

**IN THE UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF ALABAMA
SOUTHERN DIVISION**

**FERNANDO LUIZ DA SILVA
RODRIGUES,**

Plaintiff,

v.

**ANTHONY E. LOWERY, Sheriff, Baldwin
County Detention Center; MELLISSA
HARPER, ICE New Orleans Field Office
Director; TODD LYONS, in his official
capacity as Acting Director of Immigration
and Customs Enforcement; KRISTI NOEM,
Secretary of Homeland Security, and
PAMELA BONDI, U.S. Attorney General,**

Defendants.

Case No. 1:26-cv-00020-KD-B

RESPONSE TO PETITIONER'S MOTION TO PRODUCE

The United States of America, by and through the United States Attorney for the Southern District of Alabama, hereby submits this Response to Petitioner's Motion to Produce Petitioner In Person for Hearing and Renewed Request for an Order Preventing Petitioner's Removal During the Habeas Proceedings (Doc. 21), stating as follows:

1. This Court has jurisdiction to determine the narrow issue of whether Petitioner has been deprived of his Fourth Amendment rights when he was pulled over for a traffic stop, stated that he was unlawfully in the United States, and an Immigration Detainer was placed on him. If the Court determines that Petitioner was not illegally arrested, the Court's jurisdiction over this matter ends pursuant to 8 U.S.C. § 1252.

2. As of today, Petitioner is currently scheduled for his initial hearing before an Immigration Judge on February 27, 2026. Petitioner's arguments in the Motion to Produce should be presented to the appropriate Immigration Court for the judge to make a determination regarding the appropriate bond conditions that apply to him.

3. The pending hearing on the Petition is scheduled in less than 24 hours. If the Court were to order that he be produced, it is highly unlikely that he could physically be transported to Mobile in time for the hearing.¹

4. Petitioner's Motion also seeks an order preventing his removal during this habeas proceeding. The Respondents did not take a position as to that portion of the requested relief. However, to the extent that it may be construed as a renewal of the Petitioner's Motion for a Temporary Restraining Order or a Preliminary Injunction, such relief was already denied in the Court's Order dated February 4, 2026, and the Respondents would oppose that relief. (Doc. 16).

5. The Respondents respectfully request that the Motion to Produce be denied.²

Respectfully submitted,

SEAN P. COSTELLO
UNITED STATES ATTORNEY

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¹ Undersigned counsel has inquired about the availability of appearance by video and has not yet received a response.

² To the extent that Petitioner's Motion to Produce encompasses a request for temporary restraining order or injunction, Respondents did not take a position

CERTIFICATE OF SERVICE

I hereby certify that on February 10, 2026, the foregoing was electronically filed with the Clerk of Court using the CM/ECF system, which will send notification of such to all counsel of record.

s/ Kasee Heisterhagen

Kasee Heisterhagen

Assistant U.S. Attorney