UNITED STATES DISTRICT COURT
MIDDLE DISTRICT OF GEORGIA
COLUMBUS DIVISION

CRUZ I. RODRIGUEZ-HERNANDEZ, **A[redacted]** **Petitioner,** **v.** **JASON STREEVAL, WARDEN, STEWART DETENTION CENTER,** **Respondent.**	**Case No. 4:26-cv-101-CDL-AGH**

PETITIONER'S MOTION FOR IMMEDIATE RULING

Petitioner respectfully moves this Court to issue a ruling consistent with the Eleventh Circuit's recent decision in *Hernandez Alvarez v. Warden*, No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026), and the Middle District of Georgia's subsequent decisions in *I.A.A.M. v. Warden, Irwin County Detention Center*, No. 7:26-CV-068 (WLS-ALS) (M.D. Ga. May 13, 2026), and *B.A.M.A. v. Warden, Irwin County Detention Center*, No. 7:26-cv-95-WLS-ALS (M.D. Ga. May 13, 2026). Petitioner respectfully requests that this Court find that his detention is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A), and order Respondents to provide an individualized bond hearing before an Immigration Judge.

MEMORANDUM OF LAW

I. PROCEDURAL HISTORY

Petitioner filed the instant Petition for Writ of Habeas Corpus on January 20, 2026. ECF No. 1. On the same day, January 20, 2026, this Court entered an Order to Show Cause directing

Respondents to respond to the Petition. ECF No. 3. Respondents filed their response on February 10, 2026. ECF No. 6. Petitioner thereafter timely filed a reply on February 22, 2026, fully briefing the issues before this Court. ECF No. 7.

Following completion of briefing, Petitioner filed a Notice of Briefing Completed on March 29, 2026, advising the Court that the matter was ripe for adjudication. ECF No. 8. Petitioner also filed a Motion to Set Status Conference seeking further guidance from the Court regarding resolution of the matter. ECF No. 9.

Since that time, the Eleventh Circuit issued *Hernandez Alvarez v. Warden*, No. 25-14065, 2026 WL 1243395 (11th Cir. May 6, 2026), directly addressing the precise detention issue presented here. Shortly thereafter, the Middle District of Georgia issued decisions in *I.A.A.M. v. Warden*, Irwin County Detention Center, No. 7:26-CV-068 (WLS-ALS) (M.D. Ga. May 13, 2026), and *B.A.M.A. v. Warden, Irwin County Detention Center*, No. 7:26-cv-95-WLS-ALS (M.D. Ga. May 13, 2026), applying *Hernandez Alvarez* to parolees encountered within the interior of the United States and ordering bond hearings under 8 U.S.C. § 1226(a). In light of these significant intervening authorities, Petitioner respectfully requests immediate ruling by this Court.

II. FACTUAL BACKGROUND

Petitioner was detained on December 11, 2025, when he appeared in person for his regularly scheduled ICE check-in as instructed. At the time of his detention, Petitioner had already been physically present within the interior of the United States and was complying with ICE reporting requirements. He was not attempting to enter the United States, presenting himself for admission at a port of entry, or otherwise "seeking admission" within the meaning of 8 U.S.C. § 1225(b)(2)(A).

Petitioner had previously been inspected and paroled into the United States prior to his re-detention by immigration authorities. Following his arrest, DHS subjected Petitioner to continued detention under 8 U.S.C. § 1225(b)(2)(A), asserting that he remained an "applicant for admission" subject to mandatory detention. However, Petitioner was arrested within the interior of the United States while complying with ICE supervision requirements. At no point during his arrest was Petitioner attempting entry into the United States or actively seeking admission at the border.

III. ARGUMENT

This case presents the precise legal issue recently resolved by the Eleventh Circuit in *Hernandez Alvarez* and repeatedly addressed by courts within the Middle District of Georgia. Respondents continue to argue that noncitizens encountered and re-detained within the interior of the United States remain subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A) as "applicants for admission." That argument is no longer legally sustainable after *Hernandez Alvarez.*

In *Hernandez Alvarez*, the Eleventh Circuit squarely rejected the Government's attempt to blur the distinction between noncitizens encountered at the border and noncitizens living within the interior of the United States. The Court held:

> "The INA's text confirms that the two relevant sections on detention govern distinct classes of aliens: § 1225 applies to arriving aliens seeking entry at the border, whereas § 1226 applies to aliens unlawfully in the interior."

Hernandez Alvarez v. Warden, No. 25-14065, 2026 WL 1243395, at *14 (11th Cir. May 6, 2026). The Eleventh Circuit further warned that by attempting to apply § 1225 beyond the border context, "the Government vitiates this longstanding distinction." *Id.* The Court's analysis focused not merely on whether a person had technically been admitted, but whether the individual was actively "seeking admission" at the time of detention. The Eleventh Circuit emphasized that

individuals encountered within the interior of the United States are not "seeking admission" where they are not actively pursuing lawful entry into the country. *Id.* at *7–8.

Following *Hernandez Alvarez*, the Middle District of Georgia has repeatedly applied that reasoning to order bond hearings under § 1226(a). In *I.A.A.M. v. Warden, Irwin County Detention Center*, the court addressed a petitioner who had previously been inspected and paroled into the United States but was later arrested within the interior. No. 7:26-CV-068 (WLS-ALS), slip op. at 2–3 (M.D. Ga. May 13, 2026). Applying *Hernandez Alvarez*, the court concluded that the petitioner was not "seeking admission" when later encountered in the interior and therefore was not subject to mandatory detention under § 1225(b)(2)(A). *Id.* The court ordered Respondents to provide an individualized bond hearing under § 1226(a). *Id.*

Likewise, in *B.A.M.A. v. Warden, Irwin County Detention Center*, the court again rejected DHS's attempt to apply § 1225(b)(2)(A) to a noncitizen encountered within the interior of the United States after release. No. 7:26-cv-95-WLS-ALS, slip op. at 2–3 (M.D. Ga. May 13, 2026). There, the court held that the petitioner was not "actively pursuing the rights and privileges of lawful entry" when arrested and therefore could not be treated as an "alien seeking admission" under § 1225(b)(2)(A). *Id.* The court ordered a bond hearing pursuant to § 1226(a). *Id.*

Importantly, Petitioner here is likewise a parolee, just like the petitioners in *I.A.A.M.* and *B.A.M.A.*, both of which were decided by this Court. Petitioner was previously inspected and paroled into the United States and later encountered within the interior of the country. As those cases recognized, parole does not transform a noncitizen encountered in the interior into an "arriving alien" actively seeking admission at the border for purposes of 8 U.S.C. § 1225(b)(2)(A). Rather, under *Hernandez Alvarez*, parolees who have already been released into the United States and later re-detained within the interior fall within the detention framework of 8 U.S.C. § 1226(a).

The Middle District of Georgia has already applied that reasoning to similarly situated parolees and ordered individualized bond hearings. This Court should do the same here.

The reasoning of *Hernandez Alvarez*, *I.A.A.M.*, and *B.A.M.A.* directly applies here. Petitioner was encountered and detained within the interior of the United States. At the time of arrest, Petitioner was not standing at the border, attempting entry, or seeking admission into the United States in any literal sense. Rather, Petitioner was already physically present inside the country. Under *Hernandez Alvarez*, that distinction controls.

Additionally, the Notice to Appear itself charges Petitioner as an individual who entered the United States without inspection, not as an arriving alien. Respondents cannot simultaneously charge Petitioner as an individual present within the interior of the United States while attempting to subject him to a statutory detention framework reserved for arriving aliens actively seeking admission at the border. The Government's position improperly conflates distinct statutory categories that Hernandez Alvarez expressly recognized remain separate under the INA.

Respondents nevertheless continue attempting to classify Petitioner as an "applicant for admission" subject to mandatory detention under § 1225(b)(2)(A). But *Hernandez Alvarez* makes clear that § 1225 governs "arriving aliens seeking entry at the border," while § 1226 governs individuals encountered unlawfully within the interior of the United States. *Hernandez Alvarez*, 2026 WL 1243395, at *14.

Moreover, as recognized in *I.A.A.M. and B.A.M.A.*, parolees later re-detained within the interior are not "actively pursuing lawful entry" at the time of arrest. Rather, they are individuals already physically present in the United States whose detention is governed by § 1226(a). The same is true here.

Additionally, prolonged civil detention without any individualized custody determination raises serious constitutional due process concerns. Civil immigration detention cannot become effectively indefinite without meaningful procedural protections. *See Mathews v. Eldridge*, 424 U.S. 319 (1976). As recognized in both *I.A.A.M. and B.A.M.A.*, due process requires an individualized bond hearing at which DHS bears the burden of establishing by clear and convincing evidence that continued detention is necessary because the noncitizen present either a danger to the community or a flight risk.

Respondents' reliance on the parole cases from the Middle District only further supports Petitioner's position because those cases involved parolees encountered within the interior who, despite their parole status, were nevertheless found subject to § 1226(a). The Middle District expressly rejected the Government's attempt to continue applying § 1225(b)(2)(A) merely because the individuals had not technically been admitted. The relevant inquiry under *Hernandez Alvarez* is not formal admission status alone, but whether the individual is actively seeking admission at the border at the time of detention. Petitioner plainly was not. This Court should therefore follow the Eleventh Circuit's controlling decision and the Middle District's recent application of that authority.

WHEREFORE, Petitioner respectfully requests that this Court:

1. Issue a ruling consistent with *Hernandez Alvarez v. Warden*;
2. Find that Petitioner's detention is governed by 8 U.S.C. § 1226(a), not § 1225(b)(2)(A);
3. Order Petitioner's immediate release from custody because his continued detention under § 1225(b)(2)(A) is unlawful;
4. In the alternative, order Respondents to provide Petitioner with an individualized bond hearing before an Immigration Judge within seven (7) days;
5. Order that DHS bear the burden of proving by clear and convincing evidence that continued detention is necessary because Petitioner presents either a danger to the community or a flight risk; and
6. Grant such other and further relief as this Court deems just and proper.

Respectfully submitted this 27th day of May 2026.

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