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**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION**

PROCORO MORA ARELLANO	)	Case No. 26-20044-CIV-ALTONAGA
Petitioner,	)	
	)	
v.	)	PETITION FOR WRIT OF
	)	HABEAS CORPUS
	)	
CURRENT WARDEN,	)	
Miami Federal Bureau of Prisons Detention Center;	)	
Et. al.	)	
	)	
Respondents.	)	
_____	)	

**PETITIONER'S REPLY TO RESPONDENTS' RESPONSE TO ORDER TO
SHOW CAUSE**

Petitioner Procoro Mora Arellano, through undersigned counsel, respectfully submits this Reply to Respondents' Response to the Court's January 6, 2026 Order to Show Cause (ECF No. 4). Respondents' Response fails to meet their burden under 28 U.S.C. § 2241 to justify Petitioner's continued civil detention. Instead, Respondents rely on mischaracterizations of the governing detention statute, inapplicable precedent, and conclusory assertions unsupported by individualized evidence.

The Petition for Writ of Habeas Corpus (ECF No. 1) and the Court's Order to Show Cause are incorporated herein by reference.

I. RESPONDENTS BEAR THE BURDEN TO JUSTIFY CONTINUED DETENTION

In order to show cause requires the Government to affirmatively demonstrate why detention is lawful. 28 U.S.C. § 2241; *Zadvydas v. Davis*, 533 U.S. 678, 688 (2001). Once detention becomes prolonged, the Government must establish both (1) a valid statutory basis and (2) compliance with the Fifth Amendment’s Due Process Clause. *Sopo v. U.S. Att’y Gen.*, 825 F.3d 1199, 1213–14 (11th Cir. 2016). Respondents’ Response falls short on both fronts.

II. PETITIONER IS NOT SUBJECT TO MANDATORY DETENTION UNDER 8 U.S.C. § 1225(b)

Respondents’ principal argument—that Petitioner is subject to mandatory detention under § 1225(b)—rests on an overbroad interpretation rejected by multiple district courts nationwide and unsupported by the statutory text.

Section 1225 applies to noncitizens “seeking admission” at or near the border. Petitioner was not arrested at a port of entry, was not undergoing an inspection, and was not “seeking admission” at the time of arrest. He was already present in the United States. As numerous courts have held, once a noncitizen is present in the United States, detention is governed by § 1226, not § 1225. See, e.g., *Lopez Benitez v. Francis*, 2025 WL 2371588, at 7 (*S.D.N.Y. Aug. 13, 2025*); *Guerrero Lepe v. Andrews*, 2025 WL 2716910 (E.D. Cal. Sept. 23, 2025); *Aguirre Villa v. Normand*, No. 5:25-cv-89, slip op. at 16–18 (S.D. Ga. Nov. 2025) (declining to extend § 1225 to noncitizen arrested years after entry).

Respondents’ reliance on agency interpretations—particularly *Matter of Yajure Hurtado*, 29 I&N Dec. 216 (BIA 2025)—does not bind this Court and cannot override the plain meaning of the statute. Federal courts owe no deference where an agency interpretation contradicts statutory text and constitutional avoidance principles.

III. EVEN IF § 1226 APPLIES, DUE PROCESS REQUIRES AN INDIVIDUALIZED BOND HEARING

Assuming *arguendo* that detention is governed by § 1226(a), Petitioner is constitutionally entitled to be released or to an individualized bond hearing once detention becomes prolonged. Petitioner's continued detention without an individualized determination or bond hearing violates the Fifth Amendment.

While *Jennings v. Rodriguez*, 583 U.S. 281 (2018), foreclosed statutory bond hearings after six months, it explicitly preserved constitutional challenges. 583 U.S. at 308. Post-*Jennings*, courts—including within the Eleventh Circuit—have repeatedly held that prolonged detention without an individualized hearing violates the Fifth Amendment. See *Sopo v. U.S. Att'y Gen.*, 825 F.3d 1199, 1217 (11th Cir. 2016) (recognizing constitutional limits on prolonged detention); *Aguirre Villa v. Normand*, No. 5:25-cv-89 (S.D. Ga. Nov. 2025).

Courts within this Circuit have continued to order relief where detention becomes unreasonably prolonged without meaningful procedural safeguards. See *Aguirre Villa v. Normand*, slip op. at 21–24 (S.D. Ga. Nov. 2025) (ordering release where detention continued without lawful basis); *Rodriguez v. Sec'y, DHS*, 2020 WL 7398790, at 6 (*S.D. Fla. Dec. 17, 2020*) (recognizing due process right to individualized review in prolonged detention).

Respondents bear the burden of proof to support the reason for continued detention. Once ICE releases a noncitizen under an Order of Supervision, that release creates a protected liberty interest. *Zadvydas v. Davis*, 533 U.S. 678, 690 (2001). ICE may not re-detain a person on supervision at will; revocation is governed by specific regulatory requirements designed to prevent arbitrary detention. See 8 C.F.R. § 241.4.

Under the regulations, ICE may revoke an Order of Supervision only if:

1. An authorized official determines that continued release is no longer appropriate,

2. The noncitizen is provided notice of the reasons for revocation, and
3. The noncitizen is afforded an opportunity to respond through an informal interview or review.

See 8 C.F.R. § 241.4(l)(1)–(2).

These safeguards are not optional. They are mandatory conditions precedent to lawful re-detention. That absence alone renders continued detention unconstitutional. *Zadvydas*, 533 U.S. at 690; *Sopo*, 825 F.3d at 1217.

Respondents identify no hearing, no neutral decision-maker, and no individualized findings of danger or flight risk. That alone is fatal under *Zadvydas* and basic due process principles.

IV. RESPONDENTS' CONCLUSORY ASSERTIONS CANNOT SUBSTITUTE FOR EVIDENCE

Respondents assert that Petitioner's detention remains justified but provide no evidence that the Petitioner poses a danger to the community; Petitioner is a flight risk; or Less restrictive alternatives to detention were considered.

Civil detention cannot be justified by generalized enforcement interests or categorical assumptions. See *Zadvydas*, 533 U.S. at 690. Absent individualized findings supported by evidence, continued detention is unconstitutional.

V. THE PROPER REMEDY IS RELEASE OR, AT MINIMUM, A PROMPT BOND HEARING

Where detention is unlawful, the Court has authority to order immediate release. *Zadvydas*, 533 U.S. at 699–701. At a minimum, the Court should order Respondents to provide Petitioner with a prompt bond hearing before a neutral adjudicator at which Respondents bear the burden of proof by clear and convincing evidence.

VI. THE UNLAWFUL REVOCATION INDEPENDENTLY REQUIRES HABEAS RELIEF

Even if the Court were to accept Respondents' statutory detention theory (which it should not), detention following an unlawful OSUP revocation cannot stand. Habeas relief is appropriate where detention results from the Government's failure to follow its own regulations. See *Zadvydas*, 533 U.S. at 688; *INS v. St. Cyr*, 533 U.S. 289, 301 (2001).

Accordingly, Petitioner's detention is unlawful on this independent ground alone, and the writ should issue.

VII. CONCLUSION

Respondents have failed to meet their burden under § 2241. Petitioner's continued detention lacks a lawful statutory basis and violates the Due Process Clause of the Fifth Amendment.

Petitioner respectfully requests that the Court grant the writ and order his immediate release, or in the alternative, order a prompt constitutionally adequate bond hearing.

Dated: January 12, 2026

Respectfully submitted,

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