UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA
MIAMI DIVISION

CASE NO. 1:26-cv-22292-RKA

RAUDELIO RODRIGUEZ ROMERO,
Petitioner,

v.

ICE IMMIGRATION AND CUSTOMS ET AL.,
Respondents.
_____/

RESPONSE TO ORDER TO SHOW CAUSE AND PETITION FOR A WRIT OF HABEAS CORPUS UNDER 28 U.S.C. § 2241

Respondents[1], through the undersigned Special Assistant United States Attorney, respectfully submits this Response to this Court's Order to Show Cause [DE 8]. Raudelio Rodriguez Romero filed a Petition for Writ of Habeas Corpus under 28 U.S.C. § 2241 [DE 1] (Petitioner and Petition) on April 2, 2026. First, the Court lacks jurisdiction because the Petition was not filed in the district of confinement. Petitioner is detained in the Stewart Detention Center, which is in the Middle District of Georgia. Second, Petitioner's criminal history subjects him to *mandatory* immigration detention under 8 U.S.C. § 1226(c)(1)(E), pending completion of his removal proceedings. Accordingly, the Petition should be dismissed for the reasons set forth below.

[1] A writ of habeas corpus must "be directed to the person having custody of the person detained." 28 USC § 2243. In cases involving present physical confinement, the Supreme Court reaffirmed in *Rumsfeld v. Padilla*, 542 U.S. 426 (2004), that "the immediate custodian, not a supervisory official who exercises legal control, is the proper respondent." *Rumsfeld v. Padilla*, 542 U.S. 426, 439 (2004). Petitioner is currently detained at the Krome North Service Processing Center (Krome) located in Miami, Florida. The only proper Respondent would be the Warden of Krome, Assistant Field Office Director (AFOD) Charles Parra, in his official capacity. Therefore, all other Respondents should be dismissed as improper parties.

FACTUAL BACKGROUND

Raudelio Rodriguez Romero (Petitioner) is a native and citizen of Cuba. *See* Exh. A, Form I-213. Petitioner initially entered the United States unlawfully afoot without being inspected by an immigration officer at a designated port of entry on or about February 25, 2008. *See* Id.

Petitioner was placed in removal proceedings, however on August 23, 2012, proceedings were terminated due to an improvidently issued Notice to Appear (NTA). *See* Exh. B, Immigration Judge Order, dated August 23, 2012.

On November 2, 2021, Customs and Border Protection (CBP) encountered Petitioner near the Otay Mesa, California Port of Entry. *See* Exh. A, Form I-213. CBP determined Petitioner was unlawfully present in the United States. *See* Id. Petitioner was released on his own recognizance. *See* Exh. C, Form I-220A, Release on Recognizance. The release on recognizance specifically states that the Petitioner must not violate any local, State, or Federal laws or ordinances. *See* Id.

On March 6, 2024, Petitioner was arrested for Resisting Officer with Violence, two counts of Burglary - Unoccupied Structure, and Trespassing. *See* Exh. D, Declaration. The charges were dropped/abandoned. *See* Id.

On April 4, 2024, Petitioner was arrested for Theft, Disturbing the Peace, Obstruction without Violence, and Trespassing. *See* Id. The charges were nolle prosequi. *See* Id.

On July 19, 2025, Petitioner was arrested for felony cocaine possession and misdemeanor cannabis possession, 20 grams or less. *See* Id. On October 7, 2025, Petitioner was convicted of cocaine possession, and the cannabis charge was nolle prosequi. *See* Id. Petitioner pled guilty, received a withhold of adjudication and was sentenced to probation.

See Exh. E, Conviction Records, *State of Florida vs Raudelio Rodriguez,* Case No. F25015390 (Miami Dade County, Florida) dated October 7, 2025. Petitioner was also assessed various court costs. *See* Id.

On July 21, 2025, Immigration and Customs Enforcement (ICE), Enforcement and Removal Operations (ERO) encountered Petitioner at the Turner Guilford Knight Correctional Center (TGK) after being arrested for cocaine possession and cannabis possession 20 grams or less. *See* Exh. D, Declaration. ICE ERO issued a warrant for Petitioner's arrest and a Notice to Appear. *See* Exh. F, Form I-200, Warrant for Arrest; *see also* Exh. G, NTA dated July 21, 2025.

On October 9, 2025, Petitioner was transferred from TGK to ICE ERO custody, following the conclusion of his criminal case. *See* Exh. H, Detention History. On October 29, 2025, ICE ERO filed the NTA with the Executive Office for Immigration Review (EOIR) initiating removal proceedings. *See* Exh. D, Declaration.

On November 9, 2025, Petitioner was issued a Notice of Rights and Request for Disposition. *See* Exh. I, Form I-826, Notice of Rights and Request for Disposition, dated November 9, 2025.

After the filing of this Petition, Petitioner requested a custody determination before an immigration judge and on April 16, 2026, the Immigration Judge denied Petitioner's request. *See* Exh. J, Immigration Judge Order, dated April 16, 2026. On May 7, 2026, Petitioner appealed the immigration judge's decision and filed his appeal with the Board of Immigration Appeals (BIA). *See* Exh. K, Filing Receipt for Appeal, dated May 11, 2026. On May 19, 2026, the Immigration Judge issued a written decision. *See* Exh. L, Bond Memorandum, dated May 19, 2026.

On June 9, 2026, Petitioner appeared for an individual merits hearing and the Immigration Judge denied all relief and ordered Petitioner removed to Cuba. *See* Exh. M, Immigration Judge Order, dated June 9, 2026. Petitioner reserved appeal and has until July 9, 2026, to file an appeal on the removal order. *See* Exh. M, Immigration Judge Order, dated June 9, 2026. To date, Petitioner has not filed an appeal. *See* Exh. D, Declaration.

On June 22, 2026, due to wildfires in Miami-Dade County that put the health and safety of all at the Krome North Service Processing Center (Krome) at risk, all detainees were transferred from Krome to another ICE facility, including Petitioner, who was transferred to Stewart Detention Center, located in Lumpkin, Georgia. *See* Exh. H, Detention History. Petitioner will remain detained pursuant to his removal order. *See* Exh. D, Declaration.

I. ARGUMENT

A. The Petition should be denied for lack of jurisdiction, or in the alternative, transferred to the Eastern District of California where Petitioner is detained.

Petitioner is detained at Stewart Detention Center, which is in the Middle District of Georgia. *See* Exh. H, Detention History. Section 2441 allows "the [U.S.] Supreme Court, any justice thereof, the district courts and any circuit judge" to grant writs of habeas corpus "within their respective jurisdictions." 28 U.S.C. § 2441(a). The Supreme Court has interpreted the "within their respective jurisdiction language to mean that a Section 2441 petitioner challenging his present physical custody must file a petition for writ of habeas corpus in the district of confinement." *Rumsfeld v. Padilla*, 542 U.S. 426, 446-47 (2004); *Trump v. J.G.G.*, 145 S. Ct. 1003, 1006 (2025) (finding that that even for habeas petitions filed by immigration detainees, "jurisdiction lies in only one district: the district of confinement.").

Courts have previously dismissed or transferred habeas petitions for lack of jurisdiction filed by immigration detainees located outside the Southern District of Florida. *See Lopez Lozano v. Ripa*, 25-cv-25366-ALTONAGA (S.D. Fla. Nov. 19, 2021) (Order). *See* (Exhibit E, Lopez Lozano Order) (transferring habeas petition to the Middle District of Florida where petitioner was arrested at a music festival and is now detained at FSSFS); *Zhang v. United States*, 21-cv-81382-ALTMAN, 2021 U.S. Dist. LEXIS 162725, at *2-3 (S.D. Fla. Aug. 25, 2021) (dismissing habeas petition for lack of jurisdiction where detainee was detained in Glades County Jail, in Glades County, Florida, because jurisdiction lies in the district of confinement); *Dolme v. Barr*, 20-cv-24106-ALTMAN, 2020 U.S. Dist. LEXIS 197596, at *2-3 (S.D. Fla. Oct. 21, 2020) (dismissing habeas petition for lack of jurisdiction where detainee was detained in Wakulla County Jail, in Wakulla County, in the Northern District of Florida, because jurisdiction lies in the district of confinement).

In this case, jurisdiction lies in the Middle District of Georgia, which is the district of confinement. Lumpkin, Georgia, is served by Stewart County, which lies in the Middle District of Georgia. *See* 28 U.S.C. § 90(b).

B. Petitioner is subject to mandatory detention under Section 1226(c) pending completion of his removal proceedings; he is not entitled to a bond hearing or to be released.

As a result of his 2025 arrest for Cocaine Possession, Petitioner is detained pursuant to 8 U.S.C. § 1226(c)(1)(E). Section 1226(c) states that "[t]he Attorney General *shall take into custody* any alien who" qualifies for mandatory detention. *See* 8 U.S.C. § 1226(c)(1) (emphasis added). Section 1226(c)(1)(E) states aliens inadmissible under paragraph (6)(A), (6)(C), or (7) of section 1182(a) of this title and who are charged with, arrested for, convicted of, admits to having committed, or admits to committing acts which constitute the essential elements of any crime that

results in death or serious bodily injury to another person is subject to mandatory detention. *See* 8 U.S.C. § 1226(c)(1)(E). The statute prohibits release of noncitizens whom the Attorney General has taken into custody, except that the Attorney General may make exceptions for certain witness-protection purposes, which are inapplicable in this case. *See* 8 U.S.C. § 1226(c)(2) (stating that "[t]he Attorney General may release an alien described in paragraph (1) *only if* the Attorney General decides" that release is "necessary" for witness protection) (emphasis added).

The Supreme Court has definitively and consistently affirmed the constitutionality of detention pending removal, including mandatory detention under Section 1226(c). *See, e.g., Demore v. Kim*, 538 U.S. 510, 523 (2003) (listing cases). Confronted with a "near-total inability to remove deportable criminal aliens" and statistics showing a recidivism rate for criminal aliens approaching 80 percent, *see Demore*, 538 U.S. at 518-19, Congress enacted § 1226(c). Section 1226(c) makes clear that "aliens detained under [§ 1226(c)] are not entitled to be released under any circumstances other than those expressly recognized by the statute." *Jennings v. Rodriguez*, 583 U.S. 281, 303 (2018).

In *Demore*, the Supreme Court affirmed the constitutionality of mandatory detention pending removal. In doing so, the Court distinguished the case in two key respects from its earlier decision in *Zadvydas v. Davis*, 533 U.S. 678 (2001), where the Court applied the canon of constitutional avoidance to read into the post-order detention statute an implicit temporal limitation. First, the Court emphasized that for the noncitizens challenging their detention in *Zadvydas*, removal was "no longer practically attainable" and therefore detention "did not serve its purported immigration purpose." *Demore*, 538 U.S. at 527. Conversely, mandatory detention pending removal proceedings "serves the purpose of preventing deportable criminal aliens from fleeing prior to or during their removal proceedings." *Id.* at 528. Second, the Court emphasized

that the post-order detention in *Zadvydas* was "indefinite" and "potentially permanent" while pre-order detention has an "obvious termination point"—the conclusion of removal proceedings.[2] *Id.* at 528-29. The considerations that justified the imposition of a temporal limit on immigration detention in *Zadvydas* were absent in *Demore*, and the Court declined to impose additional, constitutional limits on the operation of § 1226(c).

Indeed, in *Demore*, the Supreme Court affirmed the mandatory detention pending removal proceedings of a lawful permanent resident for longer than six months, when he had conceded the charges against him but was seeking relief from removal. There, the detained noncitizen had already "spen[t] six months" in immigration custody before the Supreme Court upheld the constitutionality of his mandatory detention. *Demore*, 538 U.S. at 531. As a result of the Court's reversal of the decision affirming his release, he was to be returned to custody until removal proceedings were completed, which would take additional time. He had not yet had his removal hearing (because he asked for a continuance), and he could still appeal to the Board of Immigration Appeals if the Immigration Judge ordered him removed. *Demore*, 538 U.S. at 530-31. Thus, *Demore* itself "implicitly foreclose[s]" the notion that the Constitution mandates a bond hearing near the six-month mark under section 1226(c). *See Reid v. Donelan*, 819 F.3d 486, 497 (1st Cir. 2016).

Demore resolves the issue here. Petitioner's detention continues to "serve its purported immigration purpose" — ensuring his appearance at his removal proceedings and protecting the community from noncitizens who have committed crimes that Congress concluded warranted mandatory detention. *Demore*, 538 U.S. at 527. The prospect of a removal order—or, here, that

[2] To clarify, while Petitioner has been ordered removed (Exhibit M), that order is not final due to Petitioner's pending appeal to the BIA. Exhibit K. Accordingly, he remains in pre-order of removal detention under Section 1226 until his appeal is resolved.

order being affirmed by the BIA—and the government's interest in enforcing that order, remain significant throughout the immigration proceedings. The risk that an alien with a criminal history will commit further crimes or otherwise present a danger to the community if released, presumably remains constant until removal proceedings are completed and does not lessen at any arbitrary fixed point in time. Similarly, the risk that an alien with a criminal history, if released, will fail to appear for removal proceedings does not dissipate after a certain amount of time has passed. In fact, the government's interest in keeping the alien detained (and the alien's incentive to abscond) will typically increase over time as removal proceedings progress toward their completion, as criminal alien on the cusp of removal has a greater incentive to abscond than one who is at the beginning of his proceedings. *See Matter of Andrade*, 19 I. & N. Dec. 488, 490 (BIA 1987). In other words, Petitioner's detention under § 1226(c) does not cease to be justified simply because time has passed. Further, his pre-removal-order detention is not potentially indefinite, as it will terminate once his removal proceedings conclude. Thus, *Demore* compels this Court to conclude that Petitioner's detention is constitutional.

Petitioner seemingly argues that the length of his detention, alone, justifies release. But the length of Petitioner's detention is not dispositive of whether relief should be granted. Among the courts that have recognized either constitutional limits or implied statutory limits on the length of pre-removal order detention, several have denied habeas petitions where detention was longer that at issue in this case. *See e.g. Rampersadsingh v. DHS,* No. 23-cv-20709, DE 11 (S.D. Fla. March 17, 2023) (Dimitrouleas, J.) (recognizing that the petitioner's 14-month detention pending removal proceedings did not violate due process because the "Supreme Court's *Demore* and *Jennings* decisions foreclose Petitioner's claim that his continued detention is unconstitutional"); *O.D. v. Warden, Stewart Detention Ctr.*, 2021 WL 5413968 at *4-5 (M.D. Ga. Jan. 14, 2021), *adopted by*,

2021 WL 5413966 (M.D. Ga. Apr. 1, 2021) (denying habeas relief to § 1226(c) petitioner who had been detained for nineteen months); *Sigal v. Searls*, 2018 WL 5831326 at *5, 9 (W.D.N.Y. Nov. 7, 2018) (denying habeas relief to petitioner detained for seventeen months after "tak[ing] into account all of the factual circumstances"); *see also Hylton v. Shanahan*, No., 2015 WL 3604328, at *6 (S.D.N.Y. June 9, 2015) (detention without bail for roughly two years did not violate due process); *Luna-Aponte v. Holder*, 143 F. Supp. 2d 189, 197 (W.D.N.Y. 2010) (same, after three years).

Further, an alien with criminal history subject to mandatory detention under Section 1226(c) may make choices that necessarily add time to the resolution of his case—and relatedly add time to the detention that Congress found to be a necessary aspect of those proceedings. The Court further noted that, if a criminal alien decided to appeal to the BIA (exactly as Petitioner has done here) that would also add time to the duration of removal proceedings, and thus to the related detention under Section 1226(c). *See id.* at 529. But the Supreme Court similarly treated the added detention time reasonably consumed in disposing of the appeal as fully justified. The Court stated, "'the legal system ... is replete with situations requiring the making of difficult judgments as to which course to follow,' and, even in the criminal context, there is no constitutional prohibition against requiring parties to make such choices." *Id.* at 530 n.14 (quoting *McGautha v. California*, 402 U.S. 183, 213 (1971)); *see Chaffin v. Stynchcombe*, 412 U.S. 17, 30-31 (1973).

Justice Kennedy's concurrence in *Demore* reflects a similar understanding. In his view, a lawful permanent resident "could be entitled" to a bond hearing "if the continued detention became unreasonable or unjustified." *Id.*, 538 U.S. at 532. But he viewed the constitutionality of continuing detention without a bond hearing as depending on why detention is continuing: if there were an "unreasonable delay *by the [government]* in pursuing and completing deportation proceedings,"

he explained, it "could become necessary" to ask whether "the detention is not to facilitate deportation, or to protect against risk of flight or dangerousness, but to *incarcerate for other reasons*." *Id.* at 532-33 (emphases added). Justice Kennedy could not draw such an inference, however, "from the circumstances of" *Demore* itself. *Id.*, 538 U.S. at 533. The clear implication is that the reasonable continuation of removal proceedings occasioned by an alien's choices—including seeking continuances, relief from removal, or appellate review—does not undermine the constitutionality of detention. So long as the added time is reasonably needed to adjudicate the case (not to prolong pointlessly or to punish), the ongoing detention continues to be constitutionally justified by the interests in "protect[ing] against risk of flight or dangerousness." *Id.* at 532-33.

In the instant case, Petitioner's complaint filed April 2, 2026, alleges that "no administrative appeal process available." [DE 1, pg. 4] However, since the filing of the Petition, Petitioner has filed an appeal with the BIA that will inevitably prolong his pre-removal order detention. Nevertheless, those delays should not be attributed to the respondents and should not be considered when determining whether the petitioner is subject to mandatory detention during the removal proceedings.

II. CONCLUSION

Since the Petitioner is currently detained at the Stewart Detention Center in the Middle District of Georgia this Court lacks jurisdiction and the Petition should be dismissed. Alternatively, because the Petitioner's criminal history mandates detention under Section 1226(c), he is not entitled to a bond hearing, and the Petition should be dismissed.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that on June 24, 2026, I electronically filed the foregoing document with the Clerk of the Court using CM/ECF. I also certify that a copy of the Respondent's Return to Writ of Habeas Corpus was mailed to Petitioner at the address listed below on June 24, 2026.

Adriano Sandro Rodriguez, *Pro Se*
A# [redacted]
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Mail/Parcels
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