

IN THE UNITED STATES DISTRICT COURT FOR THE
EASTERN DISTRICT OF MICHIGAN

Pablo AGUILAR,

Petitioner,

v.

2:25-cv-13497-LJM-CI

Kevin RAYCRAFT,
Acting Director of Immigration
Customs Enforcement and Removal
Operations, Detroit Field Office;
Kristi NOEM, Secretary of the
Department Of Homeland Security;
and Pamela BONDI, United States
Attorney General,

Respondents.

REPLY TO RESPONSE TO ORDER TO SHOW CAUSE

NOW COMES the Petitioner Pablo Aguilar, by and through his undersigned attorneys, and submits the following in reply to the government's response (**Doc. 11**) to this Court's Order to Show Cause (**Doc. 10**).

In its response, the government claim for the first time that "ICE released [Petitioner] pursuant to litigation in the Northern District of Illinois, *Castanon Nava v. DHS*, 18-03757 (N.D. Ill.)." (**Doc. 11, p. 2.**) It further suggests that Petitioner is a party to that litigation and emphatically states that "[a]ny challenges to his release" that he cares to bring "must be brought in the *Castanon Nava* litigation." *Id.* Implicit

in its argument is a claim that this Court has lost jurisdiction to address the relief Petitioner requests (*i.e.*, a finding that he is conditionally paroled as provided by 8 USC §1226(a)), and the issue now resides in the jurisdiction of the *Castanon Nava* court, a *purportedly* found in *Nava Ibarra v. Noem*, 1:25-01335 (W.D. Mich. Nov 19, 2025). It is to this new matter raised by the government that Petitioner directs his reply.

Petitioner is not a party to *Castanon Nava*. He *may* be a member of the class in that class action suit, but no evidence has been submitted that such in this case (unless the government's assertion here may be taken as an admission).

Under the terms of the *Castanon Nava* consent decree (implicitly referenced in the response), class members do not have a right to individually enforce the terms of the decree; motions to enforce the same may only be brought by the plaintiffs' class counsel. *Castanon Nava v. DHS*, 18-03757, Doc. 155-1, p. 11 (entered Feb 08, 2022). Notably, the remedies for class members that may be advanced by class counsel are as follows:

Class members who are arrested contrary to the terms of the Agreement and are in ICE custody shall be released from custody on their own recognizance without posting bond as soon as practicable subject to certain exceptions (such as where the class member is subject to mandatory detention pursuant to the INA). Class members who were arrested contrary to the terms of the Agreement and who were released on conditions including that they post bond shall have their bond payments reimbursed and any conditions of release lifted subject to listed exceptions.

Id., Doc. 155-1, pp. 9-10.

On November 13, 2025, the *Castanon Nava* court issued an order in which the following section is pertinent:

For these reasons, the Court will exercise its discretion to grant equitable relief under the Consent Decree. To this end, by 12:00 p.m. CST on November 14, 2025, with respect to the subset of 615 individuals discussed on the record, defendants shall provide the Court with their names and specify which of the individuals in this group have been identified by defendants as posing a “high public safety risk” if they were released. ***The Court further orders each individual within this group who is still detained and who does not have a “high public safety risk” designation to be released from detention upon payment of the \$1,500 bond specified by 8 U.S.C. §1226(a)(2)(1) and their enrollment in ICE’s ATD program.*** To reiterate, as stated on the record in open court, the Court will not release from detention any foreign national who has been designated by the government as a “high public safety risk.” ***The Court stays its order releasing these individuals from detention until 12:00 p.m. CST on November 21, 2025.*** The Court also stays the involuntary removal and removal for voluntary departure for these individuals until the next business day after their release from custody.

Id., Doc. 247, p. 7 (emphasis added).

On November 20, 2025, the Seventh Circuit Court of Appeals “administratively stayed” the above order, Doc. 247, “pending further order of this court.” *Castanon Nava v. USDHS*, no 25-20250 (7th Cir. Nov 20, 2025).

In light of the above, the Petitioner Pablo Aguilar—who was released from the North Lake Processing Center in Baldwin, Michigan on November 21, 2025 (see Doc. 7, p. 3, referencing Exhibit 2, Doc. 6-3)—could not have been released pursuant the *Castanon Nava* order, Doc. 247, as apparently asserted by the

government (**Doc. 11, p. 2**), because such order was stayed by the 7th Circuit Court of Appeals the day before, presumably in response to the government's request. *Castanon Nava v. USDHS*, no 25-20250 (7th Cir. Nov 20, 2025). But even if the order (Doc. 247) had not been stayed, and assuming that Petitioner is a member of the class mentioned therein (*i.e.*, the subset of 615 individuals who are not a high public safety risk), the result would have been Petitioner's release on a \$1,500 bond and enrollment in ICE's ATD¹ program *as provided under §1226(a)*.

Finally, *Nava Ibarra v. Noem*, 1:25-cv-01335 (W.D. Mich. Nov 19, 2025) does not stand for the proposition proposed by the government in its response (**Doc 11, p. 2**); to the point referenced, it is merely *dicta* that in granting a foreign national's habeas corpus petition and ordering the government to provide him with a bond hearing under §1226(a), the court will not address "a form of relief in an action *outside of habeas*," namely, whether ICE's actions violated the *Castanon Nava* consent decree. *Id.* at pp. 16-17 (emphasis in the original). This is far afield from the government's reading of the case, which suggests that a district court's jurisdiction to grant habeas relief is somehow limited or otherwise affected by whether a habeas petitioner is also a class member in the *Castanon Nava* consent decree. In granting habeas relief, the *Nava Ibarra*'s ruling unremarkably refutes such a suggestion.

¹ ATD means "Alternative to Detention." See **Doc. 9, p. 2, fn 2 and 3**.

Petitioner concludes by arguing that the government does not address the points raised in the Court's Order to Show Cause (**Doc. 10**), in particular, whether Petitioner remains in ICE's custody via the ankle monitor, whether ICE remains of the view that Petitioner's removal proceedings are subject to §1225(b), and whether, therefore, it may re-detain Petitioner at any time at its discretion, without providing him access to a hearing for bonded release. The government's silence on these points may be taken as admissions.

Petitioner does not challenge his release. Rather he prays this Court for the relief he sought among others in his petition, namely, a finding or declaration that his removal proceedings are subject to §1226(a), and, as such, that he was recently conditionally paroled as provided by §1226(a).

Respectfully submitted,



Jeffrey W. Gunn
TAPIA-RUANO & GUNN P.C.
53 W. Jackson Blvd., Suite 1215
Chicago, IL 60604
312-281-4867
-and-
Russell Abrutyn
ABRUTYN LAW PLLC
15944 West 12 Mile
Southfield, MI 48076
248-965-9440
Attorneys for Petitioner

CERTIFICATE OF SERVICE

I, Jeffrey W. Gunn, an attorney of record, certify that on December 4, 2025, I served the foregoing instrument on the Respondents' attorney, listed below, via this Court's electronic filing system:

Zak Toomey, Chief, Civil Defensive Litigation
United States Attorney's Office for the Eastern District of Michigan
211 W. Fort Street, Suite 2001
Detroit, Michigan 48226
(313) 226-9617



Jeffrey W. Gunn