IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF KENTUCKY
LOUSIVLLE DIVISION

LEIDY SANCHEZ BALLESTROS, *Petitioner,* *v.* KRISTI NOEM, *et al.*, *Respondents.*	Case No. 3:25-CV-00594-RGJ

REPLY IN SUPPORT OF PETITION FOR A WRIT OF HABEAS CORPUS AND TEMPORARY RESTRAINING ORDER

Petitioner, Leidy Sanchez Ballestros, has been detained by Immigration and Customs Enforcement (ICE) since July 9, 2025. As explained in her Petition for Writ of Habeas Corpus and Motion for Temporary Restraining Order (TRO), her continued detention is invalid and unlawful. The government has detained Petitioner without bond, but no authority in the Immigration and Nationality Act (INA) authorizes the mandatory detention of a person in Petitioner's position. In its Response, Respondents argue that Petitioner is currently in expedited removal proceedings and thus subject to mandatory detention under 8 U.S.C. § 1225(b)(1)(b). In the alternative, Respondents argue that, even if Petitioner remained in full removal proceedings under 8 U.S.C. § 1229a, she would be subject to mandatory detention 8 U.S.C. § 1225(b)(2)(A).

For the reasons explained below, these arguments are unpersuasive, and this Court should grant Petitioner's motion for TRO, compelling Respondents to order her immediate release, or in the alternative, order a custody hearing before a neutral adjudicator to determine whether her detention is justified.

ARGUMENT

As set forth in her motion for TRO and petition for habeas corpus, Petitioner has demonstrated that the TRO factors weigh in her favor, warranting a grant of relief. ECF No. 1, 2. Respondents' primary argument is that Petitioner is subject to mandatory detention under 8 U.S.C. § 1225(b)(1)(b), or in the alternative, that she is subject to mandatory detention under 8 U.S.C. § 1225(b)(2)(A). ECF No. 8 at 3-4. As explained below, these arguments fail.

I. Petitioner is not subject to mandatory detention.

Respondents' primary argument is that Petitioner is subject to mandatory detention due to her purported placement in expedited removal proceedings, citing 8 U.S.C. § 1225(b)(1)(b). Petitioner, however, is not and never has been in expedited removal proceedings.

Section 1225(b)(1) applies narrowly to arriving noncitizens who are determined to be inadmissible based on 8 U.S.C. § 1182(a)(6)(C) (misrepresentation) or 8 U.S.C. § 1182(a)(7) (lack of valid documentation). Such individuals are ordered removed "without further hearing or review" under an expedited removal process unless the noncitizen has expressed an intent to apply for asylum or a fear of persecution. *Id.* § 1225(b)(1)(A)(i). Only those placed in expedited removal shall be detained under Section 1225(b)(1). *See* 8 C.F.R. § 235.3(b)(1), (b)(3).

While the government filed a motion to dismiss Petitioner's removal proceedings on July 9, 2025, citing their intent to place her in expedited removal proceedings, Petitioner is not currently subject to expedited removal. Petitioner appealed the immigration judge's (IJ's) decision granting the government's motion to dismiss, and her appeal remains pending with the Board of Immigration Appeals (BIA). Thus, the order dismissing her removal proceedings is not administratively final and she remains in full removal proceedings while the appeal is pending. In

addition, Petitioner was never served with an expedited removal order, nor has she been provided with a credible fear interview. ECF No. 1, Exh. G.

Further, Petitioner's Notice to Appear, ECF No. 1, Exh. A, charged her as inadmissible under 8 U.S.C. § 1182(a)(6)(A)(i), which is not one of the enumerated grounds in Section 1225(b)(1). As discussed above, Section 1225(b)(1) applies narrowly to only those noncitizens who are inadmissible to the United States because they engaged in fraud or misrepresentation to procure admission or other immigration benefits, 8 U.S.C. § 1182(a)(6)(C), or who are applicants for admission without required documentation, 8 U.S.C. § 1182(a)(7). This further indicates that Petitioner is not subject to expedited removal and therefore cannot be detained pursuant to its mandatory detention provision.

Finally, upon entering the United States, Petitioner was released on an order of recognizance, as authorized by Section 1226(a)(2)(B) for noncitizens detained pursuant to Section 1226(a). ECF No. 1, Exh. D. Again, this further demonstrates that Petitioner is not, and never has been, subject to expedited removal.

In the alternative, Respondents argue that Petitioner's detention is authorized by Section 1225(b)(2). These arguments likewise fail.

As this Court recently found, the text of Section 1225(b)(2) applies narrowly to "noncitizens arriving at a border or port" and who are "presently 'seeking admission' into the United States." *Beltran Barrera v. Tindall et al*, No. 3:25-cv-00541-RGJ (W.D. Ky. Sept. 19, 2025); *see also Singh v. Lewis*, No. 4:25-cv-00096-RGJ (W.D. Ky. Sept. 22, 2025). Further, as this Court recognized, the Laken Riley Act, passed just this year, mandates the detention of noncitizens who are inadmissible under §§ 1182(a)(6)(A) (noncitizens "present in the United States without being admitted or paroled"), 1182(a)(6)(C) (misrepresentation), or 1182(a)(7) (lacking valid

documentation) and who have been arrested for, charged with, or convicted of certain crimes. Laken Riley Act, Pub. L. No. 119-1, 139 Stat. 3 (2025); 8 U.S.C. § 1226(c)(1)(E). "If Congress had intended for Section 1225 to govern all noncitizens present in the country, who had not been admitted, then it would not have recently adopted an amendment to Section 1226 that prescribes a subset of noncitizens to exempt from the discretionary bond framework." *Beltran Barrera*, No. 3:25-cv-00541-RGJ, slip. op at 7 (citing *Lopez-Campos v. Raycraft*, 2025 WL 2496379 at *8 (E.D. Mich. Aug. 29, 2025)). This Court's interpretation is consistent with numerous federal courts around the country, which have roundly rejected the government's "novel interpretation of Section 1225". *Beltran Barrera*, No. 3:25-cv-00541-RGJ, slip. op at 10 (collecting cases); *see also* ECF No. 1, ¶ 48 (collecting cases).

Consistent with this Court's holdings in *Beltran Barrera* and *Singh*, Petitioner's detention is not authorized by Section 1225(b)(2) because it applies only to noncitizens who recently arrived at a border or port of entry, not individuals who entered without inspection and were later detained inside the country. Noncitizens like Petitioner, who entered without inspection, were placed in standard removal proceedings, and released on their own recognizance, are not subject to mandatory detention under Section 1225(b)(2).

Therefore, Respondent's placement of Petitioner in mandatory detention is invalid and unlawful.

II. Petitioner is entitled to immediate release, or in the alternative, a prompt bond hearing.

The only possible basis for Petitioner's detention is 8 U.S.C. § 1226(a), which allows for release on bond or conditional parole. Indeed, when the government released Petitioner on her own recognizance, it relied on the discretionary detention authority of Section 1226(a) and found that

she was neither a danger to the community nor a flight risk. ECF No. 1, Exh. D. However, as discussed above, the government has now detained her without bond, instead erroneously relying on the assertion that she is subject to mandatory detention. Therefore—without an individualized determination that Petitioner is now a danger to the community or a flight risk—her current detention is unlawful.

Here, the government has previously considered Petitioner's facts and circumstances, determined that she was not a flight risk or danger to the community, and released her on her own recognizance so she may apply for asylum. To detain her once more under Section 1226(a) would require an individualized determination that Petitioner has become a danger to the community or a flight risk. No such determination has happened, nor are there any changes to the facts that would justify the revocation of her release on recognizance. Petitioner has committed no crimes and was arrested while voluntarily appearing as required at her immigration proceedings. Lacking any statutory basis for her detention, Respondent must release Petitioner or, in the alternative, promptly hold a bond hearing to determine whether she should remain in custody.

CONCLUSION

None of Respondents' arguments prove sufficient to justify Petitioner's ongoing, unlawful detention in immigration custody. Because Petitioner's ongoing detention violates the Due Process Clause, the INA, and the Administrative and Procedure Act, this Court should grant her motion for TRO, order her immediate release or, in the alternative, order a prompt bond hearing.

Dated: September 23, 2025

s/ Colleen Cowgill
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CERTIFICATE OF SERVICE

I, Colleen Cowgill, hereby certify that on September 23, 2025, I filed the foregoing with the Clerk of Court using the CM/ECF system, which sent notice of filing to all parties receiving electronic notice.

s/ Colleen Cowgill
Attorney for Petitioner