.: 1:26-cv-02502-STV **EXPEDITED CONSIDERATION UNDER 28 USC § 1657(a) REQUESTED**

PETITIONER'S REPLY

Petitioner, Jose de Jesus Sahagun Aleriano, through counsel, respectfully submits this reply in support of his petition for a writ of habeas corpus. Respondents note, "[t]he central legal issue presented in his case concerns whether a noncitizen who is present in the United States and has not been admitted is subject to mandatory detention by U.S. Immigration and Customs Enforcement ("ICE") under 8 U.S.C. § 1225(b), or whether such a noncitizen is entitled by § 1226(a) to seek a bond hearing." ECF No. 9 at 1. Respondents recognize that this Court has previously ruled on this issue. *Id.* (citing *Inestroza Paguada v. Choate*, No. 25-cv-03970-STV, 2026 WL 621282 (D. Colo. Mar. 5, 2026). Furthermore, Respondents acknowledge that the facts of this case are not materially distinguishable from *Inestroza Paguada*, ECF No. 9 at 3, such that the Court would reach the same conclusion here and find that Petitioner is entitled to seek a bond hearing under § 1226(a).

Turning to the matter of relief, should the Court grant the petition, Petitioner respectfully maintains that immediate release is warranted. Respondents contend that "[i]f the Court . . . grants the petition, the appropriate relief is for the Court to direct that a bond hearing be conducted pursuant to § 1226(a) before an immigration judge" ECF No. 9 at 3-4. Such a remedy is inadequate.

Petitioner has been deprived of due process from the time of his initial arrest by immigration authorities one month ago on May 21, 2026. ECF 1 ¶ 4, 29. Therefore, should the court grant this petition, immediate release is the appropriate remedy. *See Munaf v. Geren*, 553 U.S. 674, 693 (2008) ("Habeas is at its core a remedy for unlawful executive detention. The typical remedy for such detention is, of course, release."); *see also Preiser v. Rodriguez*, 411 U.S. 475, 484 (1973) ("[T]he traditional function of the writ is to secure release from illegal custody.").

Bond hearings "are provided for the purpose of custody *re*-determination—a hearing held by an immigration judge after ICE makes its initial decision to detain." *Chipantiza-Sisalema v. Francis*, No. 25-CV-5528 (AT), 2025 WL 1927931, at *3 (S.D. N.Y. Jul 13, 2025). That said, "[s]uch hearing is no substitute for the requirement that ICE engage in a 'deliberative process prior to, or contemporaneous with,' the initial decision to strip a person of the freedom that lies at the heart of the Due Process Clause." *Chipantiza-Sisalema*, No. 25-CV-5528 at *3 (citing *Lopez v. Sessions*, No. 18. Civ. 4189, 2018 WL 2932726, at *15 (S.D.N.Y. June 12, 2018)).

Here, because Respondents detained Petitioner under 8 U.S.C. § 1225—which forbids ICE from discretionarily releasing Petitioner—"there is nothing to suggest that DHS exercised any discretion *at all* in detaining" Petitioner. *Lopez Benitez v. Francis*, 795 F. Supp. 3d at 494 (S.D.N.Y. 2025) (emphasis in original).

As another court aptly noted, "These procedural protections matter. They are not mere technicalities." *Yao v. Almodovar*, No. 25 Civ. 9982 (PAE), 2025 WL 3653433, at * 20 (S.D.N.Y. Dec. 17, 2025). "A bond hearing after the fact, by definition, would not and cannot cure that constitutional violation. Although [Petitioner's] release today cannot cure his loss of liberty since [being detained], this remedy, relative to the procedural one of ordering a bond hearing, is the one that comes closest to doing so." *Id.* at 22.

Here, Petitioner was already denied the initial custody determination DHS is required to make when DHS unlawfully asserted he was subject to mandatory detention under section 1225. Rather than making the required "initial custody determination" required for those detained under section 1226, ICE appears to have continued to detain Petitioner "as a matter of reflex" in direct violation of Petitioner's recognized liberty interest. *Yao*, No. 25 Civ. 9982 (PAE) at * 20.

Accordingly, rather than ordering a bond hearing, this Court should follow numerous courts that have ordered immediate release from detention for violations of due process to which the individual was entitled. *See, e.g.*, *Yao*, No. 25 Civ. 9982 (PAE) at * 22 ("Although [Petitioner's] release today cannot cure his loss of liberty since [being detained], this remedy, relative to the procedural one of ordering a bond hearing, is the one that comes closest to doing so"); *Tumba Huamani v. Francis et al*, No. 1:25-cv-08110-LJL, ECF No. 14, at 18 (S.D.N.Y. 2025); *Chen v. Almodovar*, 26 Civ. 291 (GBD), ECF No. 7, at 3 (S.D. N.Y. Jan 22, 2026); *Lopez Benitez v. Francis*, No. 1:2025-cv-05937, ECF No. 14, at 31 (S.D.N.Y. 2025); *Chipantiza-Sisalema v. Francis*, 25 Civ. 5528 (AT) at 6 (S.D. N.Y. Jul 13, 2025) (all concluding that immediate release was the proper remedy); *see also Martinez-Orellana v. Hagan*, No. 26-cv-0355-WJM, ECF No. 14, at 10 (D. Colo. Feb. 13, 2026) (holding "immediate release is indeed the only form of relief it can grant that will meaningfully and effectively cure the Government's flagrant deprivation of Martinez-Orellana's constitutional rights.") citing *J.U. v. Maldonado*, — F. Supp. 3d —, 2025 WL 2772765, at *10 (E.D.N.Y. Sept. 29, 2025) ("Given the deprivation of Petitioner's liberty, formerly granted and approved by Respondent, *the absence of any deliberative process prior to or contemporaneous with the deprivation*, and the statutory and constitutional rights implicated, a writ of habeas corpus is the only form of relief and the most appropriate remedy.") (emphasis added)).

Respondents cite several cases arguing that the Court should not order immediate release, ECF 9 at 4, but in the case of *Montanez de la Cruz v. Baltazar*, for example, the argument falls flat. *Montanez de la Cruz v. Baltazar*, No. 26-cv-00360-PAB, WL 439217, (D. Colo. Feb. 17, 2026). There, the arguments the petitioner advanced for immediate release regarded concerns about ICE's prospective refusal to comply with court orders. *Id.* Petitioner makes no such

argument here. Court have, again and again, ordered immediate release as a remedy for unlawful detention, and such an order is warranted here. *See Flores Rodriguez v. Baltazar et al.*, No. 26-cv-614-SKC, ECF No. 15, at *5 (D. Colo. Feb. 26, 2026).

For the foregoing reasons and those articulated in the petition, Petitioner respectfully requests that the Court grant his petition for a writ of habeas corpus and end his unlawful detention with an order for immediate release. Or, in the alternative, an order requiring Respondents to provide Petitioner with a bond hearing in which the Government bears the burden to prove, by clear and convincing evidence, that Petitioner is either a danger or a flight risk such that continued detention is warranted. *See, e.g., Hernandez Madero v. Warden*, 26-cv-02104-STV, 2026 WL 1693771 (D. Colo. Jun. 11, 2026) (ordering a bond hearing with government bearing the burden); *Cancino v. Baltazar*, 26-cv-01279-STV, 2026 WL 1107676 (D. Colo. Apr. 23, 2026) (same).

Respectfully submitted this 21st day of June, 2026.

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CERTIFICATE OF SERVICE

I hereby certify that on June 21, 2026, I electronically filed the foregoing with the Clerk of Court using the CM/ECF system which will send notification of such filing to all persons who have registered for such notification, including the following:

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